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Jul 19 2019 03:11 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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Richard J. Pocker (Nevada Bar No. 3568)

Paul J. Lal (Nevada Bar No. 3755)

BOIES SCHILLER FLEXNER LLP

300 South Fourth Street, Suite 800

Las Vegas, NV 89101

Tel.: (702) 382-7300

Fax: (702) 382-2755

rpocker@bsfllp.com

plal@bsfllp.com

Robert Alexander (admitted pro hac vice)

Matthew Clash-Drexler (admitted pro hac vice)

BREDHOFF & KAISER, PLLC

805 15th Street N.W., Suite 1000

Washington, DC 20005

Tel.: (202) 842-2600

Fax: (202) 842-1888

ralexander@bredhoff.com

mcdrexler@bredhoff.com

Attorneys for NSEA Parties

**DISTRICT COURT
EIGHTH JUDICIAL DISTRICT
CLARK COUNTY, NEVADA**

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, AND MARIA NEISESS,

Plaintiffs,

v.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO JR., BRIAN WALLACE, AND
BRIAN LEE,

Defendants.

Case No.: A-17-761364-C
(Consolidated with Case No. A-17-761884-C)

DEPT. NO.: 4

NOTICE OF APPEAL

1 NEVADA STATE EDUCATION
2 ASSOCIATION; NATIONAL EDUCATION
3 ASSOCIATION; RUBEN MURILLO;
4 ROBERT BENSON; DIANE
5 DI ARCHANGEL; AND JASON
6 WYCKOFF,

7 Plaintiffs-Counter

8 Defendants,
9 And

10 BRIAN LEE,

11 Counter-Defendant,

12 vs.

13 CLARK COUNTY EDUCATION
14 ASSOCIATION; JOHN VELLARDITA;
15 AND VICTORIA COURTNEY,

16 Defendants-Counter

17 Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

18 Notice is hereby given that Plaintiffs Nevada State Education Association, National
19 Education Association, Ruben Murillo Jr., Robert Benson, Diane Di Archangel, and Jason
20 Wyckoff ("NSEA Parties") hereby appeal to the Supreme Court of Nevada from the District
21 Court's final judgment in Case No. A-17-761884-C, entered on July 3, 2019, and all Orders
22 underlying the judgment therein, including: (1) the Findings of Fact, Conclusions of Law, and
23 Order Granting the Clark County Education Association Parties' Motion for Partial Summary
24 Judgment and Denying the Nevada State Education Association Parties' Motion for Partial
25 Summary Judgment dated July 1, 2019, and for which Notice of Entry was entered on July 3,
26 2019; (2) the Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs' (Clark
27 County Education Association, Victoria Courtney, James Frazee, Robert Hollowood, and Maria
28 Neisess's – CCEA Parties) Motion for Partial Summary Judgment dated December 20, 2018, and
for which Notice of Entry was entered on December 20, 2018 ("December 20, 2018 Order")

NOTICE OF APPEAL

1 (which was amended under the Findings of Fact, Conclusions of Law, and Order Granting in part
2 and Denying in part the NSEA Parties' Motion for Partial Reconsideration dated June 24, 2019
3 and for which Notice of Entry was entered on June 28, 2019) (thereby causing the disposal of
4 Count 1 of the NSEA Parties' Second Amended Complaint in a manner adverse to the NSEA
5 Parties); (3) the Findings of Fact, Conclusions of Law, and Order Granting CCEA Parties'
6 Motion to Alter or Amend Court's May 11, 2018 Order Pursuant to NRCP 59(E) and 60(B)
7 dated July 1, 2019, and for which Notice of Entry was entered on July 3, 2019; and (4) all
8 judgments and orders made appealable by any of the foregoing .
9

10 DATED this 15th of July, 2019.

11 Respectfully submitted,

12 BOIES SCHILLER FLEXNER LLP
13

14 /s/ Paul J. Lal

15 Richard J. Pocker (Nevada Bar No. 3568)
16 Paul J. Lal (Nevada Bar No. 3755)
17 300 South Florida Street, Suite 800
18 Law Vegas, NV 89101

19 Robert Alexander*
20 Matthew Clash-Drexler*
21 BREDHOFF & KAISER, PLLC
22 805 15th Street N.W., Suite 1000
23 Washington, DC 20005
24 * Admitted pro hac vice

25 *Attorneys for the NSEA Parties*
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NOTICE OF APPEAL

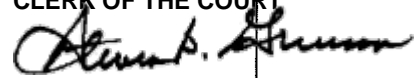
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Pursuant to NRCP 5(b), I, an employee of BOIES SCHILLER FLEXNER LLP, hereby certify service of the foregoing *NOTICE OF APPEAL* was made this date by electronic filing and/or service with the Eighth Judicial District Court and by mailing a true and correct copy, addressed as follows:

Joel A. D'Alba
Asher, Gittler & D'Alba, LTD.
200 West Jackson Blvd, Suite 720
Chicago, Illinois 60606

Dated this 15th day of July, 2019.

4



ASTA

Richard J. Pocker (Nevada Bar No. 3568)

Paul J. Lal (Nevada Bar No. 3755)

BOIES SCHILLER FLEXNER LLP

300 South Fourth Street, Suite 800

Las Vegas, NV 89101

Tel.: (702) 382-7300

Fax: (702) 382-2755

rpocker@bsfllp.com

plal@bsfllp.com

Robert Alexander (admitted pro hac vice)

Matthew Clash-Drexler (admitted pro hac vice)

BREDHOFF & KAISER, PLLC

805 15th Street N.W., Suite 1000

Washington, DC 20005

Tel.: (202) 842-2600

Fax: (202) 842-1888

ralexander@bredhoff.com

mcdrexler@bredhoff.com

Attorneys for NSEA Parties

**DISTRICT COURT
EIGHTH JUDICIAL DISTRICT
CLARK COUNTY, NEVADA**

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, AND MARIA NEISESS,

Plaintiffs,

v.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO JR., BRIAN WALLACE, AND
BRIAN LEE,

Defendants.

Case No.: A-17-761364-C

(Consolidated with Case No. A-17-761884-C)

DEPT. NO.: 4

CASE APPEAL STATEMENT

1 NEVADA STATE EDUCATION
2 ASSOCIATION; NATIONAL EDUCATION
3 ASSOCIATION; RUBEN MURILLO;
4 ROBERT BENSON; DIANE
5 DI ARCHANGEL; AND JASON
6 WYCKOFF,

7 Plaintiffs-Counter

8 Defendants,
9 And

10 BRIAN LEE,

11 Counter-Defendant,

12 vs.

13 CLARK COUNTY EDUCATION
14 ASSOCIATION; JOHN VELLARDITA;
15 AND VICTORIA COURTNEY,

16 Defendants-Counter

17 Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

18 Nevada State Education Association, National Education Association, Ruben Murillo Jr.,
19 Robert Benson, Diane Di Archangel, and Jason Wyckoff ("NSEA Parties"), in their capacity as
20 Plaintiffs in Case No. A-17-761884-C, through the undersigned counsel, hereby submit the
21 following Case Appeal Statement pursuant to NRAP 3(F):

22 **A. Names of Parties and District Court Case Number:**

23 Case No. A-17-761884-C (consolidated with Case No. A-17-761364-C)

24 Nevada State Education Association; National Education Association; Ruben
25 Murillo Jr.; Robert Benson; Diane Di Archangel; and Jason Wyckoff (Plaintiffs)
26 v.

27 Clark County Education Association; John Vellardita; Victoria Courtney
28 (Defendants)

B. Name of the judge who entered the order being appealed: The Honorable

Kerry Earley, Dept. No. 4, Eighth Judicial District Court, Clark County, Nevada.

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CASE APPEAL STATEMENT

1 **C. Names of Appellants and Their Counsel:**

2 Appellants: Nevada State Education Association, National Education Association, Ruben
3 Murillo Jr., Robert Benson, Diane Di Archangel, and Jason Wyckoff;
4 Counsel: Richard J. Pocker, Esq., and Paul J. Lal, Esq., Boies Schiller Flexner LLP, 300 South
5 Fourth Street, Suite 800 Las Vegas, NV 89101. Robert Alexander, Esq., and Matthew Clash-
6 Drexler, Esq., Bredhoff & Kaiser, PLLC, 805 15th Street N.W., Suite 1000, Washington, DC
7 20005 (both of whom are admitted *pro hac vice*).
8

9 **D. Appellants' Counsel appearing *pro hac vice*:** Robert Alexander, Esq., and
10 Matthew Clash-Drexler, Esq., Bredhoff & Kaiser, PLLC, 805 15th Street N.W., Suite 1000,
11 Washington, DC 20005. A copy of the District Court's Orders admitting Messrs. Alexander and
12 Clash-Drexler is attached under Exhibit A.
13

14 **E. Names of Respondents and Their Counsel:**

15 Respondents: Clark County Education Association; John Vellardita; Victoria
16 Courtney

17 Trial Counsel for Respondents are:

18 John S. Delikanakis, Nevada Bar No. 5928
19 Bradley T. Austin, Nevada Bar No. 13064
20 Michael Paretti, Nevada Bar No. 13926
21 SNELL & WILMER L.L.P.
22 3883 Howard Hughes Parkway, Suite 1100
23 Las Vegas, NV 89169
24 Tel: (702) 784-5200
 jdelikanakis@swlaw.com
 baustin@swlaw.com
 mparetti@swlaw.com

25 ///

26 ///

27 ///

Richard G. McCracken, Nevada Bar No. 2748
Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702) 386-5107
rmccracken@msh.law
kweber@msh.law

Joel A. D'Alba (pro hac vice)
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
Tel: (312) 263-1500
jad@ulaw.com

A copy of the District Court's Orders filed by Trial Counsel for Respondents admitting Mr. D'Alba is attached under Exhibit B.

Appellate counsel for Respondents is unknown at this time.

F. Appointed Counsel: Not applicable.

G. Parties appearing in forma pauperis: Not applicable.

H. Date proceedings commenced in district court: Case No. A-17-761884-C was commenced on September 21, 2017. Case No. A-17-761364-C, with which Case No. A-17-761884-C was consolidated on June 27, 2018, was commenced on September 13, 2017.

I. Brief description of the action:

Respondents CCEA Parties filed their original complaint in Case No. A-17-761364-C against Appellants NSEA Parties on September 13, 2017 alleging breach of fiduciary duty, breach of contract, and seeking declaratory relief resulting from alleged actions taken by NSEA in 2017. The CCEA Parties subsequently amended their complaint on October 17, 2017 and again on October 26, 2017.

1 On September 21, 2017, NSEA Parties filed a complaint in Case No. A-17-761884-C
2 alleging breaches of contract, unjust enrichment, conversion, and fraud claims. The NSEA
3 Parties filed an Amended Complaint on February 27, 2018 and a Second Amended Complaint on
4 June 6, 2018. The two cases were consolidated on June 27, 2018, by Judge Ronald Israel.

5 By virtue of the Findings of Fact, Conclusions of Law, and Order in Case No. A-17-
6 761364-C granting Clark County Education Association's, Victoria Courtney's, James Frazee's,
7 Robert Hollowood's, and Maria Neisess's Motion for Partial Summary Judgment dated
8 December 20, 2018, and for which Notice of Entry was entered on December 20, 2018
9 ("December 20, 2018 Order") (which was amended under the Findings of Fact, Conclusions of
10 Law, and Order Granting in part and Denying in part the NSEA Parties' Motion for Partial
11 Reconsideration dated June 24, 2019 and for which Notice of Entry was entered on June 28,
12 2019), Count 1 of the NSEA Parties Second Amended Complaint was disposed of in a manner
13 adverse to the NSEA Parties. A copy of the December 20, 2018 Order (and the related Findings
14 of Fact, Conclusions of Law, and Order Granting in part and Denying in part the NSEA Parties'
15 Motion for Partial Reconsideration dated June 24, 2019 and for which Notice of Entry was
16 entered on June 28, 2019) is attached hereto under Exhibit C. Under Findings of Fact,
17 Conclusions of Law, and Order Granting the Clark County Education Association Parties'
18 Motion for Partial Summary Judgment and Denying the Nevada State Education Association
19 Parties' Motion for Partial Summary Judgment dated July 1, 2019, and for which Notice of Entry
20 was entered on July 3, 2019 ("MPSJ Order"), Judge Earley granted the CCEA Parties' Counter-
21 Motion for Partial Summary Judgment on all claims brought by the NSEA Parties, and denied
22 the NSEA Parties' Motions for Partial Summary Judgment on their claims premised on the
23 NSEA and NEA bylaws and on conversion. The December 20, 2018 Order (as amended)
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CASE APPEAL STATEMENT

1 together with the MPSJ Order entering final judgment in Case No. A-17-761884-C is the subject
2 of the instant appeal. Notice of entry of the MPSJ Order was filed and served on July 3, 2019, a
3 copy of which is attached hereto as Exhibit D.

4 Also on appeal are the Findings of Fact, Conclusions of Law, and Order Granting CCEA
5 Parties' Motion to Alter or Amend Court's May 11, 2018 Order Pursuant to NRCP 59(E) and
6 60(B) dated July 1, 2019, and for which Notice of Entry was entered on July 3, 2019 ("Alteration
7 Order"), dissolving an injunction put in place on May 10, 2018. The relevant history of that
8 injunction is as follows. On March 30, 2018, the NSEA Parties filed an application with the
9 District Court for a prejudgment writ of attachment with notice, seeking judicial protection of
10 \$4,089,364.16 in disputed dues money that CCEA had collected that was intended for NSEA and
11 NEA. By Order dated May 10, 2018, Judge Joanna Kishner entered an injunction requiring
12 CCEA to place into a Restricted Account all dues money received on behalf of NSEA and NEA
13 for the 2017-2018 school year, to provide NSEA and NEA with a monthly statement reflecting
14 the balance of funds in the Restricted Account, and requiring that all funds remain in the
15 Restricted Account until further order from the Court. On December 12, 2018, CCEA Parties
16 filed a Motion to Alter or Amend the Restricted Account Order, setting forth their intention to
17 disgorge all the funds in the restricted account to the individual members from whom the NSEA
18 and NEA dues were collected. At a hearing on May 9, 2019, Judge Earley granted CCEA
19 Parties' motion, dissolving the injunctive Restricted Account Order. Notice of entry of the
20 Alteration Order was filed and served on July 3, 2019, a copy of which is attached hereto as
21 Exhibit E.

22 J. **Prior proceedings before the Nevada Supreme Court:** Not applicable.

23 K. The appeal does not involve child custody or visitation.

24 CASE APPEAL STATEMENT

1 L. The appeal does not involve the possibility of settlement.

2 DATED this 15th of July, 2019.

3 Respectfully submitted,

4 BOIES SCHILLER FLEXNER LLP

5 /s/ Paul J. Lal

6 Richard J. Pocker (Nevada Bar Bo. 3568)

7 Paul J. Lal (Nevada Bar No. 3755)

8 300 South Florida Street, Suite 800

9 Law Vegas, NV 89101

10 Robert Alexander*

11 Matthew Clash-Drexler*

12 BREDHOFF & KAISER, PLLC

13 805 15th Street N.W., Suite 1000

14 Washington, DC 20005

15 * Admitted pro hac vice

16 *Attorneys for the NSEA Parties*

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Pursuant to NRCp 5(b), I, an employee of BOIES SCHILLER FLEXNER LLP, hereby certify service of the foregoing ***CASE APPEAL STATEMENT*** was made this date by electronic filing and/or service with the Eighth Judicial District Court and by mailing a true and correct copy, addressed as follows:

Joel A. D'Alba
Asher, Gittler & D'Alba, LTD.
200 West Jackson Blvd, Suite 720
Chicago, Illinois 60606

Dated this 15th day of July, 2019.

/s/ Carolyn E. Wright
An employee of Boies Schiller Flexner LLP

8

Exhibit A

**(Orders Admitting Robert Alexander and
Matthew Clash-Drexler *pro hac vice*)**

Exhibit A

ORIGINAL

ORAP

Richard J. Pocker (Nevada Bar No. 3568)

Paul J. Lal (Nevada Bar No. 3755)

BOIES SCHILLER FLEXNER LLP

300 South Fourth Street, Suite 800

Las Vegas, NV 89101

Tel.: (702) 382-7300

Fax: (702) 382-2755

rpocker@bsflp.com

plal@bsflp.com

Attorneys for Plaintiffs

FILED IN OPEN COURT

STEVEN D. GRIERSON

CLERK OF THE COURT

APR 23 2018

BY Tena M. Jolley
TENA M. JOLLEY, DEPUTY

DISTRICT COURT
EIGHTH JUDICIAL DISTRICT
CLARK COUNTY, NEVADA

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO;
ROBERT BENSON; DIANE
DI ARCHANGEL, and JASON WYCKOFF

Plaintiffs,

v.

CLARK COUNTY EDUCATION
ASSOCIATION; JOHN VELLARDITA;
VICTORIA COURTNEY; and CLARK
COUNTY SCHOOL DISTRICT,

Defendants.

Case No. A-17-761884-C

DEPT. NO. 31

ORDER ADMITTING TO PRACTICE
ROBERT ALEXANDER, ESQ.

Plaintiffs having filed their Motion to Associate Counsel, ROBERT ALEXANDER, ESQ., under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, Certificates of Good Standing from the District of Columbia (Active) and Colorado (Inactive), and the State Bar of Nevada Statement by and for ROBERT ALEXANDER, ESQ.; said Motion to Associate Counsel having been noticed, the parties having

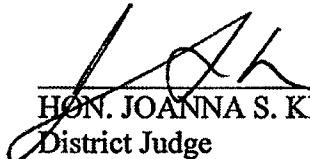
A-17-761884-C
ORAP
Order Admitting to Practice
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1 stipulated thereto under a Stipulation dated on or about April 12, 2018, and the Court being fully
2 apprised in the premises, and good cause appearing, it is hereby

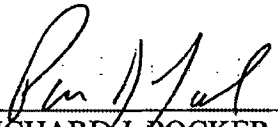
3 **ORDERED** that said Motion to Associate Counsel and the parties' Stipulation is hereby
4 granted, and Robert Alexander, Esq. is hereby admitted to practice in the above entitled Court for
5 the purposes of the above entitled matter only.
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7 Dated this 23 day of April, 2018.

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11 HON. JOANNA S. KISHNER
District Judge

12 Submitted by:

13 BOIES SCHILLER FLEXNER LLP
14

15 
16
17 RICHARD J. POCKER, ESQ.

18 Nevada Bar No. 3568

19 PAUL J. LAL, ESQ.

20 Nevada Bar No. 3755

21 300 South Fourth St., Suite 800

22 Las Vegas, NV 89101

23 John M. West*

24 Matthew Clash-Drexler*

25 James Graham Lake*

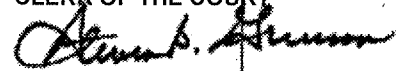
26 BREDHOFF & KAISER, PLLC

27 805 15th Street N.W., Suite 1000

28 Washington, DC 20005

*Admitted pro hac vice

Attorneys for Plaintiffs



1 **ORAP**

2 Richard J. Pocker (Nevada Bar No. 3568)

3 Paul J. Lal (Nevada Bar No. 3755)

4 **BOIES SCHILLER FLEXNER LLP**

5 300 South Fourth Street, Suite 800

6 Las Vegas, NV 89101

7 Tel.: (702) 382-7300

8 Fax: (702) 382-2755

9 rpocker@bsfllp.com

10 plal@bsfllp.com

11 John M. West*

12 Matthew Clash-Drexler*

13 James Graham Lake*

14 **BREDHOFF & KAISER, PLLC**

15 805 15th Street N.W., Suite 1000

16 Washington, DC 20005

17 *Admitted pro hac vice

18 *Attorneys for Defendants*

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**DISTRICT COURT
EIGHTH JUDICIAL DISTRICT
CLARK COUNTY, NEVADA**

16 CLARK COUNTY EDUCATION
17 ASSOCIATION, VICTORIA COURTNEY,
18 JAMES FRAZEE, ROBERT G.
19 HOLLOWOOD, and MARIE NEISESS,

20 Plaintiffs,

21 v.

22 NEVADA STATE EDUCATION
23 ASSOCIATION, DANA GALVIN, RUBEN
24 MURILLO JR., BRIAN WALLACE, and
25 BRIAN LEE,

26 Defendants.

Case No. A-17-761364-C

DEPT. NO. 28

ORDER ADMITTING TO PRACTICE
ROBERT ALEXANDER, ESQ.

Date of Hearing: May 2, 2018

Time of Hearing: In Chambers

27 Defendants having filed their Motion to Associate Counsel, ROBERT ALEXANDER.
28 ESQ., under Nevada Supreme Court Rule 42, together with a Verified Application for



1 Association of Counsel, Certificate of Good Standing from the District of Columbia (Active) and
2 Colorado (Inactive), and the State Bar of Nevada Statement by and for ROBERT
3 ALEXANDER, ESQ.; said Motion to Associate Counsel having been noticed, no objections
4 having been made, and the Court being fully apprised in the premises, and good cause
5 appearing, it is hereby
6

7 **ORDERED** that said Motion to Associate Counsel is hereby granted, and Robert
8 Alexander, Esq. is hereby admitted to practice in the above entitled Court for the purposes of the
9 above entitled matter only.

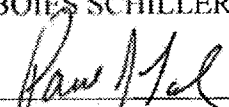
10 Dated this 2 day of May, 2018.

11 
12 THE HON. RONALD J. ISRAEL
13 District Court Judge

14 Case No. A-17-761884-C
15 Order Admitting to Practice Robert
16 Alexander, Esq.

17 Submitted by:

18 BOIES SCHILLER FLEXNER LLP

19 
20 RICHARD J. POCKER, ESQ.

21 Nevada Bar No. 3568

22 PAUL J. LAL, ESQ.

23 Nevada Bar No. 3755

24 300 South Fourth St., Suite 800

25 Las Vegas, NV 89101

26 John M. West*

27 Matthew Clash-Drexler*

28 James Graham Lake*

BREDHOFF & KAISER, PLLC

805 15th Street N.W., Suite 1000

Washington, DC 20005

*Admitted pro hac vice

Attorneys for Defendants



ORAP
Richard J. Pocker (Nevada Bar No. 3568)
Paul J. Lal (Nevada Bar No. 3755)
BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
Las Vegas, NV 89101
Tel.: (702) 382-7300
Fax: (702) 382-2755
rpocker@bsfllp.com
plal@bsfllp.com

Attorneys for Plaintiffs

**DISTRICT COURT
EIGHTH JUDICIAL DISTRICT
CLARK COUNTY, NEVADA**

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO;
ROBERT BENSON; and DIANE
DI ARCHANGEL,

Plaintiffs,

v.

CLARK COUNTY EDUCATION
ASSOCIATION; JOHN VELLARDITA;
VICTORIA COURTNEY; and CLARK
COUNTY SCHOOL DISTRICT,

Defendants.

Case No. A-17-761884-C

DEPT. NO. 31

**ORDER ADMITTING TO PRACTICE
MATTHEW CLASH-DREXLER, ESQ.**

Date of Hearing: November 17, 2017

Time of Hearing: In Chambers

Plaintiffs having filed their Motion to Associate Counsel, MATTHEW CLASH-DREXLER, ESQ., under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, Certificates of Good Standing from the District of Columbia, Pennsylvania and Maryland, and the State Bar of Nevada Statement by and for MATTHEW CLASH-DREXLER, ESQ.; said application having been noticed, no objections having been made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby

11-17-17 A09:53 IN



1 **ORDERED** that said Application is hereby granted, and Matthew Clash-Drexler, Esq. is
2 hereby admitted to practice in the above entitled Court for the purposes of the above entitled
3 matter only.


4 Dated this 21 day of November, 2017.

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DISTRICT JUDGE
KS

Submitted by:

BOIES SCHILLER FLEXNER LLP


RICHARD J. POCKER, ESQ.

Nevada Bar No. 3568

PAUL J. LAL, ESQ.

Nevada Bar No. 3755

300 South Fourth St., Suite 800

Las Vegas, NV 89101

Attorneys for Plaintiffs



Richard J. Pocker (Nevada Bar No. 3568)
Paul J. Lal (Nevada Bar No. 3755)
BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
Las Vegas, NV 89101
Tel.: (702) 382-7300
Fax: (702) 382-2755
rpocker@bsflfp.com
plal@bsflfp.com

Attorneys for Defendants

**DISTRICT COURT
EIGHTH JUDICIAL DISTRICT
CLARK COUNTY, NEVADA**

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, and MARIE NEISESS,

Plaintiffs,

v.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO JR., BRIAN WALLACE, and
BRIAN LEE,

Defendants.

Case No. A-17-761364-C

DEPT. NO. 28

ORDER ADMITTING TO PRACTICE
MATTHEW CLASH-DREXLER, ESQ.

Date of Hearing: 11/29/2017

Time of Hearing: In Chambers

MATTHEW CLASH-DREXLER, ESQ. having filed his Motion to Associate Counsel under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, Certificates of Good Standing from the District of Columbia, Pennsylvania and Maryland, and the State Bar of Nevada Statement; said application having been noticed, no objections having been made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby



1 **ORDERED** that said Application is hereby granted, and Matthew Clash-Drexler, Esq. is
2 hereby admitted to practice in the above entitled Court for the purposes of the above entitled
3 matter only.

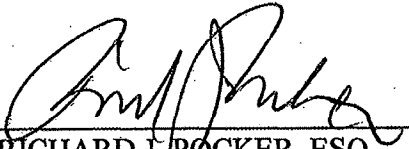
4 Dated this 1 day of Dec, 2017.

5
6
7 
8 DISTRICT JUDGE

9 RONALD J. ISRAEL

10 Submitted by:

11 BOIES SCHILLER FLEXNER LLP

12
13 
14 RICHARD J. POCKER, ESQ.

15 Nevada Bar No. 3568

16 PAUL J. LAL, ESQ.

17 Nevada Bar No. 3755

18 300 South Fourth St., Suite 800

19 Las Vegas, NV 89101

20 Attorneys for Defendants
21
22
23
24
25
26
27
28

Exhibit B

**(Orders Admitting Joel A. D'Alba
pro hac vice)**

Exhibit B

Steven D. Grierson

1 **SAO**

2 Richard G. McCracken (NSB 2748)

3 Kimberley C. Weber (NSB 14434)

4 McCracken, STEMERMAN & HOLSBERRY, LLP

5 1630 South Commerce Street, Suite 1-A

6 Las Vegas, NV 89102

7 Tel: (702)386-5107

8 Fax: (702)386-9848

9 rmccracken@msh.law

10 kweber@msh.law

11 Of counsel:

12 Joel A. D'Alba

13 ASHER, GITTLER & D'ALBA, LTD.

14 200 West Jackson Blvd, Suite 1900

15 Chicago, Illinois 60606

16 Tel: (312)263-1500

17 Fax: (312)263-1520

18 jad@ulaw.com

19 *Attorneys for defendants*

20 **EIGHTH JUDICIAL DISTRICT COURT**
21 **CLARK COUNTY, NEVADA**

22 NEVADA STATE EDUCATION)

CASE NO. A-17-761884-C

23 ASSOCIATION, NATIONAL EDUCATION)

24 ASSOCIATION, RUBEN MURILLO, ROBERT)

DEPT. NO 31

25 BENSON, and DIANE DI ARCHANGEL,)

26 **Plaintiffs,**)

27 v.)

28 CLARK COUNTY EDUCATION)

ASSOCIATION, JOHN VELLARDITA, and)

VICTORIA COURTNEY,)

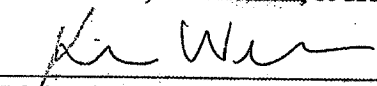
Defendants.)

rw

1 It is hereby stipulated by the parties that Joel Abbott D'Alba, Esq., may be permitted to
2 practice in Nevada pursuant to Nevada Supreme Court Rule 42 (SCR 42) in this case only and all
3 of the applicable rules for associate counsel status have been followed. This stipulation is
4 supported by the attached "Verified Application for Association of Counsel" (Exhibit A),
5 "Certificate of Good Standing" from Illinois (Exhibit B) and the State Bar of Nevada Statement
6 (Exhibit C).

7 Dated: January 12, 2018

McCracken, Stemerman, & Holsberry, LLP

8 
9 Richard G. McCracken
10 Kimberley C. Weber

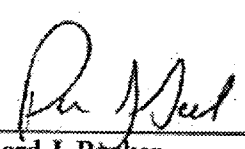
11 *Attorney for Defendants*

12 Dated: January 12, 2018

Richard J. Pocker
Boies Schiller Flexner LLP

14 -and-

15 John M. West
16 Matthew Clash-Drexler
17 James Graham Lake
18 Bredhoff & Kaiser, PLLC

19
20 By:  NU BAR 3755
21 Richard J. Pocker
22 *Attorneys for Plaintiffs*

23 IT IS SO ORDERED.

24 DATED:

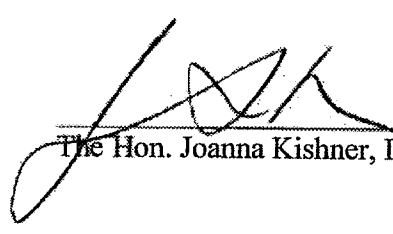
25  JOANNA S. KISHNER
26 The Hon. Joanna Kishner, District Judge
27
28

EXHIBIT A

Motion to Associate

VAPP

DISTRICT COURT - EIGHTH JUDICIAL DISTRICT

CLARK COUNTY, NEVADA

Nevada State Education
Association, et. al,

Plaintiffs

VS.

Clark County Education Association, et. al.

Defendants.

) Case No.: A-17-761884-C
) Dept. No.: 31
) Docket No.:

AND

Clark County Education Association, et. al,

Plaintiffs

VS.

Nevada State Education Association, et. al.

Defendants.

)
) Case No.: A-17-761364-C
) Dept. No.: 28
) Docket No.:

**VERIFIED APPLICATION FOR ASSOCIATION
OF COUNSEL UNDER NEVADA SUPREME COURT RULE 42**

Joel

Abbott

D'Alba, Petitioner, respectfully represents:

First

Middle Name

Last

1. Petitioner resides at 320 N. Scoville,

Street Address

Oak Park, Cook, Illinois, 60302
City County State Zip Code

(708) 383-9392
Telephone

2. Petitioner is an attorney at law and a member of the law firm of: Asher, Gittler & D'Alba, Ltd.
with offices at 200 West Jackson Blvd. Suite 1900
Street Address

Chicago, Cook, Illinois, 60606
City County State Zip Code

(312) 263-1500 JAD@ulaw.com
Telephone Email

3. Petitioner has been retained personally or as a member of the above named law firm by
Clark County Education Association to provide
legal representation in connection with the above-entitled matter now pending before the above
referenced court.

4. Since December 17th of 1971, petitioner has been, and presently is, a member of good standing of
the bar of the highest court of the State of Illinois where petitioner regularly
practices law.

5. Petitioner was admitted to practice before the following United States District Courts, United
States Circuit Courts of Appeal, the Supreme Court of the United States, and/or courts of other states
on the dates indicated for each, and is presently a member in good standing of the bars of said Courts:

DATE ADMITTED

U.S. District Court – Norther District of Illinois 11/02/1973

U.S. District Court - Northern District of Indiana 03/27/2015

United States Court of Appeals for the 7th Circuit 09/10/1974

United States Court of Appeals for the District of Columbia 05/16/2015

6. Is Petitioner currently suspended or disbarred in any court? You must answer yes or no. If yes, give particulars; e.g., court, jurisdiction, date: NO

7. Is Petitioner currently subject to any disciplinary proceedings by any organization with authority at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: NO

8. Has Petitioner ever received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: NO

9. Has Petitioner ever had any certificate or privilege to appear and practice before any regulatory administrative body suspended or revoked? You must answer yes or no. If yes, give particulars, e.g. date, administrative body, date of suspension or reinstatement: NO

10. Has Petitioner, either by resignation, withdrawal, or otherwise, ever terminated or attempted to terminate Petitioner's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings? You must answer yes or no. If yes, give particulars: NO

11. Petitioner has filed the following application(s) to appear as counsel under Nevada Supreme Court Rule 42 during the past three (3) years in the following matters, if none, indicate so: *(do not include Federal Pro Hacs)*

| <u>Date of Application</u> | <u>Cause</u> | <u>Title of Court Administrative Body or Arbitrator</u> | <u>Was Application Granted or Denied?</u> |
|----------------------------|--------------|---|---|
| <u>NONE</u> | | | |

(If necessary, please attach a statement of additional applications)

12. Nevada Counsel of Record for Petition in this matter is:

(must be the same as the signature on the Nevada Counsel consent page)

| | | | |
|-----------------------------|-------------|-----------|--------------|
| <u>Richard G. McCracken</u> | | | <u>2748,</u> |
| First Name | Middle Name | Last Name | NV Bar # |

who has offices at McCracken, Stemerman & Holsberry, LLP,
Firm Name/Company

| | | | |
|---|-------------------|----------------|---------------------|
| <u>1630 S. Commerce Street, Suite A-1</u> | <u>Las Vegas,</u> | <u>Nevada,</u> | <u>Clark County</u> |
| Street Address | City | | County |

| | |
|---------------|------------------------|
| <u>89102,</u> | <u>(702) 386-5107</u> |
| Zip Code | Phone Number |

13. The following accurately represents the names and addresses of each party in this matter, WHETHER OR NOT REPRESENTED BY COUNSEL, and the names and addresses of each counsel of record who appeared for said parties: (You may attach as an Exhibit if necessary.)

| NAME | MAILING ADDRESS |
|------|-----------------|
|------|-----------------|

Exhibit A

14. Petitioner agrees to comply with the provisions of Nevada Supreme Court Rule 42(3) and (13) and Petitioner consents to the jurisdiction of the courts and disciplinary boards of the State of Nevada in accordance with provisions as set forth in SCR 42(3) and (13). Petitioner respectfully requests that Petitioner be admitted to practice in the above-entitled court FOR THE PURPOSES OF THIS MATTER ONLY.

15. Petitioner has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

I, Joel A. D'Alba, do hereby swear/affirm under penalty of perjury that the assertions
Print Petitioner Name

of this application and the following statements are true:

- 1) That I am the Petitioner in the above entitled matter.
- 2) That I have read Supreme Court Rule (SCR) 42 and meet all requirements contained therein, including, without limitation, the requirements set forth in SCR 42(2), as follows:
 - (A) I am not a member of the State Bar of Nevada;
 - (B) I am not a resident of the State of Nevada;
 - (C) I am not regularly employed as a lawyer in the State of Nevada;
 - (D) I am not engaged in substantial business, professional, or other activities in the State of Nevada;
 - (E) I am a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and
 - (F) I have associated a lawyer who is an active member in good standing of the State Bar of Nevada as counsel of record in this action or proceeding.
- 2) That I have read the foregoing application and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to the matter I believe them to be true.

That I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; that I understand and shall comply with the standards of professional conduct required by members of the State Bar of Nevada; and that I am subject to the disciplinary jurisdiction to the State Bar of Nevada with respect to any of my actions occurring in the course of such appearance.

DATED this 13th day of December, 2017

James A. D'Alba
Petitioner/Affiant (blue ink)

STATE OF IL)
COUNTY OF COOK) ss

Subscribed and sworn to before me

this 13 day of December, 20 17

Valerie Flores
Notary Public



EXHIBIT A

Richard G. McCracken, ESQ.
Kimberly C. Weber, Esq.
McCracken, Stemerman & Holsberry
1630 S. Commerce Street, Suite A-1
Las Vegas, NV 89102

Mark J. Ricciardi, Esq.
Holley E. Walker
FDisher & Phillips, LLP
300 S. Fourth Street, Suite 1500
Las Vegas, NV 89101

Paul J. Lal, Esq.
Richard J. Pocker, Esq.
Boies Schiller Flexner LLP
300 South Fourth Street
Suite 800
Las Vegas, NV 89101

John M. West, Esq.
Matthew Clash-Drexler, Esq.
James Graham Lake, Esq.
Bredhoff & Kaiser PLLC
805 Fifteenth Street N.W.
Washington, DC 20005

Ruben Murillo, Robert Benson, Diane Di Archangel
Nevada State Education Association
3511 E. Harmon Ave.
Las Vegas, NV 89121
702-733-7330
800-248-6732
Fax: 702-733-6004
1890 Donald Street
Reno, NV 89502
775-828-6732
800-232-6732
Fax: 775-828-6745
557 W. Silver, Suite 203
Elko, NV 89801
775-777-8361
888-673-2004
Fax: 775-777-8362

DESIGNATION, CERTIFICATION AND CONSENT OF NEVADA COUNSEL

SCR 42(14) Responsibilities of Nevada attorney of record.

(a) The Nevada attorney of record shall be responsible for and actively participate in the representation of a client in any proceeding that is subject to this rule.

(b) The Nevada attorney of record shall be present at all motions, pre-trials, or any matters in open court unless otherwise ordered by the court.

(c) The Nevada attorney of record shall be responsible to the court, arbitrator, mediator, or administrative agency or governmental body for the administration of any proceeding that is subject to this rule and for compliance with all state and local rules of practice. It is the responsibility of Nevada counsel to ensure that the proceeding is tried and managed in accordance with all applicable Nevada procedural and ethical rules.

I Richard G. McCracken hereby agree to associate with Petitioner referenced hereinabove

Print Nevada Counsel Name

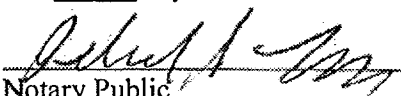
and further agree to perform all of the duties and responsibilities as required by Nevada Supreme Court Rule 42.

DATED this 3rd day of January, 2018


Nevada Counsel of Record (blue ink)

STATE OF Nevada)
) ss
COUNTY OF Clark)

Subscribed and sworn to before me

this 3rd day of January, 2018

Notary Public

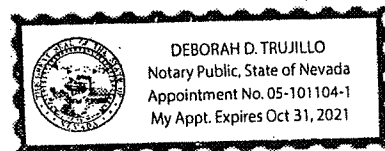


EXHIBIT B

Motion to Associate

Certificate of Admission To the Bar of Illinois

I, Carolyn Taft Grosboll, Clerk of the Supreme Court of Illinois, do hereby certify that

Joel Abbott D'Alba

has been duly licensed and admitted to practice as an Attorney and Counselor at Law within this State; has duly taken the required oath to support the CONSTITUTION OF THE UNITED STATES and of the STATE OF ILLINOIS, and also the oath of office prescribed by law, that said name was entered upon the Roll of Attorneys and Counselors in my office on 12/17/1971 and is in good standing, so far as the records of this office disclose.

IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed the
seal of said Court, this 20th day of
November, 2017.

Carolyn Taft Grosboll

Clerk,
Supreme Court of the State of Illinois

EXHIBIT C

Motion to Associate

1 STAT

2 EIGHTH JUDICIAL DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 Case No. A-17-761884-C
5 Dept. No. XXXI

6 Nevada State Education
7 Association

8 vs.

9 Clark County Education
10 Association

11 _____/
12 STATE BAR OF NEVADA STATEMENT PURSUANT TO SUPREME COURT RULE
13 42 (3) (b)

14 THE STATE BAR OF NEVADA, in response to the application of
15 Petitioner, submits the following statement pursuant to SCR42(3):

16 SCR42(6)**Discretion.** The granting or denial of a motion to associate
17 counsel pursuant to this rule by the court is discretionary. The
18 court, arbitrator, mediator, or administrative or governmental
19 hearing officer may revoke the authority of the person permitted to
20 appear under this rule. Absent special circumstances, repeated
21 appearances by any person or firm of attorneys pursuant to this rule
22 shall be cause for denial of the motion to associate such person.

23 (a) **Limitation.** It shall be presumed, absent special
24 circumstances, and only upon showing of good cause, that
25 more than 5 appearances by any attorney granted under
26 this rule in a 3-year period is excessive use of this
rule.

(b) **Burden on applicant.** The applicant shall have the
burden to establish special circumstances and good cause
for an appearance in excess of the limitation set forth
in subsection 6(a) of this rule. The applicant shall set
forth the special circumstances and good cause in an
affidavit attached to the original verified application.

27 1. DATE OF APPLICATION: December 18, 2017

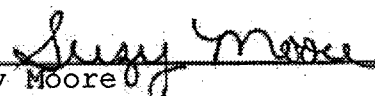
28 2. APPLYING ATTORNEY: Joel Abbott D'Alba, Esq.

1 3. FIRM NAME AND ADDRESS: Asher, Gittler & D'Alba, Ltd., 200 West
2 Jackson Blvd., Ste. 1900, Chicago, IL 60606

3 4. NEVADA COUNSEL OF RECORD: Richard G. McCracken, Esq.,
4 McCracken, Stemerman & Holsberry, LLP, 1630 S. Commerce St.,
5 #A-1, Las Vegas, NV 89102

6 5. There is no record of previous applications for appearance by
7 petitioner within the past three (3) years.

8 DATED this January 5, 2018

9 
10 Suzy Moore
11 Member Services Admin.
12 Pro Hac Vice Processor
13 STATE BAR OF NEVADA
14
15
16
17
18
19
20
21
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23
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25
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27
28



SAO

Richard G. McCracken (NSB 2748)
Kimberley C. Weber (NSB 14434)
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702)386-5107
Fax: (702)386-9848
rmccracken@msh.law
kweber@msh.law

Of counsel:

Joel A. D'Alba
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd, Suite 1900
Chicago, Illinois 60606
Tel: (312)263-1500
Fax: (312)263-1520
jad@ulaw.com

Attorneys for Plaintiffs

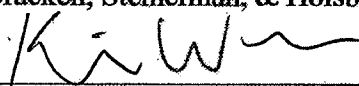
**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

| | | |
|---------------------------------|---|----------------------------|
| CLARK COUNTY EDUCATION |) | STIPULATION AND |
| ASSOCIATION, VICTORIA COURTNEY, |) | ORDER TO ASSOCIATE COUNSEL |
| JAMES FRAZEE, ROBERT B. |) | |
| HOLLOWOOD, and MARIE NEISESS, |) | |
| |) | |
| Plaintiffs |) | |
| |) | CASE NO. A-17-761364-C |
| v. |) | |
| |) | DEPT. NO 28 |
| NEVADA STATE EDUCATION |) | |
| ASSOCIATION, DANA GALVIN, RUBEN |) | |
| MURILLO JR., BRIAN WALLACE, and |) | |
| BRIAN LEE, |) | |
| |) | |
| Defendants |) | |

1 It is hereby stipulated by the parties that Joel Abbott D'Alba, Esq., may be permitted to
2 practice in Nevada pursuant to Nevada Supreme Court Rule 42 (SCR 42) in this case only and all
3 of the applicable rules for associate counsel status have been followed. This stipulation is
4 supported by the attached "Verified Application for Association of Counsel" (Exhibit A),
5 "Certificate of Good Standing" from Illinois (Exhibit B) and the State Bar of Nevada Statement
6 (Exhibit C).

7 Dated: January 12, 2018

McCracken, Sternerman, & Holsberry, LLP

8 
9 Richard G. McCracken
10 Kimberley C. Weber

11 *Attorney for Plaintiffs*

12 Dated: January 12, 2018

Richard J. Pocker
Boies Schiller Flexner LLP

14 -and-

15 John M. West
16 Matthew Clash-Drexler
17 James Graham Lake
18 Bredhoff & Kaiser, PLLC

19
20 By:  NV BAR 3755

21 *Attorneys for Defendants*

22
23 IT IS SO ORDERED.

24 DATED:

25 1-16-18
26


27 
28 The Hon. Ronald G. Israel, District Judge

Exhibit A

Exhibit A

CASE NO. A-17-761364-C

DEPT NO. 28

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA
IN AND FOR CLARK COUNTY**

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA
COURTNEY, JAMES FRAZEE,
ROBERT G. HOLLOWOOD,
and MARIA THROWER,

Plaintiffs

v.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN,
RUBEN MURILLO JR., BRIAN
WALLACE, and BRIAN LEE,

Defendants.

VERIFIED APPLICATION FOR
ASSOCIATION OF COUNSEL UNDER
NEVADA SUPREME COURT RULE 42

John M. West, Petitioner, respectfully represents:
First Middle Name Last

1. Petitioner resides at 414 7th Street, SE
Street Address

Washington, D.C., Washington, D.C., District of Columbia
City County State

20003, (202) 547-8028
Zip Code Telephone

2. Petitioner is an attorney at law and a member of the law firm of

Bredhoff & Kaiser PLLC

with offices at 805 Fifteenth Street NW, Suite 1000
Street Address

Washington, D.C., Washington, D.C., District of Columbia,
City County State
20005, (202) 842-2600, jwest@bredhoff.com
Zip Telephone Email

3. Petitioner has been retained personally or as a member of the above named law firm by the Nevada State Education Association to provide legal representation in connection with the above-entitled matter now pending before the above referenced court.

4. Since July 25th of 1990, petitioner has been, and presently is, a member of good standing of the bar of the highest court of the State of the District of Columbia where petitioner regularly practices law.

5. Petitioner was admitted to practice before the following United States District Courts, United States Circuit Courts of Appeal, the Supreme Court of the United States, and/or courts of other states on the dates indicated for each, and is presently a member in good standing of the bars of said Courts:

ADMITTED

| | <u>DATE</u> |
|---|-------------------|
| <u>U.S. District Court, D.C.</u> | <u>11/02/1992</u> |
| <u>U.S. District Court, Eastern District of Michigan</u> | <u>01/31/2006</u> |
| <u>U.S. District Court, Colorado</u> | <u>09/24/2007</u> |
| <u>U.S. District Court, Western District of Michigan</u> | <u>04/12/2010</u> |
| <u>U.S. District Court, Western District of Wisconsin</u> | <u>06/15/2011</u> |
| <u>1st Circuit Court of Appeals</u> | <u>10/07/2005</u> |
| <u>2nd Circuit Court of Appeals</u> | <u>01/16/2013</u> |
| <u>3rd Circuit Court of Appeals</u> | <u>03/05/1992</u> |

| | |
|---|-------------------|
| <u>4th Circuit Court of Appeals</u> | <u>10/21/1991</u> |
| <u>6th Circuit Court of Appeals</u> | <u>03/04/1992</u> |
| <u>7th Circuit Court of Appeals</u> | <u>09/21/1990</u> |
| <u>8th Circuit Court of Appeals</u> | <u>03/14/1994</u> |
| <u>9th Circuit Court of Appeals</u> | <u>04/20/2001</u> |
| <u>10th Circuit Court of Appeals</u> | <u>01/31/2002</u> |
| <u>11th Circuit Court of Appeals</u> | <u>01/30/1990</u> |
| <u>D.C. Circuit Court of Appeals</u> | <u>07/31/1996</u> |
| <u>Federal Circuit Court of Appeals</u> | <u>05/10/2004</u> |
| <u>United States Supreme Court</u> | <u>08/11/1995</u> |
| <u>Supreme Court of Pennsylvania (Inactive)</u> | <u>11/16/1989</u> |

6. Is Petitioner currently suspended or disbarred in any court? You must answer yes or no. If yes, give particulars; e.g., court, jurisdiction, date: No

7. Is Petitioner currently subject to any disciplinary proceedings by any organization with authority at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

8. Has Petitioner ever received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

9. Has Petitioner ever had any certificate or privilege to appear and practice before any regulatory administrative body suspended or revoked? You must answer yes or no. If yes, give particulars, e.g. date, administrative body, date of suspension or reinstatement: No

10. Has Petitioner, either by resignation, withdrawal, or otherwise, ever terminated or attempted

to terminate Petitioner's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings? You must answer yes or no. If yes, give particulars:

No

11. Petitioner has filed the following application(s) to appear as counsel under Nevada Supreme Court Rule 42 during the past three (3) years in the following matters, if none, indicate so: *(do not include Federal Pro Hacs)*

| <u>Date of Application</u> | <u>Cause</u> | <u>Title of Court Administrative Body or Arbitrator</u> | <u>Was Application Granted or Denied?</u> |
|----------------------------|--|---|---|
| <u>Simultaneous</u> | <u>Nevada State Education Association, National Education Association, Ruben Murillo, Robert Benson; and Diane Di Archangel,</u> | <u>District Court Eighth Judicial District Clark County, Nevada</u> | <u>Pending</u> |
| | <u>v.</u> | | |
| | <u>Clark Count Education Association, John Vellardita, Victoria Courtney, and Clark County School District</u> | | |

12. Nevada Counsel of Record for Petition in this matter is:

(must be the same as the signature on the Nevada Counsel consent page)

| | | | |
|----------------|-------------|---------------|-------------|
| <u>Richard</u> | <u>J.</u> | <u>Pocker</u> | <u>3568</u> |
| First Name | Middle Name | Last Name | NV Bar # |

who has offices at Boies Schiller Flexner LLP.
Firm Name/Company

| | | |
|---|------------------|---------------------|
| <u>300 South Fourth Street, Suite 800</u> | <u>Las Vegas</u> | <u>Clark County</u> |
| Street Address | City | County |

89101, (702) 382-7300

Zip Code

Phone Number

13. The following accurately represents the names and addresses of each party in this matter, WHETHER OR NOT REPRESENTED BY COUNSEL, and the names and addresses of each counsel of record who appeared for said parties: (You may attach as an Exhibit if necessary.)

NAME

MAILING ADDRESS

Richard G. McCracken (Plaintiffs' Counsel) 1630 South Commerce Street, Suite 1-A,
Las Vegas, NV 89102

Kimberley C. Weber (Plaintiffs' Counsel) 1630 South Commerce Street, Suite 1-A;
Las Vegas, NV 89102

Joel A. D'Alba (Plaintiffs' Counsel) 200 West Jackson Blvd, Suite 1900
Chicago, Illinois 60606

Clark County Education Association (Plaintiff) 4230 McLeod Dr.; Las Vegas, NV
89121

Victoria Courtney (Plaintiff) 4230 McLeod Dr.; Las Vegas, NV
89121

James Frazee (Plaintiff) 4230 McLeod Dr.; Las Vegas, NV
89121

Robert G. Hollowood (Plaintiff) 4230 McLeod Dr.; Las Vegas, NV
89121

Maria Thrower (Plaintiff) 4230 McLeod Dr.; Las Vegas, NV
89121

Nevada State Education Association (Defendant) 3511 E. Harmon Avenue; Las Vegas,
NV 89121

Dana Galvin (Defendant) 3511 E. Harmon Avenue; Las Vegas,

NV 89121

Ruben Murillo Jr. (Defendant) 3511 E. Harmon Avenue; Las Vegas,

NV 89121

Brian Wallace (Defendant) 3511 E. Harmon Avenue; Las Vegas,

NV 89121

Brian Lee (Defendant) 3511 E. Harmon Avenue; Las Vegas,

NV 89121

14. Petitioner agrees to comply with the provisions of Nevada Supreme Court Rule 42(3) and (13) and Petitioner consents to the jurisdiction of the courts and disciplinary boards of the State of Nevada in accordance with provisions as set forth in SCR 42(3) and (13). Petitioner respectfully requests that Petitioner be admitted to practice in the above-entitled court FOR THE PURPOSES OF THIS MATTER ONLY.

15. Petitioner has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

I, John M. West, do hereby swear/affirm under penalty of perjury that the assertions

Print Petitioner Name

of this application and the following statements are true:

- 1) That I am the Petitioner in the above entitled matter.
- 2) That I have read Supreme Court Rule (SCR) 42 and meet all requirements contained

therein, including, without limitation, the requirements set forth in SCR 42(2), as follows:

(A) I am not a member of the State Bar of Nevada;

(B) I am not a resident of the State of Nevada;

(C) I am not regularly employed as a lawyer in the State of Nevada;

(D) I am not engaged in substantial business, professional, or other activities in the
State of Nevada;

(E) I am a member in good standing and eligible to practice before the bar of any
jurisdiction of the United States; and

(F) I have associated a lawyer who is an active member in good standing of the State
Bar of Nevada as counsel of record in this action or proceeding.

- 2) That I have read the foregoing application and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to the matter I believe them to be true.

That I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; that I understand and shall comply with the standards of professional conduct required by members of the State Bar of Nevada; and that I am subject to the disciplinary jurisdiction to the State Bar of Nevada with respect to any of my actions occurring in the course of such appearance.

DATED this 27th day of September, 2017

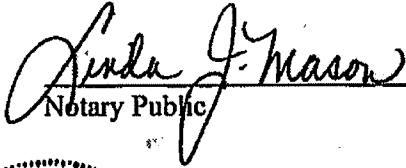


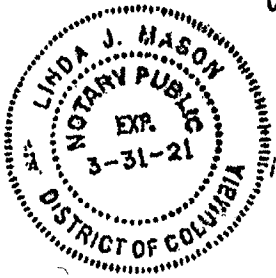
Petitioner/Affiant (blue ink)

STATE OF District of Columbia)
) ss
COUNTY OF Washington, D.C.)

Subscribed and sworn to before me

this 27th day of September, 2017


Notary Public



DESIGNATION, CERTIFICATION AND CONSENT OF NEVADA COUNSEL

SCR 42(14) Responsibilities of Nevada attorney of record.

(a) The Nevada attorney of record shall be responsible for and actively participate in the representation of a client in any proceeding that is subject to this rule.

(b) The Nevada attorney of record shall be present at all motions, pre-trials, or any matters in open court unless otherwise ordered by the court.

(c) The Nevada attorney of record shall be responsible to the court, arbitrator, mediator, or administrative agency or governmental body for the administration of any proceeding that is subject to this rule and for compliance with all state and local rules of practice. It is the responsibility of Nevada counsel to ensure that the proceeding is tried and managed in accordance with all applicable Nevada procedural and ethical rules.

I Richard J. Pocker hereby agree to associate with Petitioner referenced hereinabove

Print Nevada Counsel Name

and further agree to perform all of the duties and responsibilities as required by Nevada Supreme Court Rule 42.

DATED this 5th day of OCTOBER, 20 17

Nevada Counsel of Record (blue ink)

STATE OF NEVADA)
) ss
COUNTY OF CLARK)

Subscribed and sworn to before me

this 5th day of October, 20 17

Debra Burgos
Notary Public

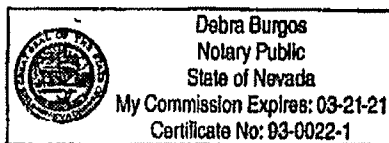


Exhibit B

Exhibit B

ATTORNEY REGISTRATION OFFICE



PENNSYLVANIA JUDICIAL CENTER

601 Commonwealth Ave., Suite 5600

PO Box 62625

Harrisburg, PA 17106-2625

Tel: (717) 231-3380 • Fax: (717) 231-3381 • www.padboard.org

CERTIFICATION OF INACTIVE STATUS

In lieu of Certificate of Good Standing

For

JOHN MILLER WEST

Pennsylvania Bar Number 56104

I, Suzanne E. Price, as the Attorney Registrar for the Disciplinary Board of the Supreme Court of Pennsylvania, hereby confirm that **John Miller West** was admitted as an Attorney by the Supreme Court of Pennsylvania to the bar of the courts of the Commonwealth of Pennsylvania on November 16, 1989.

Mr. West is currently registered as Inactive, having assumed said status on July 1, 1991.

Dated this 22nd day of September, 2017



By:

Suzanne E. Price

Suzanne E. Price
Attorney Registrar



District of Columbia Court of Appeals
Committee on Admissions
430 F Street, N.W. — Room 123
Washington, D. C. 20001
202 / 879-2710

I, JULIO A. CASTILLO, Clerk of the District of Columbia Court
of Appeals, do hereby certify that

JOHN M. WEST

was on **JULY 25, 1990** duly qualified and admitted as an
attorney and counselor entitled to practice before this Court and is,
on the date indicated below, an active member in good standing of
this Bar.

In Testimony Whereof, I have
hereunto subscribed my name
and affixed the seal of this Court
at the City of Washington, D.C.
on September 26, 2017.

JULIO A. CASTILLO
Clerk of the Court

By:



Deputy Clerk

Exhibit C

Exhibit C

1 STAT

2 IN THE EIGHTH JUDICIAL DISTRICT COURT OF
3 THE STATE OF NEVADA
4 IN AND FOR THE COUNTY OF CLARK

5 Case No. A-17-761364-C
6 Dept. No. XXVIII

7 Clark County Education
8 Association

9 vs.

10 Nevada State Education
11 Association

12 STATE BAR OF NEVADA STATEMENT PURSUANT TO SUPREME COURT RULE
13 42 (3) (b)

14 THE STATE BAR OF NEVADA, in response to the application of
15 Petitioner, submits the following statement pursuant to SCR42(3):

16 SCR42(6) **Discretion.** The granting or denial of a motion to associate
17 counsel pursuant to this rule by the court is discretionary. The
18 court, arbitrator, mediator, or administrative or governmental
19 hearing officer may revoke the authority of the person permitted to
20 appear under this rule. Absent special circumstances, repeated
appearances by any person or firm of attorneys pursuant to this rule
shall be cause for denial of the motion to associate such person.

21 (a) **Limitation.** It shall be presumed, absent special
22 circumstances, and only upon showing of good cause, that
23 more than 5 appearances by any attorney granted under
24 this rule in a 3-year period is excessive use of this
25 rule.

26 (b) **Burden on applicant.** The applicant shall have the
27 burden to establish special circumstances and good cause
28 for an appearance in excess of the limitation set forth
in subsection 6(a) of this rule. The applicant shall set
forth the special circumstances and good cause in an
affidavit attached to the original verified application.

1. DATE OF APPLICATION: October 5, 2017

2. APPLYING ATTORNEY: John Miller West, Esq.

1 3. FIRM NAME AND ADDRESS: Bredhoff & Kaiser PLLC, 805 Fifteenth
2 Street NW, Suite 1000, Washington, DC 20005

3 4. NEVADA COUNSEL OF RECORD: Richard J. Pocker, Esq., Boies,
4 Schiller and Flexner, LLP, 300 S. Fourth St., Suite 800, Las
5 Vegas, NV 89101

6 5. In addition to the present application, petitioner made the
7 following previous applications within the last three years:

8 10/5/2017 FILED SIMULTANEOUSLY

9 DATED this October 10, 2017

10 Suzy Moore
11 Suzy Moore
12 Member Services Admin.
13 Pro Hac Vice Processor
14 STATE BAR OF NEVADA
15
16
17
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19
20
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1 Richard J. Pocker (Nevada Bar No. 3568)
2 Paul J. Lal (Nevada Bar No. 3755)
3 BOIES SCHILLER FLEXNER LLP
4 300 South Fourth Street, Suite 800
5 Las Vegas, NV 89101
6 Tel.: (702) 382-7300
7 Fax: (702) 382-2755
8 rpocker@bsfllp.com
9 plal@bsfllp.com

7 John M. West*
8 Matthew Clash-Drexler*
9 James Graham Lake*
10 BREDHOFF & KAISER, PLLC
11 805 15th Street N.W., Suite 1000
12 Washington, DC 20005
13 Tel.: (202) 842-2600
14 Fax: (202) 842-1888
15 jwest@bredhoff.com
16 mcdrexler@bredhoff.com
17 glake@bredhoff.com

* Pro hac vice applications pending

Attorneys for Defendants

**DISTRICT COURT
EIGHTH JUDICIAL DISTRICT
CLARK COUNTY, NEVADA**

18 CLARK COUNTY EDUCATION
19 ASSOCIATION, VICTORIA COURTNEY,
20 JAMES FRAZEE, ROBERT G.
21 HOLLOWOOD, and MARIE NEISESS,

22 Plaintiffs,

23 v.

24 NEVADA STATE EDUCATION
25 ASSOCIATION, DANA GALVIN, RUBEN
26 MURILLO JR., BRIAN WALLACE, and
27 BRIAN LEE,

28 Defendants.

Case No. A-17-761364-C

DEPT. NO. 28

CERTIFICATE OF MAILING

Date of Hearing: 11/29/2017

Time of Hearing: In Chambers

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Richard G. McCracken, Esq.
McCracken, Stemerma & Holsberry, LLP
1630 S. Commerce Street, Suite A-1
Las Vegas, Nevada 89102
Attorneys for Plaintiffs


An employee of Boies Schiller Flexner LLP

Exhibit C

**(Findings of Fact, Conclusions of Law,
and Order Granting Plaintiffs' (Clark
County Education Association, Victoria
Courtney, James Frazee, Robert
Hollowood, and Maria Neisess's – CCEA
Parties) Motion for Partial Summary
Judgment dated December 20, 2018)**

Exhibit C



1 Richard G. McCracken, Nevada Bar No. 2748
2 Kimberley C. Weber, Nevada Bar No. 14434
3 McCracken, STEMERMAN & HOLSBERRY, LLP
4 1630 South Commerce Street, Suite 1-A
5 Las Vegas, NV 89102
6 Tel: (702) 386-5107
7 rmccracken@msh.law
8 kweber@msh.law

9 John S. Delikanakis, Nevada Bar No. 5928
10 Michael Paretti, Nevada Bar No. 13926
11 SNELL & WILMER L.L.P.
12 3883 Howard Hughes Parkway, Suite 1100
13 Las Vegas, NV 89169
14 Tel: (702) 784-5200
15 jdelikanakis@swlaw.com
16 mparetti@swlaw.com

17 Joel A. D'Alba
18 Admitted pro hac vice
19 ASHER, GITTLER & D'ALBA, LTD.
20 200 West Jackson Blvd., Suite 720
21 Chicago, IL 60606
22 Tel: (312) 263-1500
23 jad@ulaw.com

24 *Attorneys for the CCEA Parties*

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

25 CLARK COUNTY EDUCATION
26 ASSOCIATION, VICTORIA COURTNEY,
27 JAMES FRAZEE, ROBERT G.
28 HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

29 NEVADA STATE EDUCATION
30 ASSOCIATION, DANA GALVIN, RUBEN
31 MURILLO, JR., BRIAN WALLACE, and
32 BRIAN LEE,

Defendants.

33 NEVADA STATE EDUCATION
34 ASSOCIATION; NATIONAL EDUCATION
35 ASSOCIATION; RUBEN MURILLO;
36 ROBERT BENSON; DIANE
37 DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

Case No.: A-17-761364-C
DEPT. NO.: 4

(consolidated with A-17-761884-C)

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

1 And

2 BRIAN LEE,

3 Counter-Defendant,

4 vs.

5 CLARK COUNTY EDUCATION
6 ASSOCIATION; JOHN VELLARDITA; AND
7 VICTORIA COURTNEY,

Defendants-Counter Plaintiffs.

8
9 PLEASE TAKE NOTICE that Findings of Fact, Conclusions of Law, and Order Granting
10 Plaintiffs' Motion for Partial Summary Judgment were entered in the above-captioned matter on
11 December 20, 2018, a copy of which is attached hereto.

12 DATED this 20th day of December, 2018.

13 SNELL & WILMER L.L.P.

14 By: /s/ Michael Paretti

15 John S. Delikanakis

16 Nevada Bar No. 5928

Michael Paretti

17 Nevada Bar No. 13926

Brad T. Austin

18 Nevada Bar No. 13064

3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169

19 Joel A. D' Alba (*pro hac vice*)

20 ASHER, GITTLER & D'ALBA, LTD.

21 200 West Jackson Blvd, Suite 1900

Chicago, IL 60606

22 Richard G. McCracken

23 Nevada Bar No. 2748

Kimberley C. Weber

24 Nevada Bar No. 14434

McCRACKEN, STEMERMAN

25 & HOLSBERRY, LLP

1630 South Commerce Street, Suite 1-A

26 Las Vegas, NV 89102

27 *Attorneys for Plaintiffs*

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT** by the method indicated below:

| | | | |
|-----------|------------------------|-------|---------------------|
| <u>XX</u> | Odyssey E-File & Serve | _____ | Federal Express |
| _____ | U.S. Mail | _____ | U.S. Certified Mail |
| _____ | Facsimile Transmission | _____ | Hand Delivery |
| _____ | Email Transmission | _____ | Overnight Mail |

and addressed to the following:

Richard J. Pocker, Esq.
Paul J. Lal, Esq.
BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
Las Vegas, NV 89101
Email: rpocker@bsflp.com
Email: plal@bsflp.com
Attorneys for Defendants

Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
James Graham Lake (*pro hac vice*)
BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005
Email: ralexander@bredhoff.com
Email: mcdrexler@bredhoff.com
Email: glake@bredhoff.com
Attorneys for Defendants

DATED this 20th day of December, 2018.

/s/ Maricris Williams
An Employee of Snell & Wilmer LLP

4852-6859-4564



Richard G. McCracken, Nevada Bar No. 2748
 Kimberley C. Weber, Nevada Bar No. 14434
 McCRACKEN, STEMERMAN & HOLSBERRY, LLP
 1630 South Commerce Street, Suite 1-A
 Las Vegas, NV 89102
 Tel: (702) 386-5107
 rmccracken@msh.law
 kweber@msh.law

John S. Delikanakis, Nevada Bar No. 5928
 Michael Paretti, Nevada Bar No. 13926
 SNELL & WILMER L.L.P.
 3883 Howard Hughes Parkway, Suite 1100
 Las Vegas, NV 89169
 Tel: (702) 784-5200
 jdelikanakis@swlaw.com
 mparetti@swlaw.com

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 ASHER, GITTLER & D'ALBA, LTD.
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 Chicago, IL 60606
 Tel: (312) 263-1500
 jad@ulaw.com

Attorneys for the CCEA Parties

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
 ASSOCIATION, VICTORIA COURTNEY,
 JAMES FRAZEE, ROBERT G.
 HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
 ASSOCIATION, DANA GALVIN, RUBEN
 MURILLO, JR., BRIAN WALLACE, and
 BRIAN LEE,

Defendants.

NEVADA STATE EDUCATION
 ASSOCIATION; NATIONAL EDUCATION
 ASSOCIATION; RUBEN MURILLO;
 ROBERT BENSON; DIANE
 DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

Case No.: A-17-761364-C
 DEPT. NO.: 4

(consolidated with A-17-761884-C)

**FINDINGS OF FACT, CONCLUSIONS
 OF LAW, AND ORDER GRANTING
 PLAINTIFFS' MOTION FOR PARTIAL
 SUMMARY JUDGMENT**

Date of Hearing : November 15, 2018
Time of Hearing: 9:00 a.m.

Case No.: A-17-761884-C
 (consolidated with A-17-761364-C)

1 And

2 BRIAN LEE,

3 Counter-Defendant,

4 vs.

5 CLARK COUNTY EDUCATION
6 ASSOCIATION; JOHN VELLARDITA; AND
VICTORIA COURTNEY,

7 Defendants-Counter Plaintiffs.

8 The Court, having read and considered Plaintiffs Clark County Education Association
9 (“CCEA”), Victoria Courtney, James Frazee, Robert Hollowood, and Maria Neisess’s (collectively,
10 the “CCEA Parties”) *Motion for Partial Summary Judgment* (“Motion”) filed by the CCEA Parties
11 on June 18, 2018, and all papers filed in support of the Motion; having heard and considered the
12 oral argument of counsel John S. Delikanakis, Esq. and Michael Paretti, Esq. of Snell & Wilmer
13 L.L.P., and Joel D’Alba, Esq. of Asher, Gittler & D’Alba, Ltd. appearing on behalf of the CCEA
14 Parties, and Robert Alexander, Esq. and James Graham Lake, Esq. (telephonically) of Bredhoff &
15 Kaiser, PLLC and Paul J. Lal, Esq. of Boies Schiller Flexner appearing on behalf of Nevada State
16 Education Association (“NSEA”), Dana Galvin, Ruben Murillo, Brian Wallace, and Brian Lee
17 (collectively, the “NSEA Parties”); and with good cause appearing, enters the following findings
18 of fact, conclusions of law and order.

19 **FINDINGS OF FACT**

20 The Court concludes, under N.R.C.P. 56, that there is no genuine dispute of fact regarding
21 the following:

22 1. CCEA is a democratic organization that is the exclusive collective bargaining
23 representative of the licensed professional employees of the Clark County School District
24 (“CCSD”) and is the employee organization that serves as the local voice for educators to advance
25 the cause of education, promote professional excellence among educators to protect the rights of
26 educators, advance their interests and welfare, and secure professional autonomy.

2. CCEA is the recognized and exclusive bargaining agent for CCSD's licensed professional employees.

3. NSEA was the state-wide affiliate of the CCEA.

4. The National Education Association ("NEA") was the national affiliate of the CCEA.

5. NEA remains the national affiliate of NSEA.

6. Members of CCEA pay dues to CCEA pursuant to a membership dues authorization form ("Membership Authorization Form").

7. The Membership Authorization Form provides that:

Payroll Deduction Authorization. With full knowledge of the above, I hereby agree to pay cash for, or herein, authorize my employer to deduct from my salary, and pay to the local association, in accordance with the agreed-upon payroll deduction procedure, the professional dues as established annually and the political action contributions in the amounts indicated above for this membership year and each year thereafter, provided that I may revoke this authorization by giving written notice to that effect to my local association between July 1 and July 15 of any calendar year, or as otherwise designated by the negotiated agreement. Dues are paid on an annual basis and, although dues may be deducted from my payroll check(s) in order to provide an easier method of payment, a member is obligated to pay the entire amount of dues for a membership year. I understand that if I resign my membership in my local Association, or in the event of termination, resignation or retirement from employment, I am still obligated to pay the balance of my annual dues and political or positive image contributions for that membership year and such payments will continue to be deducted from my payroll check(s). (emphasis supplied).

8. Once an individual CCEA member signs the CCEA Membership Authorization Form, CCEA membership dues are then deducted from members' pay checks by their employer, the CCSD, pursuant to a collective bargaining agreement negotiated and agreed to by and between CCEA and CCSD.

9. The membership dues deducted from CCEA members' pay checks are then paid to CCEA by CCSD.

10. A portion of the CCEA membership dues are then transmitted to NSEA through a dues transmittal agreement by and between CCEA and NSEA ("Dues Transmittal Agreement"), which is attached as an addendum and incorporated into a negotiated services agreement by and

between CCEA and NSEA ("Service Agreement") as Addendum A.

11. The Service Agreement incorporates the Dues Transmittal Agreement and provides as follows:

CCEA agrees to transmit NSEA and NEA dues, and NSEA-TIP and NEA-PAC contributions to NSEA for each by the tenth business day following the payroll deduction. The agreement is attached as Addendum A.

12. In the absence of a Dues Transmittal Agreement, there is no obligation for CCEA to transmit dues to NSEA and per NEA's bylaws, only NSEA has a contractual obligation to pay NEA.

13. The Service Agreement incorporates and the Dues Transmittal Agreement and together provide for the quid pro quo exchange between CCEA and NSEA. The Service Agreement sets forth the services and financial payments that NSEA will provide to CCEA in exchange for transmittal of dues that CCEA sends to NSEA, as set forth in both the Service Agreement - Dues Transmittal Agreement.

14. Specifically, paragraph 1 of the Service Agreement states that CCEA will transmit dues to NSEA and the following paragraph (paragraph 2) provides that in exchange, NSEA will transmit grants to CCEA.

15. The Service Agreement and the Dues Transmittal Agreement are a single integrated agreement that allows either party to unilaterally terminate and seek to renegotiate the terms of the agreement.

16. Specifically, the Service Agreement provides that:

The term of this agreement shall be from September 1 to August 31. This Agreement shall be automatically renewed on an annual basis, unless either party shall give written notice of termination to the other party, with evidence of receipt by the other party no later than thirty (30) days prior to the anniversary date of the Agreement. Should either party give notice of termination as provided alone, then this Agreement shall terminate on the anniversary date unless a successor agreement has been mutually agreed to by the parties. (emphasis supplied).

17. The relevant anniversary date is September 1, 2017.

18. Similarly, the Dues Transmittal Agreement provides that "[t]his agreement shall

1 remain in force for each subsequent membership year unless terminated in writing by either
2 party prior to September 1 of any NSEA membership year, or amended by mutual consent of
3 both parties.” (emphasis supplied).

4 19. The NSEA membership year runs from September 1 to August 31.

5 20. On May 3, 2017, CCEA gave notice to NSEA and its officers of an intent to
6 terminate the Service Agreement and the Dues Transmittal as follows:

7 Pursuant to the terms of the Service Agreement between the Nevada State Education
8 Association and the Clark County Education Association, I write to give you notice
9 to terminate this agreement, unless a successor agreement can be mutually agreed
10 to by the parties....Please accept this letter as our formal notice of termination of the
11 Service Agreement.

12 21. On July 17, 2017 and August 3, 2017, CCEA sent NSEA two additional letters
13 providing for notice of the intent to terminate the Service Agreement and the Due Transmittal
14 Agreement. Specifically, the July 17, 2017, letter stated in pertinent part that:

15 On May 3, 2017 CCEA served notice that it was terminating the Service Agreement
16 between CCEA and NSEA.....This letter serves notice to NSEA that unless there is
17 a successor agreement in place before the August 31, 2017 all terms and conditions
18 of the agreement shall become null and void.

19 The August 3, 2017, letter stated in pertinent part that:

20 Your letter expressing a claim based on NSEA policies is incorrect as this is a
21 contract matter, there has not been a mutual agreement to modify the Agreement,
22 and without mutual agreement, the terms and conditions of the Agreement will be
23 null and void upon its expiration on August 31, 2017....The Agreement serves as
24 the dues transmittal contract, and it is otherwise set to expire unless a successor
25 is negotiated per the terms and conditions of that Agreement. Upon expiration,
26 CCEA is not only legally not obligated to transmit dues, but cannot transmit member
27 dues to NSEA per NSEA’s own ByLaws. To be clear, when the current Agreement
28 between CCEA and NSEA expires on August 31, 2017 there will not be a contract
in place between the two organizations to collect and remit dues to NSEA.
(emphasis supplied).

22. On April 25, 2018, CCEA voted to disaffiliate from NEA and NSEA.

23. Any finding of fact which should be construed as a conclusion of law shall be
construed as such.

24. Any conclusion of law which should be construed as a finding of fact shall be construed as such.

CONCLUSIONS OF LAW

A. Standard for Summary Judgment

25. The Court will render judgment “forthwith if the pleadings together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Nevada Rule of Civil Procedure 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986.)

26. “A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party.” *Wood v. Safeway*, 121 Nev. 724, 731 (2005).

27. The moving party bears the initial burden of showing the absence of a genuine issue of material fact. *Celotex*, 477 U.S. at 323.

28. To meet this burden, the moving party may either produce evidence affirmatively demonstrating the absence of such evidence or point out a lack of evidence to support the nonmoving party’s case. *Id.* at 325.

29. Once this burden is met, the burden shifts to the nonmoving party to present evidence demonstrating the existence of a genuine issue of material fact. *See Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986).

B. CCEA Terminated the Service Agreement and Dues Transmittal Agreement within the Contractually-Permitted Timeframe Prior to September 1, 2017.

30. “Questions of contract construction, in the absence of ambiguity or other factual issues, are suitable for determination by summary judgment.” *See Nelson v. California State Auto. Ass’n Inter-Ins. Bureau*, 114 Nev. 345, 347, 956 P.2d 803, 805 (1998) *S. Tr. Mortg. Co. v. K & B Door Co.*, 104 Nev. 564, 568, 763 P.2d 353, 355 (1988) (“[W]here a document is clear and unambiguous, the court must construe it from the language therein.”); *Chwialkowski v. Sachs*, 108 Nev. 404, 406, 834 P.2d 405, 406 (1992) (same); *Renshaw v. Renshaw*, 96 Nev. 541, 543, 611, P.2d 1070, 1071 (1980) (same); *Ellison v. California State Auto Ass’n*, 106 Nev. 601, 603, 797 P.2d 975, 977 (1990) (same); *Watson v. Watson*, 95 Nev. 495, 496, 596 P.2d 507, 508 (1979) (“Courts

1 are bound by language which is clear and free from ambiguity and cannot, using guise of
2 interpretation, distort plain meaning of agreement.”).

3 **THE COURT FINDS AS FOLLOWS:**

4 31. The Service Agreement and Dues Transmittal Agreement ~~as an integrated~~^(S)
5 ~~agreement~~ expressly allow unilateral termination by either party, and those termination provisions
6 are clear and unambiguous.

7 32. The May 3, 2017, July 17, 2017, and August 3, 2017 letters served to terminate both
8 the Service Agreement and Dues Transmittal Agreement, which termination occurred within the
9 required contractual timeframe.

10 33. The foregoing termination notices caused both the Service Agreement and Dues
11 Transmittal Agreement to expire on August 31, 2017.

12 34. In light of the foregoing termination and expiration, CCEA owed no duties to NSEA
13 or NEA under the Service Agreement and Dues Transmittal Agreement to collect and/or transmit
14 membership dues on NSEA or NEA’s behalf on or after September 1, 2017, nor did NSEA or NEA
15 have any obligation to CCEA on or after September 1, 2017, to perform pursuant to the Service
16 Agreement and Dues Transmittal Agreement, and, in fact, there is no dispute that NSEA and NEA
17 ceased to perform under the Service Agreement and Dues Transmittal Agreement on or after
18 September 1, 2017.

19 35. There are no genuine issues of material fact concerning whether the Service
20 Agreement and Dues Transmittal Agreement were terminated.

21 36. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
22 to summary judgment as a matter of law.

23 37. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
24 summary judgment in their favor and against the NSEA Parties on their declaratory relief claim.

25 **ORDER**

26 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Motion is
27 **GRANTED** in its entirety, and summary judgment is entered in favor of the CCEA Parties on
28

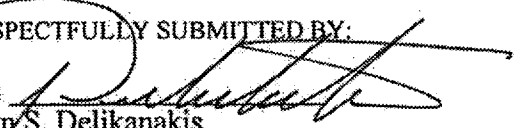
1 their claim for Declaratory Relief. Judgment will be entered pursuant to this order as follows:
2 (1) The termination provisions of the Service Agreement and Dues Transmittal Agreement are
3 clear and unambiguous, (2) CCEA's May 3, 2017, July 17, 2017, and August 3, 2017 letters
4 notifying NSEA of the termination of the Service Agreement and Dues Transmittal Agreement
5 are equally clear and unambiguous, (3) the Service Agreement and Dues Transmittal
6 Agreement were terminated by CCEA within the required contractual timeframe, (4) this
7 termination caused both agreements to expire on August 31, 2017, and (5) in light of the
8 foregoing termination and expiration, CCEA owed no duties to NSEA or NEA under the
9 Service Agreement and Dues Transmittal Agreement to collect and/or transmit membership
10 dues on NSEA or NEA's behalf on or after September 1, 2017, nor did NSEA or NEA have any
11 obligation to CCEA on or after September 1, 2017, to perform pursuant to the Service Agreement
12 and Dues Transmittal Agreement, and, in fact, there is no dispute that NSEA and NEA ceased to
13 perform under the Service Agreement and Dues Transmittal Agreement on or after September 1,
14 2017.

15
16
17 DATED: 12-18-18, 2018

18 
19 THE HONORABLE JUDGE KERRY EARLEY
20
21
22
23
24
25
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28

1 SNELL & WILMER L.L.P.

2
3 RESPECTFULLY SUBMITTED BY:

4 By: 
5 John S. Delikanakis
6 Nevada Bar No. 5928
7 Michael Paretti
8 Nevada Bar No. 13926
9 SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169

8 Joel A. D'Alba (*pro hac vice*)
200 West Jackson Blvd., Suite 720
9 Chicago, IL 60606

10 Richard G. McCracken
Nevada Bar No. 2748
11 Kimberley C. Weber
Nevada Bar No. 14434
12 McCracken, STEMERMAN
& HOLSBERY, LLP
13 1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102

14 *Attorneys for the CCEA Parties*

15
16 APPROVED AS TO FORM AND CONTENT BY:

17
18 By: To submit competing order
19 Richard J. Pocker
Nevada Bar No. 3568
20 Paul J. Lal
Nevada Bar No. 3755
BOIES SCHILLER FLEXNER LLP
21 300 South Fourth Street, Suite 800
Las Vegas, NV 89101

22 John M. West (*pro hac vice*)
23 Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
24 James Graham Lake (*pro hac vice*)
BREDHOFF & KAISER, PLLC
25 805 15th Street N.W., Suite 1000
Washington, DC 20005

26 *Attorneys for the NSEA Parties*

27

28



John S. Delikanakis, Nevada Bar No. 5928
Michael Paretti, Nevada Bar No. 13926
Bradley T. Austin, Nevada Bar No. 13064
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Tel: (702) 784-5200
jdelikanakis@swlaw.com
mparetti@swlaw.com
baustin@swlaw.com

Richard G. McCracken, Nevada Bar No. 2748
Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702) 386-5107
rmccracken@msh.law
kweber@msh.law

Joel A. D'Alba (*Pro Hac Vice*)
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
Tel: (312) 263-1500
jad@ulaw.com

*Attorneys for Plaintiffs Clark County Education Association,
Victoria Courtney, James Frazee, Robert G. Hollowood and
Maria Neisess*

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO, JR., BRIAN WALLACE, and
BRIAN LEE,

Defendants.

Case No.: A-17-761364-C
DEPT. NO.: 4

(consolidated with A-17-761884-C)

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING IN PART AND
DENYING IN PART THE NSEA
PARTIES' MOTION FOR PARTIAL
RECONSIDERATION OF THE
DECEMBER 20, 2018 FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER**

1 NEVADA STATE EDUCATION
2 ASSOCIATION; NATIONAL EDUCATION
3 ASSOCIATION; RUBEN MURILLO;
ROBERT BENSON; DIANE
DI ARCHANGEL; AND JASON WYCKOFF,

4 Plaintiffs-Counter Defendants,

5 And

6 BRIAN LEE,

7 Counter-Defendant,

8 vs.

9 CLARK COUNTY EDUCATION
ASSOCIATION; JOHN VELLARDITA; AND
10 VICTORIA COURTNEY,

11 Defendants-Counter Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

12 PLEASE TAKE NOTICE that Findings of Fact, Conclusions of Law, and Order Granting
13 in Part and Denying in Part the NSEA Parties' Motion for Partial Reconsideration of the
14 December 20, 2018 Findings of Fact, Conclusions of Law, and Order were entered in the above-
15 captioned matter on June 28, 2019, a copy of which are attached hereto.

16 DATED this 28th day of June, 2019.

17 SNELL & WILMER L.L.P.

18 By: /s/ Michael Paretti

19 John S. Delikanakis

20 Nevada Bar No. 5928

Michael Paretti

21 Nevada Bar No. 13926

Brad T. Austin

22 Nevada Bar No. 13064

SNELL & WILMER L.L.P.

23 3883 Howard Hughes Parkway, Suite 1100

Las Vegas, NV 89169

24 *Attorneys for Plaintiffs*

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen
3 (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be
4 served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF**
5 **FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART AND DENYING**
6 **IN PART THE NSEA PARTIES' MOTION FOR PARTIAL RECONSIDERATION OF**
7 **THE DECEMBER 20, 2018 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND**
8 **ORDER** by the method indicated below:

| | | | |
|-------------|------------------------|-------|---------------------|
| 9 <u>XX</u> | Odyssey E-File & Serve | _____ | Federal Express |
| 10 _____ | U.S. Mail | _____ | U.S. Certified Mail |
| 11 _____ | Facsimile Transmission | _____ | Hand Delivery |
| 12 _____ | Email Transmission | _____ | Overnight Mail |

13 and addressed to the following:

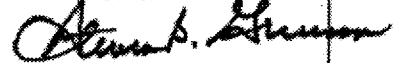
14
15 Richard J. Pocker
16 Paul J. Lal
17 BOIES SCHILLER FLEXNER LLP
18 300 South Fourth Street, Suite 800
19 Las Vegas, NV 89101
20 Email: rpocker@bsflp.com
21 Email: plal@bsflp.com
22 Attorneys for Defendants

Robert Alexander
Matthew Clash-Drexler
BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005
Email: ralexander@bredhoff.com
Email: mcdrexler@bredhoff.com
Attorneys for Defendants

23 DATED this 28th day of June, 2019.

24 /s/ Maricris Williams
25 An Employee of Snell & Wilmer L.L.P.

26 4832-9232-3227.1



Snell & Wilmer

LLP
LAW OFFICES
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, Nevada 89169
702.784.5200

1 John S. Delikanakis, Nevada Bar No. 5928
Bradley T. Austin, Nevada Bar No. 13064
2 Michael Paretti, Nevada Bar No. 13926
SNELL & WILMER LLP.
3 3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
4 Tel: (702) 784-5200
jdelikanakis@swlaw.com
5 baustin@swlaw.com
mparetti@swlaw.com

6 Joel A. D'Alba
7 Admitted pro hac vice
ASHER, GITTLER & D'ALBA, LTD.
8 200 West Jackson Blvd., Suite 720
Chicago, IL 60606
9 Tel: (312) 263-1500
jad@ulaw.com

10 Richard G. McCracken, Nevada Bar No. 2748
11 Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
12 1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
13 Tel: (702) 386-5107
rmccracken@msh.law
14 kweber@msh.law

15 *Attorneys for the CCEA Parties*

16 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 CLARK COUNTY EDUCATION
19 ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
20 HOLLOWOOD, and MARIA NEISESS,

21 Plaintiffs,

22 vs.

23 NEVADA STATE EDUCATION
24 ASSOCIATION, DANA GALVIN, RUBEN
MURILLO, JR., BRIAN WALLACE, and
25 BRIAN LEE,

26 Defendants.

Case No.: A-17-761364-C
DEPT. NO.: 4

(consolidated with A-17-761884-C)

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING IN
PART AND DENYING IN PART THE
NSEA PARTIES' MOTION FOR
PARTIAL RECONSIDERATION OF
THE DECEMBER 20 FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER**

**Date of Hearing : May 9, 2019
Time of Hearing: 9:00 a.m.**

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO;
ROBERT BENSON; DIANE
DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

And

BRIAN LEE,

Counter-Defendant,

vs.

CLARK COUNTY EDUCATION
ASSOCIATION; JOHN VELLARDITA; AND
VICTORIA COURTNEY,

Defendants-Counter Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

The Court, having read and considered Nevada State Education Association ("NSEA"), National Education Association ("NEA"), Dana Galvin, Ruben Murillo, Jr., Brian Wallace, Brian Lee, Robert Benson, Diane Di Archangel and Jason Wyckoff (collectively "NSEA Parties") Motion for Partial Reconsideration of the December 20 Findings of Fact, Conclusions of Law, and Order ("Motion for Reconsideration"), filed January 10, 2019; the Clark County Education Association ("CCEA"), Victoria Courtney, James Frazee, Robert Hollowood, and Maria Neisess's (collectively, the "CCEA Parties") Opposition to the Motion for Reconsideration, filed February 25, 2019; the NSEA Parties' Reply in Support of the Motion for Reconsideration, filed April 4, 2019; and all other papers filed in support of the foregoing; having heard and considered the oral argument of counsel John S. Delikanakis, Esq., Bradley Austin, Esq. and Michael Paretti, Esq. of Snell & Wilmer L.L.P., and Joel D'Alba, Esq. of Asher, Gittler & D'Alba, Ltd. appearing on behalf of the CCEA Parties, and Robert Alexander, Esq. and James Graham Lake, Esq. of Bredhoff & Kaiser, PPLC and Paul J. Lal, Esq. of Boies Schiller Flexner appearing on behalf of the NSEA Parties, and with good cause appearing, enters the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. The CCEA Parties filed a Motion for Partial Summary Judgment ("MPSJ") on June 18, 2018 seeking summary judgment on their claim for Declaratory Relief.

2. The NSEA Parties filed their Opposition to the MPSJ on July 20, 2018.
3. The CCEA Parties filed their Reply in Support of the MPSJ on August 14, 2018.
4. The Court entertained oral argument on the MPSJ on November 15, 2018 – with the consolidated hearing spanning nearly two-and-a-half hours in length (beginning at 9:06 am and concluding at 11:30 am).
5. Following the hearing, the Court issued a Minute Order on November 15, 2018, granting the CCEA Parties' MPSJ and directing CCEA's counsel to draft a proposed order.
6. The Parties subsequently exchanged redlines of a proposed order but were unable to reach a consensus.
7. On December 6, 2018, CCEA submitted its proposed order, along with a redline from NSEA, highlighting for the Court all of the specific changes that the NSEA Parties requested.
8. On December 7, 2018, the NSEA Parties submitted a competing order, along with a seven-page, single spaced letter – much of which contained arguments identical to those found in the instant Motion for Reconsideration.
9. After reviewing both competing orders, the redline of the NSEA Parties' proposed changes, and the NSEA Parties' seven-page letter, the Court entered its Findings of Fact, Conclusions of Law, and Order granting the CCEA Parties' Motion for Partial Summary Judgment on December 20, 2018.
10. Pertinent to the Motion for Reconsideration, the December 20, 2018, Findings of Fact, Conclusions of Law, and Order provides:
 - a. Paragraph 6: "Members of CCEA pay dues to CCEA pursuant to a membership dues authorization form ('Membership Authorization Form')."
 - b. Paragraph 8: "Once an individual CCEA member signs the CCEA Membership Authorization Form, CCEA membership dues are then deducted from members' pay checks by their employer, the CCSD, pursuant to a collective bargaining agreement negotiated and agreed to by and between CCEA and CCSD."

- c. Paragraph 9: "The membership dues deducted from CCEA members' pay checks are then paid to CCEA by CCSD."
- d. Paragraph 10: "A portion of the CCEA membership dues are then transmitted to NSEA through a dues transmittal agreement by and between CCEA and NSEA("Dues Transmittal Agreement"), which is attached as an addendum and incorporated into a negotiated services agreement by and between CCEA and NSEA ('Service Agreement') as Addendum A."
- e. Paragraph 12: "In the absence of a Dues Transmittal Agreement, there is no obligation for CCEA to transmit dues to NSEA and per NEA's bylaws, only NSEA has a contractual obligation to pay NEA."

11. Any finding of fact which should be construed as a conclusion of law shall be construed as such.

12. Any conclusion of law which should be construed as a finding of fact shall be construed as such.

CONCLUSIONS OF LAW

A. Standard for Reconsideration

13. "A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous." *Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997) (internal citations omitted.).

14. "Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted." *Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976).

15. Further, a petition for rehearing may not be utilized as a vehicle to reargue matters considered and decided in the court's initial opinion. *Matter of Estate of Herrmann*, 100 Nev. 149, 151, 679 P.2d 246, 247 (1984).

1 16. A decision is erroneous “when although there is evidence to support it, the reviewing
2 court on the entire evidence is left with the definite and firm conviction that a mistake has been
3 committed.” *Union America Mortgage and Equity v. McDonald*, 97 Nev. 210,211-212, 626 P.2d
4 1272, 1273 (1981), quoting *United States v. Gypsum Co.*, 333 U.S. 364, 395 (1948).

5 **B. Paragraph 6 of the December 20 Order**

6 17. Paragraph 6 of the Court’s December 20, 2018, Findings of Fact, Conclusions of
7 Law, and Order did not classify the subject enrollment form as a CCEA enrollment form.

8 18. The Court did not interpret the findings of fact in Paragraph 6 to limit NSEA or
9 NEA’s rights.

10 19. Substantially different evidence has not been subsequently introduced, and the
11 Court’s decision is not clearly erroneous.

12 20. Accordingly, the Court denies the NSEA Parties’ Motion for Reconsideration with
13 respect to Paragraph 6.

14 **C. Paragraphs 8-10 of the December 20 Order**

15 21. Paragraphs 8-10 of the Court’s December 20, 2018, Findings of Fact, Conclusions
16 of Law, and Order explained the mechanisms as to how membership dues were transmitted from
17 CCSD to CCEA, NSEA, and NEA prior to CCEA’s termination of the Service Agreement and
18 Dues Transmittal Agreement.

19 22. Substantially different evidence has not been subsequently introduced, and the
20 Court’s decision is not clearly erroneous.

21 23. Accordingly, the Court denies the NSEA Parties’ Motion for Reconsideration with
22 respect to Paragraphs 8-10, but does so without prejudice to ruling on the parties’ pending motions
23 for summary judgment.

24 **D. Paragraph 12 of the December 20 Order**

25 24. Paragraph 12 of the Court’s December 20, 2018, Findings of Fact, Conclusions of
26 Law, and Order did not serve as a basis in any way for the Court’s ruling on the CCEA Parties’
27 MPSJ.
28

ORDER

DATED: June 27, 2019

THE HONORABLE JUDGE KERRY EARLEY

- 6 -

1 Richard G. McCracken
Nevada Bar No. 2748
2 Kimberley C. Weber
Nevada Bar No. 14434
3 McCracken, STEMERMAN
& HOLSBERRY, LLP
4 1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102

5 *Attorneys for the CCEA Parties*

6
7 APPROVED AS TO FORM AND CONTENT BY:

8 By:

9 Richard J. Pocker
Nevada Bar No. 3568
10 Paul J. Lal
Nevada Bar No. 3755
11 BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
12 Las Vegas, NV 89101

13 Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)

14 BREDHOFF & KAISER, PLLC
15 805 15th Street N.W., Suite 1000
Washington, DC 20005

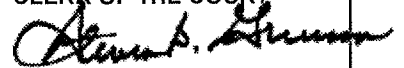
16 *Attorneys for the NSEA Parties*

17 4838-3011-7017
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Exhibit D

**(Findings of Fact, Conclusions of Law,
and Order Granting the Clark County
Education Association Parties' Motion for
Partial Summary Judgment and Denying
the Nevada State Education Association
Parties' Motion for Partial Summary
Judgment dated July 1, 2019)**

Exhibit D



John S. Delikanakis, Nevada Bar No. 5928
Michael Paretti, Nevada Bar No. 13926
Bradley T. Austin, Nevada Bar No. 13064
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Tel: (702) 784-5200
jdelikanakis@swlaw.com
mparetti@swlaw.com
baustin@swlaw.com

Richard G. McCracken, Nevada Bar No. 2748
Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702) 386-5107
rmccracken@msh.law
kweber@msh.law

Joel A. D'Alba (*Pro Hac Vice*)
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
Tel: (312) 263-1500
jad@ulaw.com

*Attorneys for Plaintiffs Clark County Education Association, Victoria Courtney,
James Frazee, Robert G. Hollowood and Maria Neisess*

**IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO, JR., BRIAN WALLA CE, and
BRIAN LEE,

Defendants.

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO; ROBERT
BENSON; DIANE DI ARCHANGEL; AND
JASON WYCKOFF,

Plaintiffs-Counter Defendants,

Case No.: A-17-761364-C
DEPT. NO.: 4
(consolidated with A-17-761884-C)

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING THE CLARK
COUNTY EDUCATION ASSOCIATION
PARTIES' MOTION FOR PARTIAL
SUMMARY JUDGMENT AND
DENYING THE NEVADA STATE
EDUCATION ASSOCIATION PARTIES'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

1 And
2 BRIAN LEE,
3 Counter-Defendant,
4 vs.
5 CLARK COUNTY EDUCATION
ASSOCIATION; JOHN VELLARDITA; AND
6 VICTORIA COURTNEY,
Defendants-Counter Plaintiffs.

7 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL:

8 PLEASE TAKE NOTICE that the attached Findings of Fact, Conclusions of Law, and
9 Order Granting the Clark County Education Association Parties' Motion for Partial Summary
10 Judgment and Denying the Nevada State Education Association Parties' Motion for Partial
11 Summary Judgment was entered in the above-referenced action on the 3rd day of July, 2019.

12 DATED this 3rd day of July, 2019.

13 SNELL & WILMER L.L.P.

14 By: /s/ Brad Austin

15 John S. Delikanakis (Nevada Bar No. 5928)
16 Michael Paretti (Nevada Bar No. 13926)
Brad T. Austin (Nevada Bar No. 13064)

17 Joel A. D' Alba (*pro hac vice*)
18 ASHER, GITTLER & D'ALBA, LTD.
19 200 West Jackson Blvd, Suite 1900
Chicago, 11 60606

20 Richard G. McCracken
21 Nevada Bar No. 2748
22 Kimberley C. Weber
23 Nevada Bar No. 14434
24 McCracken, STEMERMAN
& HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
25 Attorneys for Plaintiffs
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen
3 (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be
4 served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF**
5 **FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE CLARK COUNTY**
6 **EDUCATION ASSOCIATION PARTIES' MOTION FOR PARTIAL SUMMARY**
7 **JUDGMENT AND DENYING THE NEVADA STATE EDUCATION ASSOCIATION**
8 **PARTIES' MOTION FOR PARTIAL SUMMARY JUDGMENT** by the method indicated
9 below:

| | | | |
|--------------|------------------------|-------|---------------------|
| 10 <u>XX</u> | Odyssey E-File & Serve | _____ | Federal Express |
| 11 _____ | U.S. Mail | _____ | U.S. Certified Mail |
| 12 _____ | Facsimile Transmission | _____ | Hand Delivery |
| 13 _____ | Email Transmission | _____ | Overnight Mail |

14 and addressed to the following:

15
16 Richard J. Pocker
Nevada Bar No. 3568
17 Paul J. Lal
Nevada Bar No. 3755
18 BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
19 Las Vegas, NV 89101
Email: rpocker@bsflp.com
20 Email: plal@bsflp.com
Attorneys for Defendants

Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
James Graham Lake (*pro hac vice*)
BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005
Email: ralexander@bredhoff.com
Email: mcdrexler@bredhoff.com
Email: glake@bredhoff.com
Attorneys for Defendants

21
22 DATED this 3rd day of July, 2019.

23 /s/ Ruby Lengsavath
24 An Employee of Snell & Wilmer L.L.P.

25 4852-0219-2795.1
26
27
28



John S. Delikanakis, Nevada Bar No. 5928
Bradley T. Austin, Nevada Bar No. 13064
Michael Paretti, Nevada Bar No. 13926
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Tel: (702) 784-5200
jdelikanakis@swlaw.com
baustin@swlaw.com
mparetti@swlaw.com

Richard G. McCracken, Nevada Bar No. 2748
Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702) 386-5107
rmccracken@msh.law
kweber@msh.law

Joel A. D'Alba
Admitted pro hac vice
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
Tel: (312) 263-1500
jad@ulaw.com

Attorneys for the CCEA Parties

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO, JR., BRIAN WALLACE, and
BRIAN LEE,

Defendants.

Case No.: A-17-761364-C
DEPT. NO.: 4

(consolidated with A-17-761884-C)

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
THE CLARK COUNTY EDUCATION
ASSOCIATION PARTIES' MOTION
FOR PARTIAL SUMMARY JUDGMENT
AND DENYING THE NEVADA STATE
EDUCATION ASSOCIATION PARTIES'
MOTIONS FOR PARTIAL SUMMARY
JUDGMENT**

**Date of Hearing : May 9, 2019
Time of Hearing: 9:00 a.m.**

1 NEVADA STATE EDUCATION
2 ASSOCIATION; NATIONAL EDUCATION
3 ASSOCIATION; RUBEN MURILLO;
4 ROBERT BENSON; DIANE
5 DI ARCHANGEL; AND JASON WYCKOFF,

6 Plaintiffs-Counter Defendants,

7 And

8 BRIAN LEE,

9 Counter-Defendant,

10 vs.

11 CLARK COUNTY EDUCATION
12 ASSOCIATION; JOHN VELLARDITA; AND
13 VICTORIA COURTNEY,

14 Defendants-Counter Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

15 The Court, having read and considered Nevada State Education Association ("NSEA"),
16 National Education Association ("NEA"), Dana Galvin, Ruben Murillo, Jr., Brian Wallace, Brian
17 Lee, Robert Benson, Diane Di Archangel and Jason Wyckoff (collectively "NSEA Parties") Motion
18 for Partial Summary Judgment ("NSEA Motion for Partial Summary Judgment on Conversion"),
19 filed November 9, 2018; the NSEA Parties' Motion for Partial Summary Judgment ("NSEA Motion
20 for Partial Summary Judgment on Bylaws"), filed January 23, 2019; and Clark County Education
21 Association ("CCEA"), Victoria Courtney, James Frazee, Robert Hollowood, and Maria Neisess's
22 (collectively, the "CCEA Parties") Countermotion for Partial Summary Judgment ("CCEA
23 Countermotion for Partial Summary Judgment") filed by the CCEA Parties on December 12, 2018,
24 and all papers filed in support of the foregoing Motions; having heard and considered the oral
25 argument of counsel John S. Delikanakis, Esq., Bradley Austin, Esq. and Michael Paretti, Esq. of
26 Snell & Wilmer L.L.P., and Joel D'Alba, Esq. of Asher, Gittler & D'Alba, Ltd. appearing on behalf
27 of the CCEA Parties, and Robert Alexander, Esq. and James Graham Lake, Esq. of Bredhoff &
28 Kaiser, PLLC and Paul J. Lal, Esq. of Boies Schiller Flexner appearing on behalf of the NSEA
Parties, and with good cause appearing, enters the following findings of fact, conclusions of law
and order.

FINDINGS OF FACT

The Court concludes, under N.R.C.P. 56, that there is no genuine dispute of fact regarding the following:

1. CCEA is a democratic organization that is the exclusive collective bargaining representative of the licensed professional employees of the Clark County School District ("CCSD") and is the employee organization that serves as the local voice for educators to advance the cause of education, promote professional excellence among educators to protect the rights of educators, advance their interests and welfare, and secure professional autonomy.

2. CCEA is the recognized and exclusive bargaining agent for CCSD's licensed professional employees.

3. NSEA was the state-wide affiliate of the CCEA.

4. The NEA was the national affiliate of the CCEA.

5. Members of CCEA pay dues to CCEA pursuant to a membership dues authorization form ("Membership Authorization Form").

6. The Membership Authorization Form provides that:

Payroll Deduction Authorization. With full knowledge of the above, I hereby agree to pay cash for, or herein, authorize my employer to deduct from my salary, and pay to the local association, in accordance with the agreed-upon payroll deduction procedure, the professional dues as established annually and the political action contributions in the amounts indicated above for this membership year and each year thereafter, provided that I may revoke this authorization by giving written notice to that effect to my local association between July 1 and July 15 of any calendar year, or as otherwise designated by the negotiated agreement. Dues are paid on an annual basis and, although dues may be deducted from my payroll check(s) in order to provide an easier method of payment, a member is obligated to pay the entire amount of dues for a membership year. I understand that if I resign my membership in my local Association, or in the event of termination, resignation or retirement from employment, I am still obligated to pay the balance of my annual dues and political or positive image contributions for that membership year and such payments will continue to be deducted from my payroll check(s).

7. Once an individual CCEA member signs the Membership Authorization Form, CCEA membership dues are then deducted from members' pay checks by their employer, the

1 CCSD, pursuant to a collective bargaining agreement negotiated and agreed to by and between
2 CCEA and CCSD.

3 8. The membership dues deducted from CCEA members' pay checks are then paid to
4 CCEA by CCSD.

5 9. A portion of the membership dues were then transmitted to NSEA through a dues
6 transmittal agreement by and between CCEA and NSEA ("Dues Transmittal Agreement"), which
7 is attached as an addendum and incorporated into a negotiated services agreement by and between
8 CCEA and NSEA ("Service Agreement") as Addendum A.

9 10. The Service Agreement incorporates the Dues Transmittal Agreement and provides
10 as follows:

11 CCEA agrees to transmit NSEA and NEA dues, and NSEA-TIP and NEA-PAC
12 contributions to NSEA for each by the tenth business day following the payroll
13 deduction. The agreement is attached as Addendum A.

14 11. The Service Agreement incorporates and the Dues Transmittal Agreement and
15 together provide for the quid pro quo exchange between CCEA and NSEA. The Service Agreement
16 sets forth the services and financial payments that NSEA will provide to CCEA in exchange for
17 transmittal of dues that CCEA sends to NSEA, as set forth in both the Service Agreement – Dues
18 Transmittal Agreement.

19 12. Specifically, paragraph 1 of the Service Agreement states that CCEA will transmit
20 dues to NSEA and the following paragraph (paragraph 2) provides that in exchange, NSEA will
21 transmit grants to CCEA.

22 13. The Service Agreement and the Dues Transmittal Agreement allow either party to
23 unilaterally terminate and seek to renegotiate the terms of the agreement.

24 14. Specifically, the Service Agreement provides that:

25 The term of this agreement shall be from September 1 to August 31. This
26 Agreement shall be automatically renewed on an annual basis, unless either party
27 shall give written notice of termination to the other party, with evidence of receipt
28 by the other party no later than thirty (30) days prior to the anniversary date of the
Agreement. Should either party give notice of termination as provided alone, then
this Agreement shall terminate on the anniversary date unless a successor agreement
has been mutually agreed to by the parties.

15. The relevant anniversary date is September 1, 2017.

16. Similarly, the Dues Transmittal Agreement provides that “[t]his agreement shall remain in force for each subsequent membership year unless terminated in writing by either party prior to September 1 of any NSEA membership year, or amended by mutual consent of both parties.”

17. The NSEA membership year runs from September 1 to August 31.

18. On May 3, 2017, CCEA gave notice to NSEA and its officers of an intent to terminate the Service Agreement and the Dues Transmittal as follows:

Pursuant to the terms of the Service Agreement between the Nevada State Education Association and the Clark County Education Association, I write to give you notice to terminate this agreement, unless a successor agreement can be mutually agreed to by the parties....Please accept this letter as our formal notice of termination of the Service Agreement.

19. On July 17, 2017 and August 3, 2017, CCEA sent NSEA two additional letters providing for notice of the intent to terminate the Service Agreement and the Dues Transmittal Agreement. Specifically, the July 17, 2017, letter stated in pertinent part that:

On May 3, 2017 CCEA served notice that it was terminating the Service Agreement between CCEA and NSEA.....This letter serves notice to NSEA that unless there is a successor agreement in place before the August 31, 2017 all terms and conditions of the agreement shall become null and void.

The August 3, 2017, letter stated in pertinent part that:

Your letter expressing a claim based on NSEA policies is incorrect as this is a contract matter, there has not been a mutual agreement to modify the Agreement, and without mutual agreement, the terms and conditions of the Agreement will be null and void upon its expiration on August 31, 2017....The Agreement serves as the dues transmittal contract, and it is otherwise set to expire unless a successor is negotiated per the terms and conditions of that Agreement. Upon expiration, CCEA is not only legally not obligated to transmit dues, but cannot transmit member dues to NSEA per NSEA’s own ByLaws. To be clear, when the current Agreement between CCEA and NSEA expires on August 31, 2017 there will not be a contract in place between the two organizations to collect and remit dues to NSEA.

20. On March 24, 2018, CCEA members were given notice of a dues issue to be presented at a general membership meeting to be held on April 25, 2018.

21. On April 14, 2018, the Executive Board of CCEA met to consider a proposed bylaw

1 amendment to set CCEA dues at \$510 per year immediately upon disaffiliation from the NSEA and
2 the NEA and upon CCEA becoming an independent labor organization.

3 22. Prior to the termination of the Service Agreement and Dues Transmittal Agreement,
4 the annual dues payments for CCEA members included payments to CCEA, NSEA and NEA and
5 were \$810.50. The \$510 dues payments considered by the dues motion on April 14, 2018,
6 constituted a dues decrease for all CCEA members.

7 23. On April 24, 2018, the CCEA Association Representative Council ("ARC") met to
8 consider, among other things, bylaws changes. The ARC approved a motion to change Article X,
9 Section 1 of the CCEA Bylaws by removing the word "shall" from the affiliate's status and bylaw
10 provision and inserting the "may," which meant that the Association may, rather than shall,
11 maintain affiliate status with the NSEA and NEA. That change to Article X of the Bylaws was
12 approved.

13 24. On April 24, 2018, the ARC adopted a tentative budget for fiscal year 2018-2019,
14 setting the CCEA annual dues rate at \$510 for each member, which budget would take effect
15 immediately upon disaffiliation from NSEA and NEA.

16 25. On April 25, 2018, members of the Association at a general membership meeting
17 were advised that the ARC amended the Bylaws to permit members to effectively authorize the
18 disaffiliation from the NSEA and NEA and upon disaffiliation members' union dues would be
19 reduced from \$33.78 per paycheck to \$21.25 per paycheck.

20 26. On April 25, 2018, the CCEA members were notified by a mass email of this vote
21 and received a second notice of the general membership meeting to that place on that day.

22 27. During CCEA's April 25, 2018, general membership meeting, CCEA's members
23 approved a motion to disaffiliate from the NSEA and NEA, and to reduce the union dues as set
24 forth above.

25 28. CCEA disaffiliated from NSEA and NEA on April 25, 2018, and the foregoing dues
26 reduction took effect immediately upon disaffiliation.

27 29. After the termination of the Dues Transmittal Agreement, but prior to CCEA's April
28

1 25, 2018, disaffiliation from NSEA and NEA, CCSD continued to send the employees' dues to
2 CCEA, whereupon the dues were placed into a restricted bank account ("Sequestered Funds") –
3 with CCEA seeking via the instant litigation a declaratory determination from the Court as to the
4 rightful owner of the funds, and NSEA asserting via the instant litigation a right to the funds under
5 contract, conversion, and unjust enrichment causes of action.

6 30. On May 11, 2018, and to preserve the status quo while the CCEA Parties'
7 declaratory relief claim was pending with the Court, the Court required that: (1) all funds in the
8 possession of or received by CCEA for the 2017-2018 school year in respect to NSEA dues and in
9 respect to NEA dues be deposited into a restricted account, "as [CCEA] has represented to the
10 Court it has done during the course of this litigation"; (2) that no funds shall be withdrawn,
11 transferred, or disbursed out of the Restricted Account, and the Restricted Account shall not be
12 changed or modified, without a further Order from the Court; and (3) that CCEA provide a monthly
13 account statement to the NSEA Parties.

14 31. On December 20, 2018, pursuant to a Motion for Partial Summary Judgment filed
15 by the CCEA Parties, this Court held that the May 3, July 17, and August 3, 2017 termination
16 notices caused both the Service Agreement and Dues Transmittal Agreement to terminate and
17 expire on August 31, 2017.

18 32. The Court further held that in light of the foregoing termination and expiration,
19 CCEA owed no duties to NSEA or NEA under the Service Agreement and Dues Transmittal
20 Agreement to collect and/or transmit membership dues on NSEA or NEA's behalf on or after
21 September 1, 2017, nor did NSEA or NEA have any obligation to CCEA on or after September 1,
22 2017, to perform pursuant to the Service Agreement and Dues Transmittal Agreement, and that
23 there was no dispute that NSEA and NEA ceased to perform under the Service Agreement and
24 Dues Transmittal Agreement on or after September 1, 2017.

25 33. Any finding of fact which should be construed as a conclusion of law shall be
26 construed as such.
27
28

CONCLUSIONS OF LAW

1 41. A precondition to bringing a claim for conversion is that the claimant must be the
2 rightful owner of the property.

3 42. NSEA and NEA have no legal or contractual right to the Sequestered Funds under
4 the Service Agreement or Dues Transmittal Agreement, which agreements were terminated prior
5 to September 1, 2017.

6 43. NSEA and NEA have no legal or contractual right to the Sequestered Funds under
7 the NSEA or NEA Bylaws, which Bylaws expressly rely upon the (terminated) Dues Transmittal
8 Agreement for any obligation to transmit dues.

9 44. NSEA and NEA have no legal or contractual right to the Sequestered Funds under
10 the Membership Authorization Form, which Form is only between CCEA and the individual
11 members.

12 45. NSEA/NEA have no equitable right to the Sequestered Funds, or any other funds
13 CCEA collected on behalf of its members after September 1, 2017.

14 46. In light of the foregoing, NSEA/NEA are not the rightful owners of, and have no
15 legal or equitable right to, the Sequestered Funds and as a result, cannot meet the rightful owner
16 element.

17 47. There are no genuine issues of material fact precluding summary judgment in the
18 CCEA Parties' favor on the NSEA Parties' claim for conversion.

19 48. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
20 to summary judgment as a matter of law.

21 49. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
22 summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for
23 conversion.

24 **C. NSEA Parties' Claim for Unjust Enrichment**

25 50. The essential elements of unjust enrichment are "a benefit conferred on the
26 defendant by the plaintiff, appreciation by the defendant of such benefit, and acceptance and
27 retention by the defendant of such benefit under circumstances such that it would be inequitable for
28

1 him to retain the benefit without payment of the value thereof.” *Leasepartners Corp. v. Robert L.*
2 *Brooks Tr. Dated Nov. 12, 1975*, 113 Nev. 747, 755, 942 P.2d 182, 187 (1997).

3 51. Similar to a claim for conversion, the claimant must have an underlying right to the
4 property/funds at issue. *See id.* (one of the essential elements for unjust enrichment is “a benefit
5 conferred on the defendant by the plaintiff”).

6 52. Furthermore, “an action based on a theory of unjust enrichment is not available when
7 there is an express, written contract, because no agreement can be implied when there is an express
8 agreement.” *See Leasepartners Corp. v. Robert L. Brooks Trust Dated November 12, 1975*, 113
9 Nev. 747, 755-56, 942 P.2d 182, 187 (1997); *Lipshie v. Tracy Investment Co.*, 93 Nev. 370, 379,
10 566 P.2d 819, 824 (1977) (“To permit recovery by quasi-contract where a written agreement exists
11 would constitute a subversion of contractual principles.”) (emphasis supplied). 66 Am.Jur.2d
12 Restitution § 11 (1973) (“The doctrine of unjust enrichment or recovery in quasi contract applies
13 to situations where there is no legal contract but where the person sought to be charged is in
14 possession of money or property which in good conscience and justice he should not retain but
15 should deliver to another.”).

16 53. For the reasons set forth under the claim for conversion – which findings are
17 incorporated herein by reference – NSEA and NEA do not have standing to assert a claim for unjust
18 enrichment because they do not have an ownership interest or underlying right to the Sequestered
19 Funds.

20 54. To the extent the unjust enrichment claim is asserted on behalf of Parties Murillo,
21 Benson, Di Archangel, and Wyckoff (“Teacher Parties”), such claim fails for the following
22 independent reasons:

- 23 a. First, the Teacher Parties’ claim for unjust enrichment fails because an express,
24 written contract governs the parties’ relationship – specifically, the Membership
25 Authorization Form; thus, no equitable agreement can be implied.
- 26 b. Second, the Teacher Parties’ claim for unjust enrichment fails for lack of
27 damages. Specifically:
28

- i. Simultaneous with granting the CCEA Parties' Motion for Partial Summary Judgment, this Court also granted the CCEA Parties' Motion to Alter or Amend the Restricted Account Order, which Order provides, in part, that CCEA will return the Sequestered Funds to the individual CCEA members, the teachers, inclusive of the Teacher Parties. Further, the Order provides that CCEA will return to the Teacher Parties their full CCEA dues for the entire 2017-2018 membership year.
- ii. The Teacher Parties, therefore, have not suffered any cognizable damages.

55. There are no genuine issues of material fact precluding summary judgment in the CCEA Parties' favor on the NSEA Parties' claim for unjust enrichment.

56. The NSEA Parties have not made any showing that the CCEA Parties are not entitled to summary judgment as a matter of law.

57. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for unjust enrichment.

D. NSEA Parties' Claim for Breach of NSEA, NEA, and CCEA Bylaws

58. "Questions of contract construction, in the absence of ambiguity or other factual issues, are suitable for determination by summary judgment." *See Nelson v. California State Auto. Ass'n Inter-Ins. Bureau*, 114 Nev. 345, 347, 956 P.2d 803, 805 (1998) *S. Tr. Mortg. Co. v. K & B Door Co.*, 104 Nev. 564, 568, 763 P.2d 353, 355 (1988) ("[W]here a document is clear and unambiguous, the court must construe it from the language therein."); *Chwialkowski v. Sachs*, 108 Nev. 404, 406, 834 P.2d 405, 406 (1992) (same); *Renshaw v. Renshaw*, 96 Nev. 541, 543, 611, P.2d 1070, 1071 (1980) (same); *Ellison v. California State Auto Ass'n*, 106 Nev. 601, 603, 797 P.2d 975, 977 (1990) (same); *Watson v. Watson*, 95 Nev. 495, 496, 596 P.2d 507, 508 (1979) ("Courts are bound by language which is clear and free from ambiguity and cannot, using guise of interpretation, distort plain meaning of agreement.").

1 59. As previously determined by this Court in its December 20, 2018 Order, the Service
2 Agreement and Dues Transmittal Agreement were terminated by CCEA within the required
3 contractual timeframe, which termination caused both agreements to expire on August 31, 2017.

4 60. But-for the Service and Dues Transmittal Agreements (which this Court found
5 expired on August 31, 2017, due to CCEA's termination), CCEA is not subject to the NSEA/NEA
6 Bylaws, nor are NSEA/NEA parties to the CCEA Bylaws.

7 61. Accordingly, no contractual relationship between CCEA and NSEA/NEA –
8 inclusive of any contractual relationship created by the NSEA/NEA/CCEA Bylaws – existed on or
9 after September 1, 2017.

10 62. In the absence of a Dues Transmittal Agreement, there is no obligation for CCEA
11 to transmit dues to NSEA and per NEA's bylaws, only NSEA has a contractual obligation to pay
12 NEA.

13 63. Accordingly, because CCEA was not bound by NSEA/NEA Bylaws after
14 September 1, 2017, and because NSEA/NEA are not parties to the CCEA Bylaws, there can be no
15 breach by CCEA and NSEA/NEA's breach of contract claims fail. *Clark Cty. V. Bonanza No. 1*,
16 96 Nev. 643, 648–49, 615 P.2d 939, 943 (1980) (“As a general rule, none is liable upon a contract
17 except those who are parties to it.”).

18 64. There are no genuine issues of material fact precluding summary judgment in the
19 CCEA Parties' favor on the NSEA Parties' claim for breach of NSEA/NEA/CCEA Bylaws.

20 65. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
21 to summary judgment as a matter of law.

22 66. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
23 summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for
24 breach of NSEA/NEA/CCEA Bylaws.

25 **E. NSEA Parties' Claim for Fraud**

26 67. The elements for fraud are: “(1) A false representation made by the defendant; (2)
27 Defendant's knowledge or belief that the representation is false (or insufficient basis for making
28

1 the representation); (3) Defendant's intention to induce the plaintiff to act or to refrain from acting
2 in reliance upon the misrepresentation; (4) Plaintiff's justifiable reliance upon the
3 misrepresentation; and (5) Damage to the plaintiff resulting from such reliance." *Bulbman, Inc. v.*
4 *Nevada Bell*, 108 Nev. 105, 110-11, 825 P.2d 588, 592 (1992).

5 68. "A plaintiff has the burden of proving each element of fraud claim by clear and
6 convincing evidence." *Id.*

7 69. "Where an essential element of a claim for relief is absent, the facts, disputed or
8 otherwise, as to other elements are rendered immaterial and summary judgment is proper." *Id.*
9 (granting summary judgment for defendant on plaintiff's fraud claim because plaintiff could not
10 present a triable issue of material fact as to every element of fraud).

11 70. Simultaneous with granting the CCEA Parties' Motion for Partial Summary
12 Judgment, this Court also granted the CCEA Parties' Motion to Alter or Amend the Restricted
13 Account Order, which Order provides, in part, that CCEA return the Sequestered Funds to the
14 individual CCEA members, the teachers, inclusive of the Teacher Parties.

15 71. Furthermore, as to the Teacher Parties only, and pursuant to the CCEA Parties offer
16 in their briefing and in open court, this Court orders that CCEA return the entire membership years'
17 worth of dues to the Teacher Parties, which totals \$810.50 per individual Teacher Party within 30
18 days of entry of this Order, or final review of this Order by any appellate court, whichever is later.

19 72. The Teacher Parties cannot establish damages related to their fraud cause of action.

20 73. There exists no genuine dispute of material fact that the Teacher Parties failed to
21 establish any fact supporting punitive damages and thus, are not entitled to punitive damages as a
22 matter of law.

23 74. There are no genuine issues of material fact precluding summary judgment in the
24 CCEA Parties' favor on the NSEA Parties' claim for fraud.

25 75. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
26 to summary judgment as a matter of law.

27 76. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
28

1 summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for
2 fraud.

3 **F. Unauthorized mid-year increase in CCEA dues.**

4 77. The Constitution and Bylaws of the CCEA are the main source of governance for
5 the CCEA and controls as to the how and when dues payments can be charged and the procedures
6 for their alteration.

7 78. As the governing rules for the Union, the CCEA Constitution and Bylaws constitute
8 a contract between the CCEA and its members, and this is a recognized labor and contract law
9 principle. *Hickman v. Kline*, 71 Nev. 55, 279 P.2d 662,669 (1955) (union's constitution "amounts
10 to a binding agreement between the union and its members"); *United Ass'n of Journeymen v. Local*
11 *334*, 452 U.S. 615, 619-11 (1981).

12 79. The CCEA Constitution and Bylaws state that CCEA "shall be governed by its
13 Bylaws and Policies, and such other actions as the Association Representative Council and
14 Executive Board may take consistent therewith." Article I, Section 3.

15 80. Under the Constitution and Bylaws, the Association Representative Council
16 ("ARC") is the legislative and policy body of the Association. Article III Section 1.

17 81. As such, the ARC has the authority to alter dues for members of the Association.
18 Article II, Section 4.

19 82. Here, the ARC and CCEA properly altered the dues payments during the 2017-18
20 fiscal year in April 2018, which alteration was approved by the majority of the members voting at
21 the April 25, 2018, General Membership Meeting ("Dues Alteration").

22 83. The Dues Alteration was permitted by the CCEA Bylaws and the Membership
23 Authorization Form does not supersede the CCEA Bylaws, nor does it serve to limit or prohibit the
24 Dues Alteration.

25 84. The foregoing Dues Alteration took effect immediately upon disaffiliation, as set
26 forth in the uncontested April 1, 2019 Affidavit of John Vellardita.

27 85. There are no genuine issues of material fact precluding summary judgment in the
28

1 CCEA Parties' favor on the NSEA Parties' claim for unauthorized mid-year dues increase.

2 86. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
3 to summary judgment as a matter of law.

4 87. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
5 summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for
6 unauthorized mid-year dues increase.

7 **ORDER**

8 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

9 That the CCEA Parties' Countermotion for Partial Summary Judgment is **GRANTED**
10 in its entirety and summary judgment is entered in favor of the CCEA Parties on the NSEA
11 Parties' claims for conversion, unjust enrichment, breach of NSEA/NEA/CCEA Bylaws, fraud,
12 and unauthorized mid-year dues increase.

13 That the NSEA Motion for Partial Summary Judgment on Conversion is **DENIED**; and

14 That the NSEA Motion for Partial Summary Judgment on Bylaws is **DENIED**.

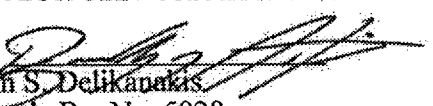
15 That this Order disposes of all remaining claims in Case No. A-17-761884-C.

16 That Final Judgment under NRCP 58 € will be entered in Case No. A-17-761884-C in
17 favor of the CCEA Parties and against the NSEA Parties.

18
19
20 DATED: July 1, 2019

21 
22 THE HONORABLE JUDGE KERRY EARLEY
23
24
25
26
27
28

A-17-761364-C

1 SNELL & WILMER L.L.P.
2
3 RESPECTFULLY SUBMITTED BY:
4 By: 
5 John S. Delikanakis
6 Nevada Bar No. 5928
7 Bradley T. Austin
8 Nevada Bar No. 13064
9 Michael Paretti
10 Nevada Bar No. 13926
11 SNELL & WILMER L.L.P.
12 3883 Howard Hughes Parkway, Suite 1100
13 Las Vegas, NV 89169

14 Joel A. D'Alba (*pro hac vice*)
15 200 West Jackson Blvd., Suite 720
16 Chicago, IL 60606

17 Richard G. McCracken
18 Nevada Bar No. 2748
19 Kimberley C. Weber
20 Nevada Bar No. 14434
21 McCRACKEN, STEMERMAN
22 & HOLSBERRY, LLP
23 1630 South Commerce Street, Suite 1-A
24 Las Vegas, NV 89102
25 Attorneys for the CCEA Parties

26 APPROVED AS TO FORM AND CONTENT BY:

27 By:
28 Richard J. Pocker
Nevada Bar No. 3568
Paul J. Lal
Nevada Bar No. 3755
BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
Las Vegas, NV 89101

Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005
Attorneys for the NSEA Parties

Exhibit E

**(Findings of Fact, Conclusions of Law,
and Order Granting CCEA Parties'
Motion to Alter or Amend Court's May
11, 2018 Order Pursuant to NRCP 59(E)
and 60(B) dated July 1, 2019)**

Exhibit E



John S. Delikanakis, Nevada Bar No. 5928
Michael Paretti, Nevada Bar No. 13926
Bradley T. Austin, Nevada Bar No. 13064
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Tel: (702) 784-5200
jdelikanakis@swlaw.com
mparetti@swlaw.com
baustin@swlaw.com

Richard G. McCracken, Nevada Bar No. 2748
Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702) 386-5107
rmccracken@msh.law
kweber@msh.law

Joel A. D'Alba (*Pro Hac Vice*)
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
Tel: (312) 263-1500
jad@ulaw.com

*Attorneys for Plaintiffs Clark County Education Association, Victoria Courtney,
James Frazee, Robert G. Hollowood and Maria Neissess*

**IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, and MARIA NEISSESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO, JR., BRIAN WALLA CE, and
BRIAN LEE,

Defendants.

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO; ROBERT
BENSON; DIANE DI ARCHANGEL; AND
JASON WYCKOFF,

Plaintiffs-Counter Defendants,

Case No.: A-17-761364-C
DEPT. NO.: 4
(consolidated with A-17-761884-C)

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING CCEA PARTIES'
MOTION TO ALTER OR AMEND
COURT'S MAY 11, 2018 ORDER
PURSUANT TO NRCP 59(E) AND 60(B)**

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

1 And
2 BRIAN LEE,
3 Counter-Defendant,
4 vs.
5 CLARK COUNTY EDUCATION
6 ASSOCIATION; JOHN VELLARDITA; AND
7 VICTORIA COURTNEY,
8 Defendants-Counter Plaintiffs.

9 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL:

10 PLEASE TAKE NOTICE that the attached Findings of Fact, Conclusions of Law, and
11 Order Granting CCEA Parties' Motion to Alter or Amend Court's May 11, 2018 Order Pursuant to
12 NRCP 59(E) and 60(B) was entered in the above-referenced action on the 3rd day of July, 2019.

13 DATED this 3rd day of July, 2019.

14 SNELL & WILMER L.L.P.

15 By: /s/ Brad Austin

16 John S. Delikanakis (Nevada Bar No. 5928)
17 Michael Paretti (Nevada Bar No. 13926)
18 Brad T. Austin (Nevada Bar No. 13064)

19 Joel A. D' Alba (*pro hac vice*)
20 ASHER, GITTLER & D'ALBA, LTD.
21 200 West Jackson Blvd, Suite 1900
22 Chicago, 11 60606

23 Richard G. McCracken
24 Nevada Bar No. 2748
25 Kimberley C. Weber
26 Nevada Bar No. 14434
27 McCRACKEN, STEMERMAN
28 & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen
3 (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be
4 served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF**
5 **FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING CCEA PARTIES'**
6 **MOTION TO ALTER OR AMEND COURT'S MAY 11, 2018 ORDER PURSUANT TO**
7 **NRCP 59(E) AND 60(B)** by the method indicated below:

| | | | |
|-------------|------------------------|-------|---------------------|
| 8 <u>XX</u> | Odyssey E-File & Serve | _____ | Federal Express |
| 9 _____ | U.S. Mail | _____ | U.S. Certified Mail |
| 10 _____ | Facsimile Transmission | _____ | Hand Delivery |
| 11 _____ | Email Transmission | _____ | Overnight Mail |

12 and addressed to the following:

13
14 Richard J. Pocker
15 Nevada Bar No. 3568
16 Paul J. Lal
17 Nevada Bar No. 3755
18 BOIES SCHILLER FLEXNER LLP
19 300 South Fourth Street, Suite 800
20 Las Vegas, NV 89101
21 Email: rpocker@bsflp.com
22 Email: plal@bsflp.com
23 Attorneys for Defendants

Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
James Graham Lake (*pro hac vice*)
BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005
Email: ralexander@bredhoff.com
Email: mcdrexler@bredhoff.com
Email: glake@bredhoff.com
Attorneys for Defendants

24 DATED this 3rd day of July, 2019.

25 /s/ Ruby Lengsavath
26 An Employee of Snell & Wilmer L.L.P.

27 4812-2658-2427.1
28



John S. Delikanakis, Nevada Bar No. 5928
 Bradley T. Austin, Nevada Bar No. 13064
 Michael Paretti, Nevada Bar No. 13926
 SNELL & WILMER L.L.P.
 3883 Howard Hughes Parkway, Suite 1100
 Las Vegas, NV 89169
 Tel: (702) 784-5200
 jdelikanakis@swlaw.com
 baustin@swlaw.com
 mparetti@swlaw.com

Joel A. D'Alba
 Admitted pro hac vice
 ASHER, GITTLER & D'ALBA, LTD.
 200 West Jackson Blvd., Suite 720
 Chicago, IL 60606
 Tel: (312) 263-1500
 jad@ulaw.com

Richard G. McCracken, Nevada Bar No. 2748
 Kimberley C. Weber, Nevada Bar No. 14434
 McCRACKEN, STEMERMAN & HOLSBERRY, LLP
 1630 South Commerce Street, Suite 1-A
 Las Vegas, NV 89102
 Tel: (702) 386-5107
 rmccracken@msh.law
 kweber@msh.law

Attorneys for the CCEA Parties

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
 ASSOCIATION, VICTORIA COURTNEY,
 JAMES FRAZEE, ROBERT G.
 HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
 ASSOCIATION, DANA GALVIN, RUBEN
 MURILLO, JR., BRIAN WALLACE, and
 BRIAN LEE,

Defendants.

Case No.: A-17-761364-C
 DEPT. NO.: 4

(consolidated with A-17-761884-C)

**FINDINGS OF FACT, CONCLUSIONS
 OF LAW, AND ORDER GRANTING
 CCEA PARTIES' MOTION TO ALTER
 OR AMEND COURT'S MAY 11, 2018
 ORDER PURSUANT TO NRCP 59(E) and
 60(B)**

Date of Hearing : May 9, 2019
 Time of Hearing: 9:00 a.m.

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO;
ROBERT BENSON; DIANE
DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

And

BRIAN LEE,

Counter-Defendant,

vs.

CLARK COUNTY EDUCATION
ASSOCIATION; JOHN VELLARDITA; AND
VICTORIA COURTNEY,

Defendants-Counter Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

The Court, having read and considered the Clark County Education Association ("CCEA"), Victoria Courtney, James Frazee, Robert Hollowood, and Maria Neisess's (collectively, the "CCEA Parties") Motion to Alter or Amend the Court's May 11, 2018, Order Pursuant to NRCP 59(E) and NRCP 60(B) ("Motion"), filed December 12, 2018; Nevada State Education Association ("NSEA"), National Education Association ("NEA"), Dana Galvin, Ruben Murillo, Jr., Brian Wallace, Brian Lee, Robert Benson, Diane Di Archangel and Jason Wyckoff's (collectively "NSEA Parties") Opposition to the Motion, filed January 23, 2019; the CCEA Parties' Reply in support of the Motion, filed April 4, 2019; and all other papers filed in support of the foregoing; having heard and considered the oral argument of counsel John S. Delikanakis, Esq., Bradley Austin, Esq. and Michael Paretti, Esq. of Snell & Wilmer L.L.P., and Joel D'Alba, Esq. of Asher, Gittler & D'Alba, Ltd. appearing on behalf of the CCEA Parties, and Robert Alexander, Esq. and James Graham Lake, Esq. of Bredhoff & Kaiser, PLLC and Paul J. Lal, Esq. of Boies Schiller Flexner appearing on behalf of the NSEA Parties, and with good cause appearing, enters the following findings of fact, conclusions of law and order.

///

FINDINGS OF FACT

1. On March 30, 2018, the NSEA Parties filed an Application for Order Directing the Issuance of a Prejudgment Writ of Attachment with Notice (the “Application”), which the CCEA Parties opposed.

2. In opposition, the CCEA Parties represented to the Court that CCEA had been placing the dues at issue into a restricted account since the inception of this lawsuit.

3. The Honorable Judge Joanna Kishner entertained oral argument on the Application on April 23, 2018, and issued an equitable order on May 11, 2018, ordering as follows:

- a. That all funds in the possession of or received by CCEA for the 2017-2018 school year in respect to NSEA dues (numerically calculated traditionally at the annual rate of \$376.66) and in respect to NEA dues (numerically calculated traditionally at the annual rate of \$189.00) shall continue to be deposited by CCEA into account number ending in -4739 (the “Restricted Account”), maintained at the Bank of America Las Vegas, Nevada Branch (the “Bank”) as CCEA has represented to the Court it had done during the course of this litigation; and
- b. That all funds on deposit in the Restricted Account with respect to the 2017-2018 NSEA and NEA dues shall remain in the Restricted Account, and that no funds shall be withdrawn, transferred, or disbursed out of the Restricted Account, and the Restricted Account shall not be changed or modified, without a further Order from this Department 31¹ of this Court.
- c. The Restricted Account Order further required CCEA to provide NSEA and NEA with a monthly statement from the Restricted Account.

¹ The May 11, 2018, Order makes specific reference to Department 31 because at the time it was issued, two separate actions between the NSEA Parties and CCEA Parties were proceeding in Departments 28 and 31. On June 29, 2018 – after the Order was issued, the Department 31 action was consolidated into the Department 28 action upon motion by the CCEA Parties. On July 2, 2018, the consolidated action was reassigned to Department 1. Upon CCEA Parties’ peremptory challenge, and on July 9, 2018, the consolidated action was ultimately assigned to this Department. Thus, this Department is the proper Department to issue this order.

1 4. On June 18, 2018, the CCEA Parties filed a Motion for Partial Summary Judgment
2 on their declaratory relief claim.

3 5. On December 20, 2018, the Court granted the CCEA Parties' Motion for Partial
4 Summary Judgment, finding that: (1) the termination provisions of the underlying Service
5 Agreement and Dues Transmittal Agreement are clear and unambiguous, (2) CCEA's letters
6 notifying NSEA of the termination of the Service Agreement and Dues Transmittal Agreement are
7 equally clear and unambiguous, (3) the Service Agreement and Dues Transmittal Agreement were
8 terminated by CCEA within the required contractual timeframe, (4) this termination caused both
9 agreements to expire on August 31, 2017, and (5) in light of the foregoing termination and
10 expiration, CCEA owed no duties to NSEA/NEA under the Service Agreement or Dues Transmittal
11 Agreement to collect and/or transmit membership dues on NSEA/NEA's behalf on or after
12 September 1, 2017.

13 6. Court subsequently considered the NSEA Parties Motion for Partial Summary
14 Judgment on Conversion (filed November 9, 2018), the CCEA Parties' Countermotion for Partial
15 Summary Judgment (filed December 12, 2018), and the NSEA Parties' Motion for Partial Summary
16 Judgment on Bylaws (filed January 23, 2019). The Court heard oral argument from the parties on
17 these motions on May 9, 2019, and issued its ruling from the bench at the hearing, granting the
18 CCEA Parties' Motion for Partial Summary Judgment in its entirety, and denying the NSEA
19 Parties' Motions for Partial Summary Judgment on Conversion and Bylaws in their entirety.²

20 7. Any finding of fact which should be construed as a conclusion of law shall be
21 construed as such.

22 8. Any conclusion of law which should be construed as a finding of fact shall be
23 construed as such.

24 ///
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26

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28 ² The Court's findings are subsequently being incorporated into a Findings of Fact, Conclusions
of Law, and Order to be entered concurrently herewith. The findings and conclusions in that order
are incorporated herein by reference.

CONCLUSIONS OF LAW

A. Standard for Reconsideration

9. “A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous.” *Masonry and Tile Contractors Ass’n v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486 (1997).

10. Rule 59(e) motions have been interpreted as “cover[ing] a broad range of motions, [with] the only real limitation on the type of motion permitted [being] that it must request a substantive alteration of the judgment, not merely correction of a clerical error, or relief of a type wholly collateral to the judgment.” *AA Primo Builders, LLC v. Washington*, 245 P.3d 1190, 1193 (Nev. 2010).

11. “Among the ‘basic grounds’ for a Rule 59(e) motion are ‘correct[ing] manifest errors of law or fact,’ ‘newly discovered or previously unavailable evidence,’ the need ‘to prevent manifest injustice,’ or a ‘change in controlling law’.” *Id.* (citing *Coury v. Robison*, 115 Nev. 84, 124–27, 976 P.2d 518 (1999)). *See also*, *Lytle v. Rosemere Estates Prop. Owners*, 314 P.3d 946, 948 (Nev. 2013) (holding that Rule 59(e) applies to any appealable order).³ The requirements for filing a Rule 59(e) motion are minimal; in addition to being timely filed (no later than 10 days after service of written notice of entry of the judgment), the motion must “be in writing, . . . state with particularity [its] grounds [and] set forth the relief or order sought.” *Id.* at 1192.

12. NRCP 60(b) states that:

(b) On motion and upon such terms as are just, the court may relieve a party or a party’s legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation or other misconduct of an adverse party; (4) the judgment is void; or, (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that an injunction should have prospective application. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 6 months after the proceeding

³ Because this Court’s Order is injunctive in nature, it is appealable. *See* NRAP 3A(b)(3).

1 was taken or the date that written notice of entry of the judgment or order
2 was served. A motion under this subdivision (b) does not affect the finality
3 of a judgment or suspend its operation. This rule does not limit the power of
4 a court to entertain an independent action to relieve a party from a judgment,
5 order, or proceeding, or to set aside a judgment for fraud upon the court.
6 Writs of coram nobis, coram vobis, audita querela, and bills of review and
bills in the nature of a bill of review, are abolished, and the procedure for
obtaining any relief from a judgment shall be by motion as prescribed in
these rules or by an independent action.

7 **B. The CCEA Parties Are Entitled to Modification of the May 11, 2018, Order**

8 13. The Court has already determined that, as a matter of law: (1) the termination
9 provisions of the underlying Service Agreement and Dues Transmittal Agreement are clear and
10 unambiguous, (2) CCEA's letters notifying NSEA of the termination of the Service Agreement and
11 Dues Transmittal Agreement are equally clear and unambiguous, (3) the Service Agreement and
12 Dues Transmittal Agreement were terminated by CCEA within the required contractual timeframe,
13 (4) this termination caused both agreements to expire on August 31, 2017, and (5) in light of the
14 foregoing termination and expiration, CCEA owed no duties to NSEA/NEA under the Service
15 Agreement or Dues Transmittal Agreement to collect and/or transmit membership dues on
16 NSEA/NEA's behalf on or after September 1, 2017.

17 14. As determined by the Court in denying the NSEA Parties' Motions for Partial
18 Summary Judgment on Bylaws and Conversion, and granting the CCEA Parties' Motion for Partial
19 Summary Judgment, NSEA and NEA have no legal or contractual right to the funds held in the
20 Restricted Account under the NSEA or NEA Bylaws, which Bylaws expressly rely upon the
21 (terminated) Dues Transmittal Agreement for any obligation to transmit dues.

22 15. As determined by the Court in denying the NSEA Parties' Motions for Partial
23 Summary Judgment on Bylaws and Conversion, and granting the CCEA Parties' Motion for Partial
24 Summary Judgment, NSEA and NEA have no legal or contractual right to the funds held in the
25 Restricted Account under the Membership Authorization Form, which Form is only between CCEA
26 and the individual members.

27 16. As determined by the Court in denying the NSEA Parties' Motions for Partial
28 Summary Judgment on Bylaws and Conversion, and granting the CCEA Parties' Motion for Partial

1 Summary Judgment, NSEA/NEA have no equitable right to the funds held in the Restricted
2 Account

3 17. In light of this Court's findings that CCEA owed no duties to NSEA or NEA under
4 the Service Agreement or Dues Transmittal Agreement to collect and/or transmit membership dues
5 on NSEA/NEA's behalf on or after September 1, 2017, and that in the absence of a Dues
6 Transmittal Agreement, there is no obligation for CCEA to transmit dues to NSEA or NEA, the
7 underlying basis for the Court's May 11, 2018, Order no longer exists.

8 18. As such, the Court vacates the Restricted Account Order in its entirety and permits
9 CCEA to disgorge and return the funds held in the Restricted Account to the individual CCEA
10 members (including the individual NSEA Parties) from whom they were collected.

11 **ORDER**

12 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

13 That the CCEA Parties Motion is **GRANTED**;

14 That the Court's May 11, 2018, Order is **VACATED**; and

15 That CCEA shall return the funds held in the Restricted Account to CCEA's members,
16 including any interest that accrued while the subject funds were held in the Restricted Account.

17 That this Order is stayed for 14 days of notice of entry, to permit NEA and NSEA to move
18 for a stay pending appeal of this Order. If NEA and NSEA move in this Court for a stay of this
19 Order within 14 days of notice of entry, this Order will remain stayed until disposition of the
20 motion.

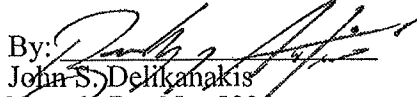
21 DATED: July 1, 2019

22 
23 THE HONORABLE JUDGE KERRY EARLEY
24
25
26
27
28

A-17-761364-C

1 SNELL & WILMER L.L.P.

2
3 RESPECTFULLY SUBMITTED BY:

4 By: 
John S. Delikanakis
Nevada Bar No. 5928
5 Bradley T. Austin
Nevada Bar No. 13064
6 Michael Paretti
Nevada Bar No. 13926
7 SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
8 Las Vegas, NV 89169

9 Joel A. D'Alba (*pro hac vice*)
200 West Jackson Blvd., Suite 720
10 Chicago, IL 60606

11 Richard G. McCracken
Nevada Bar No. 2748
12 Kimberley C. Weber
Nevada Bar No. 14434
13 McCRACKEN, STEMERMAN
& HOLSBERRY, LLP
14 1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102

15 *Attorneys for the CCEA Parties*

16
17 APPROVED AS TO FORM AND CONTENT BY:

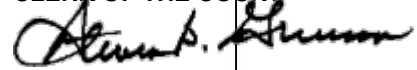
18
19 By:
Richard J. Pocker
20 Nevada Bar No. 3568
Paul J. Lal
21 Nevada Bar No. 3755
BOIES SCHILLER FLEXNER LLP
22 300 South Fourth Street, Suite 800
Las Vegas, NV 89101

23 Robert Alexander (*pro hac vice*)
24 Matthew Clash-Drexler (*pro hac vice*)
BREDHOFF & KAISER, PLLC
25 805 15th Street N.W., Suite 1000
Washington, DC 20005

26 *Attorneys for the NSEA Parties*

27 4830-2271-3497

28



1 **NPNR**

2 Richard J. Pocker (Nevada Bar No. 3568)

3 Paul J. Lal (Nevada Bar No. 3755)

4 **BOIES SCHILLER FLEXNER LLP**

5 300 South Fourth Street, Suite 800

6 Las Vegas, NV 89101

7 Tel.: (702) 382-7300

8 Fax: (702) 382-2755

9 rpocker@bsfllp.com

10 plal@bsfllp.com

11 Robert Alexander (admitted pro hac vice)

12 Matthew Clash-Drexler (admitted pro hac vice)

13 **BREDHOFF & KAISER, PLLC**

14 805 15th Street N.W., Suite 1000

15 Washington, DC 20005

16 Tel.: (202) 842-2600

17 Fax: (202) 842-1888

18 ralexander@bredhoff.com

19 mcdrexler@bredhoff.com

20 *Attorneys for NSEA Parties*

21 **DISTRICT COURT**
22 **EIGHTH JUDICIAL DISTRICT**
23 **CLARK COUNTY, NEVADA**

24 CLARK COUNTY EDUCATION
25 ASSOCIATION, VICTORIA COURTNEY,
26 JAMES FRAZEE, ROBERT G.
27 HOLLOWOOD, AND MARIA NEISESS,

28 Plaintiffs,

v.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO JR., BRIAN WALLACE, AND
BRIAN LEE,

Defendants.

Case No.: A-17-761364-C
(Consolidated with Case No. A-17-761884-C)

DEPT. NO.: 4

NOTICE OF POSTING BOND
PURSUANT TO NRAP 7

1 NEVADA STATE EDUCATION
2 ASSOCIATION; NATIONAL EDUCATION
3 ASSOCIATION; RUBEN MURILLO;
4 ROBERT BENSON; DIANE
5 DI ARCHANGEL; AND JASON
6 WYCKOFF,

7 Plaintiffs-Counter Defendants,

8 And

9 BRIAN LEE,

10 Counter-Defendant,

11 vs.

12 CLARK COUNTY EDUCATION
13 ASSOCIATION; JOHN VELLARDITA;
14 AND VICTORIA COURTNEY,

15 Defendants-Counter Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

16 Nevada State Education Association, National Education Association, Ruben Murillo Jr.,
17 Robert Benson, Diane Di Archangel, and Jason Wyckoff (hereinafter "NSEA Parties"), in their
18 capacity as Plaintiffs in Case No. A-17-761884-C (consolidated with Case No. A-17-761364-C
19 (Dept. No. 4)), through the undersigned counsel, pursuant to NRAP 7(b), hereby gives notice
20 that the NSEA Parties have submitted to this Court payment of \$500 as security for costs on
21 appeal.

22 DATED this 15th day of July, 2019.

23 Respectfully submitted,

24 BOIES SCHILLER FLEXNER LLP

25 /s/ Paul J. Lal

26 Richard J. Pocker (Nevada Bar Bo. 3568)

27 Paul J. Lal (Nevada Bar No. 3755)

28 300 South Florida Street, Suite 800

Las Vegas, NV 89101

Robert Alexander*

Matthew Clash-Drexler*

BREDHOFF & KAISER, PLLC

805 15th Street N.W., Suite 1000

Washington, DC 20005

* Admitted pro hac vice

Attorneys for the NSEA Parties

NOTICE OF POSTING BOND PURSUANT TO NRAP 7

1 **CERTIFICATE OF SERVICE**

2 This document applies to Case No. A-17-761884-C, and the parties in the case are, on the
3 one hand, the Nevada State Education Association, National Education Association, Ruben
4 Murillo, Robert Benson, Diane Di Archangel, and Jason Wyckoff, and, on the other hand, the
5 Clark County Education Association, John Vellardita, and Victoria Courtney.

6 Pursuant to NRCP 5(b), I, an employee of BOIES SCHILLER FLEXNER LLP, hereby
7 certify service of the foregoing ***NOTICE OF POSTING BOND PURSUANT NRAP 7*** was
8 made this date by electronic filing and/or service with the Eighth Judicial District Court and by
9 mailing a true and correct copy, addressed as follows:

10
11 Richard G. McCracken
12 Kimberly C. Weber
13 McCracken, Stemerman & Holsberry, LLP
14 1630 S. Commerce Street, Suite A-1
15 Las Vegas, NV 89102

16
17 Joel A. D'Alba
18 Asher, Gittler & D'Alba, LTD.
19 200 West Jackson Blvd, Suite 720
20 Chicago, Illinois 60606

21
22 John S. Delikanakis
23 Michael Paretti
24 Snell & Wilmer, L.L.P.
25 3883 Howard Hughes Parkway, Suite 1100
26 Las Vegas, NV 89169

27 Dated this 15th day of July, 2019.

28
29 /s/ Carolyn E. Wright
30 An employee of Boies Schiller Flexner LLP

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-17-761364-C**

Clark County Education Association, Plaintiff(s)
vs.
Nevada State Education Association, Defendant(s)

§
§
§
§
§

Location: **Department 4**
 Judicial Officer: **Earley, Kerry**
 Filed on: **09/12/2017**
 Case Number History:
 Cross-Reference Case Number: **A761364**

CASE INFORMATION**Related Cases**

A-17-761884-C (Consolidated)

Case Type: **Other Contract**

Case
Status: **09/12/2017 Open**

DATE**CASE ASSIGNMENT****Current Case Assignment**

| | |
|------------------|---------------|
| Case Number | A-17-761364-C |
| Court | Department 4 |
| Date Assigned | 07/10/2018 |
| Judicial Officer | Earley, Kerry |

PARTY INFORMATION

| | | <i>Lead Attorneys</i> |
|------------------|---|--|
| Plaintiff | Clark County Education Association | McCracken, Richard G. <i>Retained</i> 7023865107(W) |
| | Courtney, Victoria | McCracken, Richard G. <i>Retained</i> 7023865107(W) |
| | Frazee, James | McCracken, Richard G. <i>Retained</i> 7023865107(W) |
| | Hollowood, Robert G | McCracken, Richard G. <i>Retained</i> 7023865107(W) |
| | McCracken, Richard G. | |
| | Thrower, Maria | McCracken, Richard G. <i>Retained</i> 7023865107(W) |
| | Weber, Kimberly C. | |
| Defendant | Galvin, Dana | Pocker, Richard J. <i>Retained</i> 7023827300(W) |
| | Lal, Paul J. | |
| | Lee, Brian | Pocker, Richard J. <i>Retained</i> 7023827300(W) |
| | Murillo, Ruben, Jr. | Pocker, Richard J. <i>Retained</i> 7023827300(W) |

CASE SUMMARY**CASE No. A-17-761364-C****Nevada State Education Association****Pocker, Richard J.***Retained*

7023827300(W)

Wallace, Brian**Pocker, Richard J.***Retained*

7023827300(W)

Consolidated Case Party Clark County Education Association**Austin, Bradley***Retained*

702-784-5247(W)

| DATE | EVENTS & ORDERS OF THE COURT | INDEX |
|------------|--|-------|
| | <u>EVENTS</u> | |
| 09/12/2017 |  Complaint Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>COMPLAINT BREACH OF FIDUCIARY DUTY; Case No. BREACH OF CONTRACT, AND DECLARATORY RELIEF</i> | |
| 09/12/2017 |  Initial Appearance Fee Disclosure Filed By: Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Initial Appearance Fee Disclosure</i> | |
| 09/13/2017 |  Summons Electronically Issued - Service Pending Party: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Summons - Civil</i> | |
| 09/19/2017 |  Affidavit of Service Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Affidavit of service on Defendant Ruben Murillo</i> | |
| 09/19/2017 |  Summons Electronically Issued - Service Pending Party: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Summons on First Amended Complaint</i> | |
| 09/19/2017 |  Amended Complaint Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Amended complaint for breach of fiduciary duty, breach of contract and declaratory relief</i> | |
| 09/21/2017 |  Affidavit of Service Filed By: Defendant Nevada State Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Affidavit of service of summons and First Amended Complaint on NSEA</i> | |
| 09/21/2017 |  Affidavit of Service Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Affidavit of Service of Summons and First Amended Complaint on Brian Lee</i> | |
| 09/21/2017 |  Affidavit of Service Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, | |

CASE SUMMARY

CASE NO. A-17-761364-C

Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Affidavit of Service of Summons and First Amended Complaint on Ruben Murillo

10/04/2017



Stipulation

Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Joint Stipulation

10/04/2017



Initial Appearance Fee Disclosure

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Initial Appearance Fee Disclosure (NRS Chapter 19)

10/26/2017



Second Amended Complaint

Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Second Amended Comp. for Breach of Fiduciary Duty; Brach of Contract, and Declaratory Relief

10/26/2017



Summons Electronically Issued - Service Pending

Party: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Summons on Second Amended Complaint-Civil

10/26/2017



Stipulation and Order

Filed by: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Joint Stipulation

10/26/2017



Notice of Entry

Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Notice of entry of joint stipualtion

10/26/2017



Affidavit of Service

Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Summons with Affidavit of Service on Defendants Nevada State Education Association, Ruben Murillo Jr. and Brian Lee

10/26/2017



Motion to Associate Counsel

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Motion to Associate Counsel

10/26/2017



Motion to Associate Counsel

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Motion to Associate Counsel

10/26/2017



Motion to Associate Counsel

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Motion to Associate Counsel

10/26/2017



Certificate of Mailing

CASE SUMMARY

CASE NO. A-17-761364-C

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| | <p>Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Certificate of Mailing</i></p> |
| 10/26/2017 | <p> Certificate of Mailing Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Certificate of Mailing</i></p> |
| 10/26/2017 | <p> Certificate of Mailing Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Certificate of Mailing</i></p> |
| 11/03/2017 | <p> Joinder Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria <i>Joinder In Defendant Clark County Schools District's Motion To Dismiss (Amended)</i></p> |
| 11/03/2017 | <p> Joinder Filed By: Defendant Nevada State Education Association <i>Joinder In Defendant Clark County School District's Motion To Dismiss</i></p> |
| 11/06/2017 | <p> Motion to Dismiss Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Defendants' Partial Motion to Dismiss</i></p> |
| 11/06/2017 | <p> Declaration Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Declaration of Brian Lee In Support of Defendants' Partial Motion to Dismiss</i></p> |
| 11/09/2017 | <p> Certificate of Service Filed by: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria <i>Certificate of Service</i></p> |
| 11/20/2017 | <p> Stipulation and Order Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Joint Stipulation</i></p> |
| 11/21/2017 | <p> Notice of Entry of Stipulation and Order Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Notice of Entry of Joint Stipulation (and Order)</i></p> |
| 12/04/2017 | <p> Order Admitting to Practice Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Order Admitting to Practice James Graham Lake, Esq.</i></p> |
| 12/04/2017 | <p> Order Admitting to Practice Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Order Admitting to Practice John M. West, Esq.</i></p> |

CASE SUMMARY

CASE NO. A-17-761364-C

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| 12/04/2017 |  Order Admitting to Practice Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Order Admitting to Practice Matthew Clash-Drexler, Esq.</i> |
| 12/04/2017 |  Notice of Entry of Order Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Notice of Entry of Order Admitting to Practice John M. West, Esq.</i> |
| 12/04/2017 |  Notice of Entry of Order Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Notice of Entry of Order Admitting to Practice Matthew Clash-Drexler, Esq.</i> |
| 12/04/2017 |  Notice of Entry of Order Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Notice of Entry of Order Admitting to Practice James Graham Lake, Esq.</i> |
| 12/06/2017 |  Opposition to Motion to Dismiss Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Plaintiff's Response to Defendants' Partial Motion to Dismiss</i> |
| 01/08/2018 |  Reply in Support Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Defendants' Reply in Support of Partial Motion to Dismiss</i> |
| 01/15/2018 |  Motion to Consolidate Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>(2/13/18 Withdrawn) Plaintiff's Motion for Consolidation</i> |
| 01/29/2018 |  Stipulation and Order Filed by: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Stipulation and Order to Associate Counsel</i> |
| 01/29/2018 |  Notice of Entry Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Notice of entry of stipulation and order to associate counsel</i> |
| 01/29/2018 |  Stipulation and Order <i>Stipulation and Order to Associate Counsel</i> |
| 01/29/2018 |  Notice of Entry of Stipulation and Order Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Notice of Entry of Stipulation and Order to Associate Counsel</i> |
| 02/01/2018 |  Order Denying Motion Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, |

CASE SUMMARY

CASE NO. A-17-761364-C

Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Order Denying Defendants' Partial Motion to Dismiss

02/01/2018



Response

Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Defendants' Response to Plaintiffs' Motion for Consolidation

02/02/2018



Notice of Entry of Order

Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Notice of Entry of Order Denying Defendants' Partial Motion to Dismiss

02/07/2018



Notice

Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Notice of Intent to Appear by Communication Equipment

02/08/2018



Amended Notice

Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Corrected Notice of Intent to Appear by Communication Equipment

02/13/2018



Notice of Withdrawal of Motion

Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Plaintiff's Notice and Statement Withdrawing Motion to Consolidate

02/16/2018



Notice

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Defendants' Notice Regarding Plaintiffs' Withdrawal of Motion to Consolidate

02/21/2018

Answer to Amended Complaint

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Defendants' Answer to the Second Amended Complaint

02/21/2018



Answer to Amended Complaint

Defendants' Answer To The Second Amended Complaint

03/22/2018



Affidavit of Attempted Service

Filed By: Plaintiff Clark County Education Association; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Affidavit of Attempts - Dana Galvin

03/26/2018



Notice of Association of Counsel

Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria
Notice of Association of Counsel

03/26/2018



Motion to Associate Counsel

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Motion to Associate Counsel

CASE SUMMARY

CASE NO. A-17-761364-C

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| 03/28/2018 |  Certificate of Mailing Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Certificate of Mailing Re Motion to Associate Counsel-CCEA</i> |
| 04/27/2018 |  Notice Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G <i>Notice of Appearance</i> |
| 05/03/2018 |  Order Admitting to Practice Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Order Admitting to Practice Robert Alexander, Esq.</i> |
| 05/03/2018 |  Notice of Entry of Order Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Notice of Entry of Order Admitting to Practice Robert Alexander, Esq.</i> |
| 05/15/2018 |  Affidavit of Attempted Service Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Affidavit of Attempts - of Summons and Second Amended Complaint on Brian Wallage</i> |
| 05/15/2018 |  Stipulation Filed by: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Joint Stipulation Continuing Time in Which the Parties Must complete the Early Case conference</i> |
| 05/15/2018 |  Notice of Entry Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G; Plaintiff Thrower, Maria <i>Notice of entry of Order on Joint Stipulation Continuing Time in Which parties must Complete Early Case Conference</i> |
| 05/17/2018 |  Motion to Consolidate Filed By: Plaintiff Clark County Education Association <i>Plaintiffs' Motion to Consolidate Cases A-17-761364-C and A-17-761884-C</i> |
| 05/21/2018 |  Joint Case Conference Report Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria; Plaintiff Frazee, James; Plaintiff Hollowood, Robert G <i>Joint Early Case Conference Report</i> |
| 05/25/2018 |  Order Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Proposed Protective Order With Respect to Confidentiality</i> |
| 05/25/2018 |  Notice of Entry of Order Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Notice of Entry of Protective Orde with Respect to Confidentiality</i> |

CASE SUMMARY

CASE NO. A-17-761364-C

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| 06/05/2018 |  Opposition to Motion Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>NSEA defendants' Opposition to Plaintiffs' Motion to Consolidate Cases A-17-761364-C and A-17-761884-C</i> |
| 06/12/2018 |  Reply in Support Filed By: Plaintiff Clark County Education Association <i>Plaintiffs' Reply ins Support of Motion to Consolidate Cases A-17-761364-C and A-17-761884-C</i> |
| 06/18/2018 |  Motion for Partial Summary Judgment Filed By: Plaintiff Clark County Education Association <i>Plaintiffs' Motion for Partial Summary Judgment</i> |
| 06/20/2018 |  Recorders Transcript of Hearing <i>Recorder's Transcript of Hearing Plaintiffs' Motion to Consolidate Cases A-17-761364-C and A-17-761884-C 6/19/18</i> |
| 06/29/2018 |  Order Granting Motion Filed By: Plaintiff Clark County Education Association <i>Order Granting Plaintiffs' Motion to Consolidate Cases A-17-761364-C and A-17-761884-C</i> |
| 07/02/2018 | Case Reassigned to Department 1 <i>Reassigned From Judge Israel - Dept 28</i> |
| 07/02/2018 |  Notice of Entry of Order Filed By: Plaintiff Clark County Education Association <i>Notice of Entry of Order Granting Plaintiffs' Motion to Consolidate Cases A-17-761364-C and A-17-761884-C</i> |
| 07/09/2018 |  Peremptory Challenge Filed by: Plaintiff Clark County Education Association <i>Peremptory Challenge of Judge</i> |
| 07/09/2018 |  Motion to Dismiss Filed By: Plaintiff Clark County Education Association <i>Defendants-Counter Plaintiffs Clark County Education Association s John Vellardita's and Victoria Courtney's Notice of Motion and Partial Motion to Dismiss Second Amended Complaint for Declaratory and Injunctive Relief</i> |
| 07/09/2018 |  Non Opposition Filed By: Plaintiff Clark County Education Association <i>Clark County Education Association John Vellardita,Victoria Courtney, James Frazee, Robert G. Hollowood and Maria Neisess' Notice of Non-Opposition to Motion to File Bank Records Under Seal</i> |
| 07/10/2018 |  Notice to Appear for Discovery Conference <i>Notice to Appear for Discovery Conference</i> |
| 07/10/2018 |  Notice of Department Reassignment <i>Notice of Department Reassignment</i> |
| 07/10/2018 |  Answer Filed By: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria |

CASE SUMMARY

CASE NO. A-17-761364-C

(A761884) Defendant-CounterPlaintiffs Clark County Education Association's, John Vellardita's and Victoria Courtney's Answer to Second Amended Complaint for Declaratory and Injunctive Relief and Second Amended Counterclaim

07/11/2018



Stipulation and Order

Filed by: Plaintiff Clark County Education Association

Stipulation and Order for Extension of Time for Defendants to Respond to Plaintiffs' Partial Motion for Summary Judgment and Set Briefing Schedule and Hearing Date

07/12/2018



Stipulation and Order

Filed by: Plaintiff Clark County Education Association

Stipulation and Order for Extension of Time for Defendants to Answer or Otherwise Plead to Second Amended Complaint for Declaratory and Injunctive Relief

07/12/2018



Opposition to Motion to Dismiss

Filed By: Plaintiff Clark County Education Association

Defendants - Counterclaimants' Opposition to Plaintiffs' Motion to Dismiss Second Amended Counterclaim

07/13/2018



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Clark County Education Association

Notice of Entry of Stipulation and Order for Extension of Time for Defendants to Respond to Plaintiffs' Partial Motion for Summary Judgment and Set Briefing Schedule and Hearing Date

07/13/2018



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Clark County Education Association

Notice of Entry of Stipulation and Order for Extension of Time for Defendants to Answer or Otherwise Plead to Second Amended Complaint for Declaratory and Injunctive Relief

07/16/2018



Opposition to Motion to Compel

Filed By: Plaintiff Clark County Education Association

Defendants Counterclaimants Opposition to Motion to Compel Complete Responses to their First Set of Interrogatories and their First Set of Requests for Production

07/20/2018



Opposition to Motion

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
NSEA Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment (in No. A-17-761364-C)

07/20/2018



Statement

NSEA Defendants' Concise statement of Facts in Support of NSEA Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment (in No. A-17-761364-C)

07/20/2018



Declaration

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Declaration of Brian Lee in Support of NSEA Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment (in No. A-17-761364-C)

07/20/2018



Declaration

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Declaration of Ruben Murillo in Support of NSEA Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment (in No. A-17-761364-C)

07/25/2018













CASE SUMMARY

CASE NO. A-17-761364-C

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|------------|---|
| |  Stipulation and Order Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Stipulation & Order for an Extension of Time for the NSEA Parties to File Their Opposition to the CCEA Parties' Motion to Dismiss 2d.Am.Compl.</i> |
| 07/25/2018 |  Notice of Entry of Stipulation and Order Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Notice of Entry of Stipulation & Order for Ext. of Time for NSEA to File Opp. to CEA Mot. to Dismiss 2nd.Am.Compl.</i> |
| 07/25/2018 |  Filed Under Seal <i>Reply of the NSEA Parties in Support of Motion to Compel Complete Responses to Their First Sets of Interrogatories and Requests for Production (in No. A-17-761884-C)</i> |
| 08/02/2018 |  Opposition Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>NSEA Parties Opposition to CCEA Parties' Partial Motion to Dismiss the Second Amended Complaint</i> |
| 08/14/2018 |  Reply in Support Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Reply of NSEA Parties in Support of Motion to Dismiss Second Amended Counterclaim (in No. A-17-761884-C)</i> |
| 08/14/2018 |  Reply in Support Filed By: Plaintiff Clark County Education Association <i>CCEA Parties' Reply in Support of Motion for Partial Summary Judgment</i> |
| 08/14/2018 |  Reply in Support Filed By: Plaintiff Clark County Education Association <i>CCEA Parties' Reply in Support of Partial Motion to Dismiss the Second Amended Complaint</i> |
| 08/16/2018 |  Notice of Hearing <i>Notice of Hearing</i> |
| 09/05/2018 |  Scheduling Order <i>Scheduling Order</i> |
| 09/13/2018 |  Notice of Rescheduling of Hearing <i>Notice of Rescheduling of Hearing</i> |
| 09/19/2018 |  Supplemental Brief Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Supplemental Brief of the NSEA Parties in Support of Motion to Compel Complete Responses to Their First Sets of Interrogatories and Requests for Production</i> |
| 09/20/2018 |  Notice of Rescheduling of Hearing <i>Notice of Rescheduling of Hearing</i> |
| 09/24/2018 |  Opposition to Motion to Compel |

CASE SUMMARY

CASE NO. A-17-761364-C

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| | <p>Filed By: Plaintiff Clark County Education Association <i>Defendants - Counterclaimants' Opposition to Supplemental Brief of the NSEA Parties in Support of Motion to Compel</i></p> |
| 10/01/2018 | <p> Recorders Transcript of Hearing <i>Recorders Transcript of Hearing - Court Call - Plaintiffs' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production - heard on Sept. 26, 2018</i></p> |
| 10/01/2018 | <p> Notice of Withdrawal of Attorney Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Notice of Withdrawal of John M. West as Counsel for NSEA Parties</i></p> |
| 10/03/2018 | <p> Notice of Rescheduling of Hearing <i>Notice of Rescheduling of Hearing</i></p> |
| 10/10/2018 | <p> Order Setting Civil Bench Trial <i>Order Setting Civil Bench Trial</i></p> |
| 10/22/2018 | <p> Objection to Discovery Commissioners Report and Recommend Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>NSEA Parties' Objection to Discovery Commissioner's Report and Recommendations</i></p> |
| 10/30/2018 | <p> Opposition Filed By: Plaintiff Clark County Education Association <i>CCEA Parties' Opposition to the NSEA Parties' Objection to Discovery Commissioner's Report and Recommendations</i></p> |
| 11/01/2018 | <p> Discovery Commissioners Report and Recommendations Filed By: Plaintiff Clark County Education Association <i>Discovery Commissioner's Report and Recommendation</i></p> |
| 11/02/2018 | <p> Notice of Entry of Order Filed By: Plaintiff Clark County Education Association <i>Notice of Entry of Order on Discovery Commissioner's Report and Recommendations</i></p> |
| 11/09/2018 | <p> Filed Under Seal Filed By: Defendant Nevada State Education Association <i>Plaintiff's NSEA's and NEA's Motion for Partial Summary Judgment</i></p> |
| 11/12/2018 | <p> Receipt of Copy Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Receipt of Copy Re: Plaintiffs NSEA's and NEA's Motion for Partial Summary Judgment Filed Under Seal</i></p> |
| 11/12/2018 | <p> Certificate of Mailing Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Certificate of Mailing Re: Plaintiffs NSEA's and NEA's Motion for Partial Summary Judgment Filed Under Seal</i></p> |
| 11/13/2018 | <p> Supplemental</p> |

CASE SUMMARY

CASE NO. A-17-761364-C

Filed by: Plaintiff Clark County Education Association; Plaintiff Courtney, Victoria
Defendants-Counterclaimants' Second Supplemental Brief Regarding the NSEA Parties' Motion to Compel

11/14/2018



Supplemental Brief

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
NSEA Parties' Second Supplemental Brief in Support of Their Motion to Compel, and in Response to the CCEA Parties' November 13 Brief

12/03/2018



Recorders Transcript of Hearing

Recorder's transcript of hearing

12/04/2018



Stipulation and Order

Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Stipulation and Order for Extension of Time for Defendant CCEA to Respond to, and for Resetting Hearing Date on, NSEA and NSEA Plaintiffs' Motion for Partial Summary Judgment Filed Under Seal

12/04/2018



Notice of Rescheduling of Hearing

Notice of Rescheduling of Hearing

12/05/2018



Notice of Entry of Order

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Notice of Entry of Order Re: Stipulation and Order for Extension of Time for Defendant CCEA to Respond to, and for Resetting Hearing Date on, NSEA and NEA Plaintiffs' Motion for Partial Summary Judgment Filed Under Seal

12/05/2018



Order

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Order Granting NSEA Parties' Motion to Dismiss CCEA Parties' Second Amended Counterclaim

12/05/2018



Order

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Order Denying in Part, and Granting in Part, CCEA Parties' Partial Motion to Dismiss Second Amended Complaint of the NSEA Parties

12/05/2018



Notice of Entry of Order

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Notice of Entry of Order Denying in Part, and Granting in Part, CCEA Parties' Partial Motion to Dismiss Second Amended Complaint of the NSEA Parties

12/05/2018



Notice of Entry of Order

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Notice of Entry of Order Granting NSEA Parties' Motion to Dismiss CCEA Parties' Second Amended Counterclaim

12/12/2018



Motion

Filed By: Plaintiff Clark County Education Association
CCEA Parties' Motion to Alter or Amend Court's May 11, 2018 Order Pursuant to NRCP 59

CASE SUMMARY

CASE NO. A-17-761364-C

(e) and 60(b)

| | |
|------------|---|
| 12/12/2018 |  Opposition to Motion Filed By: Plaintiff Clark County Education Association <i>CCEA Parties' Opposition to NSEA Parties' Motion for Partial Summary Judgment -and- Countermotion for Partial Summary Judgment</i> |
| 12/13/2018 |  Initial Appearance Fee Disclosure <i>CCEA Parties' Initial Appearance Fee Disclosure</i> |
| 12/20/2018 |  Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff Clark County Education Association <i>(A761364 and A761884) Findings of Fact, Conclusions of Law and Order Granting Plaintiffs' Motion for Partial Summary Judgment</i> |
| 12/20/2018 |  Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Plaintiff Clark County Education Association <i>Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting Plaintiffs Motion for Partial Summary Judgment</i> |
| 01/03/2019 |  Discovery Commissioners Report and Recommendations Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Discovery Commissioner's Report and Recommendations</i> |
| 01/03/2019 |  Notice of Entry of Order Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Notice of Entry of Order on Discovery Commissioner's Report and Recommendations</i> |
| 01/07/2019 |  Stipulation and Order Filed by: Plaintiff Clark County Education Association <i>Stipulation and Order</i> |
| 01/09/2019 |  Notice of Entry of Stipulation and Order Filed By: Plaintiff Clark County Education Association <i>Notice of Entry of Stipulation and Order</i> |
| 01/10/2019 |  Motion to Reconsider Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>NSEA PARTIES' MOTION FOR PARTIAL RECONSIDERATION OF THE DECEMBER 20 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER</i> |
| 01/23/2019 |  Filed Under Seal Filed By: Defendant Nevada State Education Association; Defendant Murillo, Ruben, Jr. <i>NSEA Parties' Opposition to CCEA Parties' Countermotion for Partial Summary Judgment</i> |
| 01/23/2019 |  Declaration Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>DECLARATION OF HENRY PINES IN SUPPORT OF NSEA PARTIES' MOTION FOR PARTIAL SUMMARY JUDGMENT</i> |
| 01/23/2019 |  Opposition to Motion |

CASE SUMMARY

CASE NO. A-17-761364-C

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
NSEA Parties' Opposition to CCEA Parties' Motion to Alter or Amend the Court's May 11, 2018 Order

01/23/2019



Declaration

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
DECLARATION OF BRIAN LEE IN SUPPORT OF NSEA AND NEA PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

01/23/2019



Declaration

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
DECLARATION OF JAMES P. TESTERMAN IN SUPPORT OF NSEA AND NEA PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND OPPOSITION TO CCEA'S COUNTERMOTION

01/23/2019



Statement

Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
NSEA AND NEA PLAINTIFFS' CONCISE STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF NSEA AND NEA PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

01/23/2019



Motion for Partial Summary Judgment

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
NSEA and NEA Plaintiffs' Motion for Partial Summary Judgment

01/24/2019



Receipt of Copy

Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
RECEIPT OF COPY RE: NSEA PARTIES' OPPOSITION TO CCEA PARTIES' COUNTERMOTION FOR PARTIAL SUMMARY JUDGMENT

01/24/2019



Certificate of Mailing

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
CERTIFICATE OF MAILING RE: NSEA PARTIES' OPPOSITION TO CCEA PARTIES' COUNTERMOTION FOR PARTIAL SUMMARY JUDGMENT

02/21/2019



Stipulation and Order

Filed by: Consolidated Case Party Clark County Education Association
Stipulation and Order to Stay Discovery and Extend the Discovery Deadline

02/22/2019



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Clark County Education Association
Notice of Entry of Stipulation and Order to Stay Discovery and Extend the Discovery Deadline (First Request)

02/25/2019



Opposition to Motion

Filed By: Plaintiff Clark County Education Association
CCEA Parties' Opposition to NSEA Parties' Motion for Partial Reconsideration of the December 20 Findings of Fact, Conclusions of Law, and Order

02/25/2019



Opposition to Motion For Summary Judgment

CASE SUMMARY

CASE NO. A-17-761364-C

CCEA Parties' Opposition to NSEA Parties' Motion for Partial Summary Judgment

02/25/2019



Stipulation and Order

Filed by: Plaintiff Clark County Education Association

Stipulation and Order to Extend Briefing Schedule and to Consolidate Hearings

02/27/2019



Notice of Entry of Stipulation and Order

Filed By: Plaintiff Clark County Education Association

Notice of Entry of Stipulation and Order to Extend Briefing Schedule and to Consolidate Hearings

03/26/2019



Transcript of Proceedings

Defendants' Partial Motion to Dismiss Plaintiffs' Joinder in the Clark County School District's Motion to Dismiss

04/04/2019



Reply

Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
NSEA and NEA Plaintiffs' Reply in Support of Their Motion for Partial summary Judgment (NEA Bylaws, NSEA Bylaws)

04/04/2019



Declaration

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Declaration of Henry Pines in Support of NSEA Parties' Motion for Partial Summary Judgment (NSEA and NEA Bylaws)

04/04/2019



Reply

Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
NSEA and NEA Plaintiffs' Reply in Support of Their Motion for Partial Summary Judgment (Conversion)

04/04/2019



Reply in Support

Filed By: Plaintiff Clark County Education Association
CCEA Parties' Reply in Support of Motion to Alter or Amend Court's May 11, 2018 Order Pursuant to NRCP 59(e) and 60(b)

04/04/2019



Reply

Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Reply of the NSEA Parties in Support of Motion for Partial Reconsideration of the December 20 Findings of Fact, Conclusions of Law, and Order

04/04/2019



Reply in Support

Filed By: Plaintiff Clark County Education Association
CCEA Parties' Reply in Support of Motion for Partial Summary Judgment

05/17/2019



Receipt of Copy

Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Receipt of Copy Re: NSEA Defendants' Notice of Taking Rule 30(B)(6) Videotaped Deposition

05/23/2019



Recorders Transcript of Hearing

Recorder's Transcript of Hearing RE: All Pending Motions

CASE SUMMARY

CASE NO. A-17-761364-C

| | |
|------------|--|
| 05/30/2019 |  Stipulation and Order Filed by: Plaintiff Clark County Education Association <i>Stipulation and Order to Stay Discovery and Litigation Pending Appeal</i> |
| 05/31/2019 |  Notice of Entry of Stipulation and Order Filed By: Plaintiff Clark County Education Association <i>Notice of Entry of Stipulation and Order to Stay Discovery and Litigation Pending Appeal (Second Request)</i> |
| 06/03/2019 |  Notice of Withdrawal of Attorney Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Notice of Withdrawal of James Graham Lake as Counsel for NSEA Parties</i> |
| 06/28/2019 |  Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff Clark County Education Association <i>Findings of Fact, Conclusions of Law, and Order Granting in Part and Denying in Part the NSEA Parties' Motion for Partial Reconsideration of the December 20, 2018 Findings of Fact, Conclusions of Law, and Order</i> |
| 06/28/2019 |  Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Plaintiff Clark County Education Association <i>Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting in Part and Denying in Part the NSEA Parties Motion for Partial Reconsideration of the December 20, 2018 Findings of Fact, Conclusions of Law, and Order</i> |
| 07/03/2019 |  Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff Clark County Education Association <i>(A-17-761364-C and A-17-761884-C) Findings of Fact, Conclusions of Law, and Order Granting the Clark County Education Association Parties' Motion for Partial Summary Judgment and Denying the Nevada State Education Association Parties' Motion for Partial Summary Judgment</i> |
| 07/03/2019 |  Findings of Fact, Conclusions of Law and Order Filed By: Plaintiff Clark County Education Association <i>Findings of Fact, Conclusions of Law, and Order Granting CCEA Parties' Motion to Alter or Amend Court's May 11, 2018 Order Pursuant to NRCP 59(E) and 60(B)</i> |
| 07/03/2019 |  Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Plaintiff Clark County Education Association <i>Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting the Clark County Education Association Parties' Motion for Partial Summary Judgment and Denying the Nevada State Education Association Parties' Motion for Partial Summary Judgment</i> |
| 07/03/2019 |  Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Plaintiff Clark County Education Association <i>Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting CCEA Parties' Motion to Alter or Amend Court's May 11, 2018 Order Pursuant to NRCP 59(E) and 60(B)</i> |
| 07/15/2019 |  Notice of Appeal Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian <i>Notice of Appeal</i> |
| 07/15/2019 |  Case Appeal Statement Filed By: Defendant Nevada State Education Association; Defendant Galvin, |

CASE SUMMARY

CASE NO. A-17-761364-C

Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Case Appeal Statement

07/15/2019



Notice of Posting of Cost Bond

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Notice of posting Bond Pursuant to NRAP 7

07/16/2019

Filed Under Seal

Filed By: Defendant Nevada State Education Association
NSEA and NEA Plaintiffs' Motion for Stay Pending Appeal

07/16/2019



Clerk's Notice of Hearing

Notice of Hearing

07/16/2019



Certificate of Mailing

Filed By: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Certificate of Mailing Re: NSEA and NEA Plaintiffs' Motion for Stay Pending Appeal Filed Under Seal

07/16/2019



Receipt of Copy

Filed by: Defendant Nevada State Education Association; Defendant Galvin, Dana; Defendant Murillo, Ruben, Jr.; Defendant Wallace, Brian; Defendant Lee, Brian
Receipt of Copy Re: NSEA and NEA Plaintiffs' Motion for Stay Pending Appeal Filed Under Seal

DISPOSITIONS

12/05/2018

Order of Dismissal (Judicial Officer: Earley, Kerry)

Debtors: Nevada State Education Association (Defendant), Ruben Murillo, Jr. (Defendant)

Creditors: Clark County Education Association (Plaintiff), Victoria Courtney (Plaintiff)

Judgment: 12/05/2018, Docketed: 12/05/2018

Comment: Certain Claims

12/20/2018

Summary Judgment (Judicial Officer: Earley, Kerry)

Debtors: Nevada State Education Association (Defendant), Dana Galvin (Defendant), Ruben Murillo, Jr. (Defendant), Brian Wallace (Defendant), Brian Lee (Defendant), Paul J. Lal (Defendant)

Creditors: Clark County Education Association (Plaintiff), Victoria Courtney (Plaintiff), James Frazee (Plaintiff), Robert G Hollowood (Plaintiff), Maria Thrower (Plaintiff), Richard G. McCracken (Plaintiff), Kimberly C. Weber (Plaintiff)

Judgment: 12/20/2018, Docketed: 12/20/2018

Comment: Certain Claim

07/03/2019

Partial Summary Judgment (Judicial Officer: Earley, Kerry)

Debtors: Nevada State Education Association (Defendant), Dana Galvin (Defendant), Ruben Murillo, Jr. (Defendant), Brian Wallace (Defendant), Brian Lee (Defendant), Paul J. Lal (Defendant)

Creditors: Clark County Education Association (Plaintiff)

Judgment: 07/03/2019, Docketed: 07/03/2019

Comment: Certain Claims

HEARINGS

11/29/2017

Motion to Associate Counsel (3:00 AM) (Judicial Officer: Israel, Ronald J.)

Motion to Associate Counsel [James Graham Lake, Esq.]

Granted; Motion to Associate Counsel [James Graham Lake, Esq.]




11/29/2017

Motion to Associate Counsel (3:00 AM) (Judicial Officer: Israel, Ronald J.)

Motion to Associate Counsel [John M. West, Esq.]

CASE SUMMARY

CASE NO. A-17-761364-C

| | |
|------------|--|
| | Granted; Motion to Associate Counsel [John M. West, Esq.] |
| 11/29/2017 | Motion to Associate Counsel (3:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Motion to Associate Counsel [Matthew Clash-Drexler, Esq.]</i> Granted; Motion to Associate Counsel [Matthew Clash-Drexler, Esq.] |
| 11/29/2017 |  All Pending Motions (3:00 AM) (Judicial Officer: Israel, Ronald J.) <i>All Pending Motions (11/29/17)</i> Matter Heard; Journal Entry Details: <i>MOTION TO ASSOCIATE COUNSEL (JAMES GRAHAM LAKE, ESQ.)...MOTION TO ASSOCIATE COUNSEL (JOHN M. WEST, ESQ.)...MOTION TO ASSOCIATE COUNSEL (MATTHEW CLASH- DREXLER, ESQ.) Upon Court's review, COURT ORDERED, Above Motions to Associate Counsel, GRANTED. Moving Counsel to prepare the order. CLERK'S NOTE: A copy of this minute order was e-served to all parties. kk 12/01/17.;</i> |
| 01/16/2018 | Motion to Dismiss (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Defendants' Partial Motion to Dismiss</i> Denied; Defendants' Partial Motion to Dismiss |
| 01/16/2018 | Joinder (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Plaintiffs Joinder In the Clark County School District's Motion To Dismiss</i> Denied; Plaintiffs Joinder In the Clark County School District's Motion To Dismiss |
| 01/16/2018 |  All Pending Motions (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>All Pending Motions (01/16/18)</i> Matter Heard; All Pending Motions (01/16/18) Journal Entry Details: <i>Colloquy regarding Motion to Associate Joel D'Alba, Esq. Pro Hac Vice, that may have been submitted to Dept. 31, another related cases. Upon Court's inquiry, Ms. Weber noted the Defendant's filed their case after this case and she had just filed a motion to consolidate these cases. COURT ORDERED, Motion to Associate Joel D'Alba, Esq., GRANTED. Ms. Weber to prepare the order. Mr. West agreed both cases deal with an attempt to withhold money. DEFENDANT NEVADA STATE EDUCATION ASSOCIATION'S PARTIAL MOTION TO DISMISS...INDIVIDUAL PLAINTIFF'S JOINDER IN THE CLARK COUNTY SCHOOL DISTRICT'S MOTION TO DISMISS: Arguments by Counsel. Mr. West stated Plaintiff's were asking for more than the general information they had asked for an independent audit. Court noted this is a Motion to Dismiss. Mr. D'Alba argued and noted the policy and the union members wanting to know if the dues are spent on political issues and the amount of dues paid are listed in the bi-laws. Further arguments. COURT stated its findings noting there are questions of fact and the high standard for a motion to dismiss and ORDERED, Motion & Joinder, DENIED. Court noted it was inappropriate to request a full audit, However the oral request, there are questions of facts that need to be addressed at a later time. Court directed Plaintiff's Counsel to prepare the order and pass it by Defendants.;</i> |
| 02/20/2018 | CANCELED Motion to Consolidate (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Vacated</i> <i>Plaintiff's Motion for Consolidation (A761364 & A761884)</i> |
| 05/02/2018 |  Motion to Associate Counsel (3:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Motion to Associate Counsel - Robert Alexander, Esq.</i> Granted; Motion to Associate Counsel - Robert Alexander, Esq. Journal Entry Details: <i>On March 26th, 2018, Defendant filed a Motion to Associate Counsel, Robert Alexander, Esq. pursuant to Nevada Supreme Court Rule 42. The matter was subsequently placed on Department XXVIII's May 2, 2018 Chambers Calendar. Given there was no opposition and good cause set forth in the pleadings, the COURT ORDERED, Motion, GRANTED pursuant to EDCR 2.20 and EDCR 2.23, Nevada Supreme Court Rule 42 and on the merits. An order has been signed and is available for pick in the Department outbox on the 15th floor. CLERK'S NOTE: A copy of this minute order was e-served to Counsel. kk/ -- 05/02/18.;</i> |

CASE SUMMARY

CASE NO. A-17-761364-C

06/19/2018



Motion to Consolidate (9:00 AM) (Judicial Officer: Israel, Ronald J.)

Plaintiffs' Motion to Consolidate Cases A-17-761364-C and A-17-761884-C

MINUTES

Granted; Plaintiffs' Motion to Consolidate Cases A-17-761364-C and A-17-761884-C

Journal Entry Details:

*Court noted the Court reviewed all the pleadings regarding this matter and noted the lower case has hearings pending before Judge Kishner. Mr. West argued against the Motion to Consolidate and stated this same motion was set in January and at that time it would have been appropriate, however the Plaintiff had withdrew their motion. Mr. West further noted the lower case proceeded and has discovery issues. Colloquy regarding judicial economy and the standard for a motion to consolidate. Court stated its findings and ORDERED, Motion to Consolidate A761364 and A761884, GRANTED. Discussions regarding the case reassignments taking place on July 1st to include Department 28 cases and the effect it could have in this case. Counsel inquired of the pending motions before Judge Kishner. Court directed the Plaintiff to prepare the order. Court stated, until the order is signed the consolidation does not take effect. *****CASE A761884 CONSOLIDATED INTO A761364 (LEAD CASE)******

******SEE LEAD CASE A761364 FOR ALL FUTURE*

*MINUTES***** CLERK'S NOTE: Cases to be consolidated when Order to Consolidate is signed. /kk 06/19/18....Judge signed the Order to Consolidate 06/28/18. Email sent to Master Calendar to consolidate cases. kk 06/29/18.;*

08/01/2018



Motion to Compel (9:30 AM) (Judicial Officer: Bulla, Bonnie)

08/01/2018, 09/26/2018, 11/16/2018

COURT CALL - NSEA Parties' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production (Motion filed in A761884 on 6-29-18 and NSEA Parties are Plaintiffs in A761884 / Consolidated 7-2-18 in Notice of Entry of Order)

Matter Continued;

see fax dated 9/5/18

Matter Continued; COURT CALL - Plaintiffs' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production

Granted in Part; COURT CALL - NSEA Parties' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production (Motion filed in A761884 on 6-29-18 and NSEA Parties are Plaintiffs in A761884 / Consolidated 7-2-18 in Notice of Entry of Order)

Journal Entry Details:

Mr. Delikanakis stated Judge Earley Granted Clark County Education Association's Motion for Partial Summary Judgment as to the Declaratory Relief claim, Count 8, and found as a matter of law that the Transmittal Agreement and Services Agreement were terminated as of 8-31-17. This Court was waiting to see if Judge Earley would rule that dis-affiliation cutoff the duty to transmit (cutoff as of 8-31-17). Mr. Delikanakis is reviewing 26,000 pages of documents. Colloquy re: documentation production. Mr. Delikanakis didn't believe there would be expert disclosures in light of the Summary Judgment Motion. Mr. Lal somewhat agreed. Discovery cutoff is the end of March 2019. Bench Trial is 8-5-19. Arguments by counsel. The Motion is NSEA Parties' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production. COMMISSIONER RECOMMENDED, motion is GRANTED IN PART and DENIED IN PART; GRANTED for additional documents as discussed by 1-4-19; DENIED related to post dis-affiliation documents, and Commissioner continued to PROTECT that group of documents.

Commissioner stated counsel can bring a Motion to Reconsider, or counsel can file an Objection with the District Court Judge. Commissioner understood Plaintiffs' counsel was going to provide relevant drafts of documents. Commissioner Will Not address it today, but if privilege is raised, prepare a privilege log for redactions made to documents. Commissioner provided a cautionary note concerning the Rules of Civil Procedures are being re-written to mirror the Federal Rules in many respects. Arguments by counsel. Commissioner stated it is premature to address the issue, and Commissioner asked counsel to make a good faith effort to review documents, and drafts of key documents should be produced unless there is a reason to protect them. Commissioner will address the privilege log by separate Motion if necessary. Colloquy re: Rule 34(d). If counsel cannot figure it out, have a 2.34 conference or file a Motion if counsel cannot agree. No discovery modification today. Prepare a 2.35 Stipulation, or file a Motion. Commissioner Will Not move the trial date. Request would be made to the Judge. Commissioner is available by conference call. Mr. Lake requested rolling production. Commissioner already provided the date. Rolling production is Not Recommended as

CASE SUMMARY

CASE NO. A-17-761364-C

discussed. Mr. Lal to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.;

Matter Continued;

see fax dated 9/5/18

Matter Continued; COURT CALL - Plaintiffs' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production

Granted in Part; COURT CALL - NSEA Parties' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production (Motion filed in A761884 on 6-29-18 and NSEA Parties are Plaintiffs in A761884 / Consolidated 7-2-18 in Notice of Entry of Order)

Journal Entry Details:

Mr. Alexander stated Judge Earley moved dispositive Motions to 10-25-18, and counsel requested to continue the Hearing after 10-25-18. Mr. Delikanakis is working with Chambers to move the date (possibly November). COMMISSIONER RECOMMENDED, Part of Motion CONTINUED. Commissioner addressed 1) date for Plaintiff/Mr. Delikanakis by which to complete document production, and 2) if post disaffiliation documents are discoverable. Disaffiliation occurred April 24, 2018. Arguments by counsel. Upon Commissioner's inquiry, Mr. Delikanakis stated dues collected from up until disaffiliation are in the restricted account. Mr. Delikanakis stated Defts want Board Minutes post-disaffiliation, but they are not entitled to the inner workings of the organization. Mr. Delikanakis stated dues continue to be collected. Commissioner advised Mr. Delikanakis to maintain and preserve minutes and other related items. COMMISSIONER RECOMMENDED, post-disaffiliation documents are PROTECTED pending resolution by Judge Earley. Mr. Delikanakis has a plan to produce documents; Defense counsel provided search terms, and eight servers are being searched.

COMMISSIONER RECOMMENDED, all sides will keep working on document production, and everyone will give Commissioner an updated on 11-14-18, and Commissioner will consider parameters to ensure production is timely. Commissioner declined to put a certain date on it at this time; disclose information as timely as possible. Advise Commissioner the timeframe to compete document production. July 2019 Trial date. The Report and Recommendation is needed on two issues as discussed. Mr. Delikanakis will prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution. 11-16-18 10:30 a.m. Further Proceedings: Plaintiffs' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production (11-14-18 hearing reset to 11-16-18) CLERK'S NOTE: At the request of counsel, the above continued hearing was moved to 11-16-18 at 9:00 a.m. (jl 10-16-18);

Matter Continued;

see fax dated 9/5/18

Matter Continued; COURT CALL - Plaintiffs' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production

Granted in Part; COURT CALL - NSEA Parties' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production (Motion filed in A761884 on 6-29-18 and NSEA Parties are Plaintiffs in A761884 / Consolidated 7-2-18 in Notice of Entry of Order)

08/01/2018

Discovery Conference (9:30 AM) (Judicial Officer: Bulla, Bonnie)

COURT CALL - Discovery Conference

Scheduling Order Will Issue;

08/01/2018



All Pending Motions (9:30 AM) (Judicial Officer: Bulla, Bonnie)

Matter Heard;

Journal Entry Details:

Discovery Conference Plaintiffs Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production Discovery Conference - Letter to Commissioner from Mr. Delikanakis. It appears there was significant production. Commissioner stated there was no compliance with EDCR 2.40, and no sufficient 2.34 conference. Commissioner suggested continuing the Motion to allow the parties to meet and confer. Commissioner would like a detailed list from counsel. Arguments by counsel. Commissioner advised all counsel to file documents in the lead case. Department 4 case. No Trial date. COMMISSIONER RECOMMENDED, Plaintiffs Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production is CONTINUED; provide supplemental briefs by 9-7-18; contact Commissioner if a new date is needed. Commissioner stated Mr. Delikanakis can file a Motion to Compel on OST. Counsel

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY


CASE NO. A-17-761364-C

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|------------|---|
| | <i>anticipate two days for trial re: Breach of contract; no Settlement Conference requested. Colloquy. COMMISSIONER RECOMMENDED, discovery cutoff is 3-29-19; adding parties and amended pleadings are CLOSED; experts are Not Applicable; file dispositive motions by 5-29-19. Scheduling Order will issue. Trial ready 7-29-19. 9-7-18 10:00 a.m. Plaintiffs Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production;</i> |
| 09/04/2018 | CANCELED Status Check (9:00 AM) (Judicial Officer: Cory, Kenneth) <i>Vacated - per Secretary</i> |
| 10/18/2018 | CANCELED Pre Trial Conference (10:15 AM) (Judicial Officer: Israel, Ronald J.) <i>Vacated - per Secretary</i> |
| 11/13/2018 | CANCELED Calendar Call (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Vacated - On in Error</i> |
| 11/13/2018 |  Minute Order (2:00 PM) (Judicial Officer: Earley, Kerry) Minute Order - No Hearing Held; Journal Entry Details: <i>This matter came before the Court on Nevada State Education Association's Motion to File Bank Records Under Seal, filed June 22, 2018 by counsel Richard J. Pocker, Esq. Having received no Opposition to the matter and pursuant to EDCR 2.20 and for good cause showing, the Court hereby GRANTS the Motion to File Bank Records Under Seal. Counsel for Nevada State Education Association to prepare and submit the Order. The hearing on the Motion to File Bank Records Under Seal scheduled November 15, 2018 at 9:00 a.m. is hereby vacated. CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Richard McCracken, Esq. (mccracken@dcbsf.com) and Richard Pocker, Esq. (rpocker@bsfllp.com) //ev 11/13/18;</i> |
| 11/15/2018 | Motion for Partial Summary Judgment (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Plaintiffs' Motion for Partial Summary Judgment</i> Granted; |
| 11/15/2018 | CANCELED Motion to Seal/Redact Records (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Vacated</i> <i>Plaintiff's Motion to File Bank Records Under Seal [Sub Case]</i> |
| 11/15/2018 | Motion to Dismiss (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Plaintiffs' Motion to Dismiss Second Amended Counterclaim [Sub Case]</i> Granted; |
| 11/15/2018 | Motion to Dismiss (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Defendants-Counter Plaintiffs Clark County Education Association's, John Vellardita's and Victoria Courtney's Notice of Motion and Partial Motion to Dismiss Second Amended Complaint for Declaratory and Injunctive Relief</i> Granted in Part; |
| 11/15/2018 | CANCELED All Pending Motions (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Vacated - Duplicate Entry</i> <i>Firm Setting</i> |
| 11/15/2018 |  All Pending Motions (9:00 AM) (Judicial Officer: Earley, Kerry) Matter Heard; Journal Entry Details: <i>PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT</i> Court reviewed the pleadings and provided initial thoughts. Arguments by counsel regarding the Motion. Court stated there were questions of law and inquired regarding the agreements. Mr. Delikanakis argued NSEA funds should be returned back to the teachers, and requested the Motion be granted. Mr. Alexander and Mr. Delikanakis provided further reply regarding dues and agreements. COURT ORDERED, matter TAKEN UNDER SUBMISSION. PLAINTIFFS' |

CASE SUMMARY

CASE No. A-17-761364-C

MOTION TO DISMISS SECOND AMENDED COUNTERCLAIM [SUB CASE] Arguments by counsel regarding whether NEA was a proper party to the service agreement, and there was a claim for information under the NSEA bylaws. COURT ORDERED, Motion to Dismiss GRANTED. DEFENDANTS-COUNTER PLAINTIFFS CLARK COUNTY EDUCATION ASSOCIATION'S, JOHN VELLARDITA'S AND VICTORIA COURTNEY'S NOTICE OF MOTION AND PARTIAL MOTION TO DISMISS SECOND AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF Following arguments by counsel, COURT ORDERED, Motion GRANTED IN PART; as to Count 7 granted as to Defendants Victoria Courtney and John Vellardita, dismissed as to other Defendants; ruling for Count 8 ruling deferred; Count 9 denied at the pleading stage as a matter of law.;

| | |
|------------|--|
| 11/15/2018 | CANCELED Minute Order (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Vacated - Set in Error</i> |
| 11/15/2018 |  Minute Order (2:00 PM) (Judicial Officer: Earley, Kerry) Minute Order - No Hearing Held; Journal Entry Details: <i>This matter came before the Court for Clark County Education Association s (CCEA) Motion for Partial Summary Judgment and Partial Motion to Dismiss Nevada State Education Association s (NSEA) Seconded Amended Complaint, and NSEA s Motion to Dismiss CCEA s Second Amended Counterclaim. Having reviewed all points, authorities, and exhibits, along with oral arguments by counsel, the Court hereby enters its decision on the issues remaining in these matters: (1) CCEA s Motion for Partial Summary judgment, and (2) CCEA s Motion to Dismiss Count 8 of NSEA s Second Amended Complaint. In regards to CCEA s Motion for Partial Summary Judgment, the Court finds there are no genuine issues of material facts concerning whether the Service Agreement and Dues Transmittal Agreement were terminated. CCEA sent multiple letters to NSEA informing NSEA that the Agreements were being terminated. The Court finds these letters to NSEA terminated the Service Agreement and the Dues Transmittal Agreement pursuant to the terms of the agreements. The Service Agreement and Dues Transmittal Agreement allowed for unilateral termination. Therefore, CCEA s Motion for Partial Summary Judgment is GRANTED. Due to the Court s finding that the Service Agreement and Dues Transmittal Agreement properly terminated on August 31, 2017, CCEA s Motion to Dismiss Count 8 of NSEA s Second Amended Complaint is GRANTED. Counsel for CCEA to prepare the Findings of Fact, Conclusions of Law, and Orders, to be approved as to form and content by Counsel for NSEA. CLERK'S NOTE: A copy of this minute order was emailed to the following: Joel D' Alba, Esq. (JAD@ulaw.com), Michael Paretti, Esq. (mparetti@swlaw.com), Richard Pocker, Esq. (rpocker@bsflp.com), Matthew Clash-Drexler, Esq. (mcdrexler@bredhoff.com). //ev 11/15/18;</i> |
| 11/19/2018 | CANCELED Bench Trial (9:00 AM) (Judicial Officer: Israel, Ronald J.) <i>Vacated - On in Error</i> |
| 11/29/2018 | CANCELED Status Check: Compliance (3:00 AM) (Judicial Officer: Bulla, Bonnie) <i>Vacated - per Commissioner</i> |
| 01/17/2019 | CANCELED Status Check: Compliance (3:00 AM) (Judicial Officer: Truman, Erin) <i>Vacated - per Commissioner</i> |
| 04/18/2019 | CANCELED Motion for Partial Summary Judgment (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Vacated</i> <i>Plaintiff's NSEA's and NEA's Motion for Partial Summary Judgment</i> |
| 04/18/2019 | CANCELED Motion to Amend Judgment (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Vacated</i> <i>CCEA Parties' Motion to Alter or Amend Court's May 11, 2018 Order Pursuant to NRCP 59 (e) and 60(b)</i> |
| 04/18/2019 | CANCELED Opposition and Countermotion (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Vacated</i> <i>CCEA Parties Opposition to NSEA Parties' Motion for Partial Summary Judgment and Countermotion for Partial Summary Judgment</i> |

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-17-761364-C

| | |
|------------|---|
| 04/18/2019 | CANCELED Motion For Reconsideration (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Vacated</i> <i>NSEA Parties' Motion for Partial Reconsideration of the December 20 Findings of Fact, Conclusion of Law, and Order</i> |
| 04/18/2019 | CANCELED Motion for Partial Summary Judgment (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Vacated</i> <i>NSEA and NEA Plaintiffs' Motion for Partial Summary Judgment</i> |
| 05/09/2019 | Motion For Reconsideration (9:00 AM) (Judicial Officer: Earley, Kerry) Matter Heard; |
| 05/09/2019 | Motion for Partial Summary Judgment (9:00 AM) (Judicial Officer: Earley, Kerry) Matter Heard; |
| 05/09/2019 | Motion to Amend Complaint (9:00 AM) (Judicial Officer: Earley, Kerry) Matter Heard; |
| 05/09/2019 | Opposition and Countermotion (9:00 AM) (Judicial Officer: Earley, Kerry) Matter Heard; |
| 05/09/2019 | Motion for Partial Summary Judgment (9:00 AM) (Judicial Officer: Earley, Kerry) Matter Heard; |
| 05/09/2019 |  All Pending Motions (9:00 AM) (Judicial Officer: Earley, Kerry) Matter Heard; Journal Entry Details: <i>MOTION FOR RECONSIDERATION MOTION FOR PARTIAL SUMMARY JUDGMENT MOTION TO AMEND COMPLAINT OPPOSITION AND COUNTERMOTION .MOTION FOR PARTIAL SUMMARY JUDGMENT James G. Lake, Esq. also present on behalf of Defendant Danan Galvin. AS TO NSEA PARTIES MOTION FOR PARTIAL RECONSIDERATION OF THE December 20 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER: Arguments by counsel. Colloquy regarding the word 'contractual'. COURT ORDERED, motion GRANTED as to paragraph (12) and DENIED WITHOUT PREJUDICE as to paragraphs six, eight, nine, and 10 (6, 8, 9 and 10). AS TO NSEA AND NEA PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO COUNT SIX (6) CONVERSION CLAIM: Arguments by counsel. COURT stated FINDINGS and ORDERED, Nsea And Nea Plaintiffs' Motion For Partial Summary Judgment As To Count Six (6) Conversion Claim DENIED. AS TO CCEA MOTION FOR SUMMARY JUDGMENT AS TO COUNT SIX (6) CONVERSION CLAIM and COUNT FIVE (5): COURT ORDERED, count six (6) GRANTED as to conversion. COURT FURTHER ORDERED, count five (5) GRANTED as to unjust enrichment. Colloquy regarding the accounting issue and disbursement of funds. COURT NOTED those issues would be addressed at a later date. COURT ORDERED, count seven (7) GRANTED fraud as to damages. As to CCEA's Motion as to Count nine (9) GRANTED as there was no genuine issue of material facts, the Court relies on the affidavit.;</i> |
| 07/18/2019 | CANCELED Calendar Call (11:00 AM) (Judicial Officer: Earley, Kerry) <i>Vacated - per Judge</i> |
| 08/05/2019 | CANCELED Bench Trial (9:00 AM) (Judicial Officer: Earley, Kerry) <i>Vacated - per Judge</i> |
| 08/20/2019 | Motion For Stay (9:00 AM) (Judicial Officer: Earley, Kerry) <i>NSEA and NEA Plaintiffs' Motion for Stay Pending Appeal</i> |

DATE

FINANCIAL INFORMATION

| | |
|---|-------------|
| Defendant Nevada State Education Association | |
| Total Charges | 998.00 |
| Total Payments and Credits | 998.00 |
| Balance Due as of 7/17/2019 | 0.00 |

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-17-761364-C

Plaintiff Clark County Education Association

Total Charges

1,240.00

Total Payments and Credits

1,240.00

Balance Due as of 7/17/2019

0.00

Defendant Nevada State Education Association

Appeal Bond Balance as of 7/17/2019

500.00

DISTRICT COURT CIVIL COVER SHEET

A-17-761364-C

County, Nevada

Department 28

Case No. _____

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

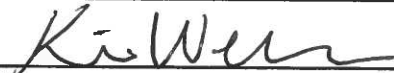
| | |
|---------------------------------------|------------------------------------|
| Plaintiff(s) (name/address/phone): | Defendant(s) (name/address/phone): |
| CLARK COUNTY EDUCATION ASSOCIATION | Nevada State Education Association |
| 4230 McLeod Drive | 3511 E. Harmon Avenue |
| Las Vegas, NV 89121 | Las Vegas, NV 89121 |
| (702) 733-3063 | (702) 733-7330 |
| Attorney (name/address/phone): | Attorney (name/address/phone): |
| McCRACKEN, STEMERMAN, & HOLSBERY, LLP | |
| 1630 South Commerce Street, Suite 1-A | |
| Las Vegas, NV 89102 | |
| (702) 386-5107 | |

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

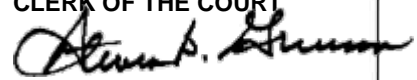
| | |
|--|---|
| Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property | Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort |
| Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500 | Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input checked="" type="checkbox"/> Other Contract |
| Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant | Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal |
| Other Civil Filing <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ | Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters |

Business Court filings should be filed using the Business Court civil coversheet.

9/12/17
Date


Signature of initiating party or representative

See other side for family-related case filings.



John S. Delikanakis, Nevada Bar No. 5928
Bradley T. Austin, Nevada Bar No. 13064
Michael Paretti, Nevada Bar No. 13926
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Tel: (702) 784-5200
jdelikanakis@swlaw.com
baustin@swlaw.com
mparetti@swlaw.com

Richard G. McCracken, Nevada Bar No. 2748
Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702) 386-5107
rmccracken@msh.law
kweber@msh.law

Joel A. D'Alba
Admitted pro hac vice
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
Tel: (312) 263-1500
jad@ulaw.com

Attorneys for the CCEA Parties

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO, JR., BRIAN WALLACE, and
BRIAN LEE,

Defendants.

Case No.: A-17-761364-C
DEPT. NO.: 4

(consolidated with A-17-761884-C)

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
THE CLARK COUNTY EDUCATION
ASSOCIATION PARTIES' MOTION
FOR PARTIAL SUMMARY JUDGMENT
AND DENYING THE NEVADA STATE
EDUCATION ASSOCIATION PARTIES'
MOTIONS FOR PARTIAL SUMMARY
JUDGMENT**

**Date of Hearing : May 9, 2019
Time of Hearing: 9:00 a.m.**

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO;
ROBERT BENSON; DIANE
DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

And

BRIAN LEE,

Counter-Defendant,

vs.

CLARK COUNTY EDUCATION
ASSOCIATION; JOHN VELLARDITA; AND
VICTORIA COURTNEY,

Defendants-Counter Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

The Court, having read and considered Nevada State Education Association ("NSEA"), National Education Association ("NEA"), Dana Galvin, Ruben Murillo, Jr., Brian Wallace, Brian Lee, Robert Benson, Diane Di Archangel and Jason Wyckoff (collectively "NSEA Parties") Motion for Partial Summary Judgment ("NSEA Motion for Partial Summary Judgment on Conversion"), filed November 9, 2018; the NSEA Parties' Motion for Partial Summary Judgment ("NSEA Motion for Partial Summary Judgment on Bylaws"), filed January 23, 2019; and Clark County Education Association ("CCEA"), Victoria Courtney, James Frazee, Robert Hollowood, and Maria Neisess's (collectively, the "CCEA Parties") Countermotion for Partial Summary Judgment ("CCEA Countermotion for Partial Summary Judgment") filed by the CCEA Parties on December 12, 2018, and all papers filed in support of the foregoing Motions; having heard and considered the oral argument of counsel John S. Delikanakis, Esq., Bradley Austin, Esq. and Michael Paretti, Esq. of Snell & Wilmer L.L.P., and Joel D'Alba, Esq. of Asher, Gittler & D'Alba, Ltd. appearing on behalf of the CCEA Parties, and Robert Alexander, Esq. and James Graham Lake, Esq. of Bredhoff & Kaiser, PPLC and Paul J. Lal, Esq. of Boies Schiller Flexner appearing on behalf of the NSEA Parties, and with good cause appearing, enters the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

The Court concludes, under N.R.C.P. 56, that there is no genuine dispute of fact regarding the following:

1. CCEA is a democratic organization that is the exclusive collective bargaining representative of the licensed professional employees of the Clark County School District (“CCSD”) and is the employee organization that serves as the local voice for educators to advance the cause of education, promote professional excellence among educators to protect the rights of educators, advance their interests and welfare, and secure professional autonomy.

2. CCEA is the recognized and exclusive bargaining agent for CCSD’s licensed professional employees.

3. NSEA was the state-wide affiliate of the CCEA.

4. The NEA was the national affiliate of the CCEA.

5. Members of CCEA pay dues to CCEA pursuant to a membership dues authorization form (“Membership Authorization Form”).

6. The Membership Authorization Form provides that:

Payroll Deduction Authorization. With full knowledge of the above, I hereby agree to pay cash for, or herein, authorize my employer to deduct from my salary, and pay to the local association, in accordance with the agreed-upon payroll deduction procedure, the professional dues as established annually and the political action contributions in the amounts indicated above for this membership year and each year thereafter, provided that I may revoke this authorization by giving written notice to that effect to my local association between July 1 and July 15 of any calendar year, or as otherwise designated by the negotiated agreement. Dues are paid on an annual basis and, although dues may be deducted from my payroll check(s) in order to provide an easier method of payment, a member is obligated to pay the entire amount of dues for a membership year. I understand that if I resign my membership in my local Association, or in the event of termination, resignation or retirement from employment, I am still obligated to pay the balance of my annual dues and political or positive image contributions for that membership year and such payments will continue to be deducted from my payroll check(s).

7. Once an individual CCEA member signs the Membership Authorization Form, CCEA membership dues are then deducted from members’ pay checks by their employer, the

1 CCSD, pursuant to a collective bargaining agreement negotiated and agreed to by and between
2 CCEA and CCSD.

3 8. The membership dues deducted from CCEA members' pay checks are then paid to
4 CCEA by CCSD.

5 9. A portion of the membership dues were then transmitted to NSEA through a dues
6 transmittal agreement by and between CCEA and NSEA ("Dues Transmittal Agreement"), which
7 is attached as an addendum and incorporated into a negotiated services agreement by and between
8 CCEA and NSEA ("Service Agreement") as Addendum A.

9 10. The Service Agreement incorporates the Dues Transmittal Agreement and provides
10 as follows:

11 CCEA agrees to transmit NSEA and NEA dues, and NSEA-TIP and NEA-PAC
12 contributions to NSEA for each by the tenth business day following the payroll
13 deduction. The agreement is attached as Addendum A.

14 11. The Service Agreement incorporates and the Dues Transmittal Agreement and
15 together provide for the quid pro quo exchange between CCEA and NSEA. The Service Agreement
16 sets forth the services and financial payments that NSEA will provide to CCEA in exchange for
17 transmittal of dues that CCEA sends to NSEA, as set forth in both the Service Agreement – Dues
18 Transmittal Agreement.

19 12. Specifically, paragraph 1 of the Service Agreement states that CCEA will transmit
20 dues to NSEA and the following paragraph (paragraph 2) provides that in exchange, NSEA will
21 transmit grants to CCEA.

22 13. The Service Agreement and the Dues Transmittal Agreement allow either party to
23 unilaterally terminate and seek to renegotiate the terms of the agreement.

24 14. Specifically, the Service Agreement provides that:

25 The term of this agreement shall be from September 1 to August 31. This
26 Agreement shall be automatically renewed on an annual basis, unless either party
27 shall give written notice of termination to the other party, with evidence of receipt
28 by the other party no later than thirty (30) days prior to the anniversary date of the
Agreement. Should either party give notice of termination as provided alone, then
this Agreement shall terminate on the anniversary date unless a successor agreement
has been mutually agreed to by the parties.

1 15. The relevant anniversary date is September 1, 2017.

2 16. Similarly, the Dues Transmittal Agreement provides that “[t]his agreement shall
3 remain in force for each subsequent membership year unless terminated in writing by either party
4 prior to September 1 of any NSEA membership year, or amended by mutual consent of both
5 parties.”

6 17. The NSEA membership year runs from September 1 to August 31.

7 18. On May 3, 2017, CCEA gave notice to NSEA and its officers of an intent to
8 terminate the Service Agreement and the Dues Transmittal as follows:

9
10 Pursuant to the terms of the Service Agreement between the Nevada State Education
11 Association and the Clark County Education Association, I write to give you notice
12 to terminate this agreement, unless a successor agreement can be mutually agreed
13 to by the parties....Please accept this letter as our formal notice of termination of the
14 Service Agreement.

15 19. On July 17, 2017 and August 3, 2017, CCEA sent NSEA two additional letters
16 providing for notice of the intent to terminate the Service Agreement and the Dues Transmittal
17 Agreement. Specifically, the July 17, 2017, letter stated in pertinent part that:

18 On May 3, 2017 CCEA served notice that it was terminating the Service Agreement
19 between CCEA and NSEA.....This letter serves notice to NSEA that unless there is
20 a successor agreement in place before the August 31, 2017 all terms and conditions
21 of the agreement shall become null and void.

22 The August 3, 2017, letter stated in pertinent part that:

23 Your letter expressing a claim based on NSEA policies is incorrect as this is a
24 contract matter, there has not been a mutual agreement to modify the Agreement,
25 and without mutual agreement, the terms and conditions of the Agreement will be
26 null and void upon its expiration on August 31, 2017....The Agreement serves as
27 the dues transmittal contract, and it is otherwise set to expire unless a successor is
28 negotiated per the terms and conditions of that Agreement. Upon expiration, CCEA
is not only legally not obligated to transmit dues, but cannot transmit member dues
to NSEA per NSEA’s own ByLaws. To be clear, when the current Agreement
between CCEA and NSEA expires on August 31, 2017 there will not be a contract
in place between the two organizations to collect and remit dues to NSEA.

29 20. On March 24, 2018, CCEA members were given notice of a dues issue to be
30 presented at a general membership meeting to be held on April 25, 2018.

31 21. On April 14, 2018, the Executive Board of CCEA met to consider a proposed bylaw

1 amendment to set CCEA dues at \$510 per year immediately upon disaffiliation from the NSEA and
2 the NEA and upon CCEA becoming an independent labor organization.

3 22. Prior to the termination of the Service Agreement and Dues Transmittal Agreement,
4 the annual dues payments for CCEA members included payments to CCEA, NSEA and NEA and
5 were \$810.50. The \$510 dues payments considered by the dues motion on April 14, 2018,
6 constituted a dues decrease for all CCEA members.

7 23. On April 24, 2018, the CCEA Association Representative Council ("ARC") met to
8 consider, among other things, bylaws changes. The ARC approved a motion to change Article X,
9 Section 1 of the CCEA Bylaws by removing the word "shall" from the affiliate's status and bylaw
10 provision and inserting the "may," which meant that the Association may, rather than shall,
11 maintain affiliate status with the NSEA and NEA. That change to Article X of the Bylaws was
12 approved.

13 24. On April 24, 2018, the ARC adopted a tentative budget for fiscal year 2018-2019,
14 setting the CCEA annual dues rate at \$510 for each member, which budget would take effect
15 immediately upon disaffiliation from NSEA and NEA.

16 25. On April 25, 2018, members of the Association at a general membership meeting
17 were advised that the ARC amended the Bylaws to permit members to effectively authorize the
18 disaffiliation from the NSEA and NEA and upon disaffiliation members' union dues would be
19 reduced from \$33.78 per paycheck to \$21.25 per paycheck.

20 26. On April 25, 2018, the CCEA members were notified by a mass email of this vote
21 and received a second notice of the general membership meeting to that place on that day.

22 27. During CCEA's April 25, 2018, general membership meeting, CCEA's members
23 approved a motion to disaffiliate from the NSEA and NEA, and to reduce the union dues as set
24 forth above.

25 28. CCEA disaffiliated from NSEA and NEA on April 25, 2018, and the foregoing dues
26 reduction took effect immediately upon disaffiliation.

27 29. After the termination of the Dues Transmittal Agreement, but prior to CCEA's April
28

1 25, 2018, disaffiliation from NSEA and NEA, CCSD continued to send the employees' dues to
2 CCEA, whereupon the dues were placed into a restricted bank account ("Sequestered Funds") –
3 with CCEA seeking via the instant litigation a declaratory determination from the Court as to the
4 rightful owner of the funds, and NSEA asserting via the instant litigation a right to the funds under
5 contract, conversion, and unjust enrichment causes of action.

6 30. On May 11, 2018, and to preserve the status quo while the CCEA Parties'
7 declaratory relief claim was pending with the Court, the Court required that: (1) all funds in the
8 possession of or received by CCEA for the 2017-2018 school year in respect to NSEA dues and in
9 respect to NEA dues be deposited into a restricted account, "as [CCEA] has represented to the
10 Court it has done during the course of this litigation"; (2) that no funds shall be withdrawn,
11 transferred, or disbursed out of the Restricted Account, and the Restricted Account shall not be
12 changed or modified, without a further Order from the Court; and (3) that CCEA provide a monthly
13 account statement to the NSEA Parties.

14 31. On December 20, 2018, pursuant to a Motion for Partial Summary Judgment filed
15 by the CCEA Parties, this Court held that the May 3, July 17, and August 3, 2017 termination
16 notices caused both the Service Agreement and Dues Transmittal Agreement to terminate and
17 expire on August 31, 2017.

18 32. The Court further held that in light of the foregoing termination and expiration,
19 CCEA owed no duties to NSEA or NEA under the Service Agreement and Dues Transmittal
20 Agreement to collect and/or transmit membership dues on NSEA or NEA's behalf on or after
21 September 1, 2017, nor did NSEA or NEA have any obligation to CCEA on or after September 1,
22 2017, to perform pursuant to the Service Agreement and Dues Transmittal Agreement, and that
23 there was no dispute that NSEA and NEA ceased to perform under the Service Agreement and
24 Dues Transmittal Agreement on or after September 1, 2017.

25 33. Any finding of fact which should be construed as a conclusion of law shall be
26 construed as such.
27
28

34. Any conclusion of law which should be construed as a finding of fact shall be construed as such.

CONCLUSIONS OF LAW

A. Standard for Summary Judgment

35. The Court will render judgment “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Nevada Rule of Civil Procedure 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986.)

36. “A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party.” *Wood v. Safeway*, 121 Nev. 724, 731 (2005).

37. The moving party bears the initial burden of showing the absence of a genuine issue of material fact. *Celotex*, 477 U.S. at 323.

38. To meet this burden, the moving party may either produce evidence affirmatively demonstrating the absence of such evidence or point out a lack of evidence to support the nonmoving party’s case. *Id.* at 325.

39. Once this burden is met, the burden shifts to the nonmoving party to present evidence demonstrating the existence of a genuine issue of material fact. *See Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986).

B. NSEA Parties’ Claim for Conversion

40. “Conversion is defined as exerting wrongful ‘dominion over another’s personal property or wrongful interference with the owner’s dominion.’” *Larsen v. B.R. Enters., Inc.*, 104 Nev. 252, 254, 757 P.2d 354, 356 (1988). *See also, Bader v. Cerri*, 96 Nev. 352, 356, 609 P.2d 314, 317 (1980), *overruled on other grounds by Evans v. Dean Witter Reynolds, Inc.*, 116 Nev. 598, 5 P.3d 1043 (2000) (“A conversion occurs whenever there is a serious interference to a party’s rights in his property”); *M.C. Multi-Family Dev., L.L.C. v. Crestdale Associates, Ltd.*, 124 Nev. 901, 910–11, 193 P.3d 536, 542–43 (2008) (defining conversion as “a distinct act of dominion wrongfully exerted over another’s personal property in denial of, or inconsistent with his title or rights therein or in derogation, exclusion, or defiance of such title or rights.”).

1 41. A precondition to bringing a claim for conversion is that the claimant must be the
2 rightful owner of the property.

3 42. NSEA and NEA have no legal or contractual right to the Sequestered Funds under
4 the Service Agreement or Dues Transmittal Agreement, which agreements were terminated prior
5 to September 1, 2017.

6 43. NSEA and NEA have no legal or contractual right to the Sequestered Funds under
7 the NSEA or NEA Bylaws, which Bylaws expressly rely upon the (terminated) Dues Transmittal
8 Agreement for any obligation to transmit dues.

9 44. NSEA and NEA have no legal or contractual right to the Sequestered Funds under
10 the Membership Authorization Form, which Form is only between CCEA and the individual
11 members.

12 45. NSEA/NEA have no equitable right to the Sequestered Funds, or any other funds
13 CCEA collected on behalf of its members after September 1, 2017.

14 46. In light of the foregoing, NSEA/NEA are not the rightful owners of, and have no
15 legal or equitable right to, the Sequestered Funds and as a result, cannot meet the rightful owner
16 element.

17 47. There are no genuine issues of material fact precluding summary judgment in the
18 CCEA Parties' favor on the NSEA Parties' claim for conversion.

19 48. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
20 to summary judgment as a matter of law.

21 49. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
22 summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for
23 conversion.

24 **C. NSEA Parties' Claim for Unjust Enrichment**

25 50. The essential elements of unjust enrichment are "a benefit conferred on the
26 defendant by the plaintiff, appreciation by the defendant of such benefit, and acceptance and
27 retention by the defendant of such benefit under circumstances such that it would be inequitable for
28

1 him to retain the benefit without payment of the value thereof.” *Leasepartners Corp. v. Robert L.*
2 *Brooks Tr. Dated Nov. 12, 1975*, 113 Nev. 747, 755, 942 P.2d 182, 187 (1997).

3 51. Similar to a claim for conversion, the claimant must have an underlying right to the
4 property/funds at issue. *See id.* (one of the essential elements for unjust enrichment is “a benefit
5 conferred on the defendant by the plaintiff”).

6 52. Furthermore, “an action based on a theory of unjust enrichment is not available when
7 there is an express, written contract, because no agreement can be implied when there is an express
8 agreement.” *See Leasepartners Corp. v. Robert L. Brooks Trust Dated November 12, 1975*, 113
9 Nev. 747, 755-56, 942 P.2d 182, 187 (1997); *Lipshie v. Tracy Investment Co.*, 93 Nev. 370, 379,
10 566 P.2d 819, 824 (1977) (“To permit recovery by quasi-contract where a written agreement exists
11 would constitute a subversion of contractual principles.”) (emphasis supplied). 66 Am.Jur.2d
12 Restitution § 11 (1973) (“The doctrine of unjust enrichment or recovery in quasi contract applies
13 to situations where there is no legal contract but where the person sought to be charged is in
14 possession of money or property which in good conscience and justice he should not retain but
15 should deliver to another.”).

16 53. For the reasons set forth under the claim for conversion – which findings are
17 incorporated herein by reference – NSEA and NEA do not have standing to assert a claim for unjust
18 enrichment because they do not have an ownership interest or underlying right to the Sequestered
19 Funds.

20 54. To the extent the unjust enrichment claim is asserted on behalf of Parties Murillo,
21 Benson, Di Archangel, and Wyckoff (“Teacher Parties”), such claim fails for the following
22 independent reasons:

- 23 a. First, the Teacher Parties’ claim for unjust enrichment fails because an express,
24 written contract governs the parties’ relationship – specifically, the Membership
25 Authorization Form; thus, no equitable agreement can be implied.
- 26 b. Second, the Teacher Parties’ claim for unjust enrichment fails for lack of
27 damages. Specifically:
28

- i. Simultaneous with granting the CCEA Parties' Motion for Partial Summary Judgment, this Court also granted the CCEA Parties' Motion to Alter or Amend the Restricted Account Order, which Order provides, in part, that CCEA will return the Sequestered Funds to the individual CCEA members, the teachers, inclusive of the Teacher Parties. Further, the Order provides that CCEA will return to the Teacher Parties their full CCEA dues for the entire 2017-2018 membership year.
- ii. The Teacher Parties, therefore, have not suffered any cognizable damages.

55. There are no genuine issues of material fact precluding summary judgment in the CCEA Parties' favor on the NSEA Parties' claim for unjust enrichment.

56. The NSEA Parties have not made any showing that the CCEA Parties are not entitled to summary judgment as a matter of law.

57. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for unjust enrichment.

D. NSEA Parties' Claim for Breach of NSEA, NEA, and CCEA Bylaws

58. "Questions of contract construction, in the absence of ambiguity or other factual issues, are suitable for determination by summary judgment." *See Nelson v. California State Auto. Ass'n Inter-Ins. Bureau*, 114 Nev. 345, 347, 956 P.2d 803, 805 (1998) *S. Tr. Mortg. Co. v. K & B Door Co.*, 104 Nev. 564, 568, 763 P.2d 353, 355 (1988) ("[W]here a document is clear and unambiguous, the court must construe it from the language therein."); *Chwialkowski v. Sachs*, 108 Nev. 404, 406, 834 P.2d 405, 406 (1992) (same); *Renshaw v. Renshaw*, 96 Nev. 541, 543, 611, P.2d 1070, 1071 (1980) (same); *Ellison v. California State Auto Ass'n*, 106 Nev. 601, 603, 797 P.2d 975, 977 (1990) (same); *Watson v. Watson*, 95 Nev. 495, 496, 596 P.2d 507, 508 (1979) ("Courts are bound by language which is clear and free from ambiguity and cannot, using guise of interpretation, distort plain meaning of agreement.").

1 59. As previously determined by this Court in its December 20, 2018 Order, the Service
2 Agreement and Dues Transmittal Agreement were terminated by CCEA within the required
3 contractual timeframe, which termination caused both agreements to expire on August 31, 2017.

4 60. But-for the Service and Dues Transmittal Agreements (which this Court found
5 expired on August 31, 2017, due to CCEA's termination), CCEA is not subject to the NSEA/NEA
6 Bylaws, nor are NSEA/NEA parties to the CCEA Bylaws.

7 61. Accordingly, no contractual relationship between CCEA and NSEA/NEA –
8 inclusive of any contractual relationship created by the NSEA/NEA/CCEA Bylaws – existed on or
9 after September 1, 2017.

10 62. In the absence of a Dues Transmittal Agreement, there is no obligation for CCEA
11 to transmit dues to NSEA and per NEA's bylaws, only NSEA has a contractual obligation to pay
12 NEA.

13 63. Accordingly, because CCEA was not bound by NSEA/NEA Bylaws after
14 September 1, 2017, and because NSEA/NEA are not parties to the CCEA Bylaws, there can be no
15 breach by CCEA and NSEA/NEA's breach of contract claims fail. *Clark Cty. V. Bonanza No. 1*,
16 96 Nev. 643, 648–49, 615 P.2d 939, 943 (1980) (“As a general rule, none is liable upon a contract
17 except those who are parties to it.”).

18 64. There are no genuine issues of material fact precluding summary judgment in the
19 CCEA Parties' favor on the NSEA Parties' claim for breach of NSEA/NEA/CCEA Bylaws.

20 65. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
21 to summary judgment as a matter of law.

22 66. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
23 summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for
24 breach of NSEA/NEA/CCEA Bylaws.

25 **E. NSEA Parties' Claim for Fraud**

26 67. The elements for fraud are: “(1) A false representation made by the defendant; (2)
27 Defendant's knowledge or belief that the representation is false (or insufficient basis for making
28

1 the representation); (3) Defendant's intention to induce the plaintiff to act or to refrain from acting
2 in reliance upon the misrepresentation; (4) Plaintiff's justifiable reliance upon the
3 misrepresentation; and (5) Damage to the plaintiff resulting from such reliance." *Bulbman, Inc. v.*
4 *Nevada Bell*, 108 Nev. 105, 110–11, 825 P.2d 588, 592 (1992).

5 68. "A plaintiff has the burden of proving each element of fraud claim by clear and
6 convincing evidence." *Id.*

7 69. "Where an essential element of a claim for relief is absent, the facts, disputed or
8 otherwise, as to other elements are rendered immaterial and summary judgment is proper." *Id.*
9 (granting summary judgment for defendant on plaintiff's fraud claim because plaintiff could not
10 present a triable issue of material fact as to every element of fraud).

11 70. Simultaneous with granting the CCEA Parties' Motion for Partial Summary
12 Judgment, this Court also granted the CCEA Parties' Motion to Alter or Amend the Restricted
13 Account Order, which Order provides, in part, that CCEA return the Sequestered Funds to the
14 individual CCEA members, the teachers, inclusive of the Teacher Parties.

15 71. Furthermore, as to the Teacher Parties only, and pursuant to the CCEA Parties offer
16 in their briefing and in open court, this Court orders that CCEA return the entire membership years'
17 worth of dues to the Teacher Parties, which totals \$810.50 per individual Teacher Party within 30
18 days of entry of this Order, or final review of this Order by any appellate court, whichever is later.

19 72. The Teacher Parties cannot establish damages related to their fraud cause of action.

20 73. There exists no genuine dispute of material fact that the Teacher Parties failed to
21 establish any fact supporting punitive damages and thus, are not entitled to punitive damages as a
22 matter of law.

23 74. There are no genuine issues of material fact precluding summary judgment in the
24 CCEA Parties' favor on the NSEA Parties' claim for fraud.

25 75. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
26 to summary judgment as a matter of law.

27 76. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
28

summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for fraud.

F. Unauthorized mid-year increase in CCEA dues.

77. The Constitution and Bylaws of the CCEA are the main source of governance for the CCEA and controls as to the how and when dues payments can be charged and the procedures for their alteration.

78. As the governing rules for the Union, the CCEA Constitution and Bylaws constitute a contract between the CCEA and its members, and this is a recognized labor and contract law principle. *Hickman v. Kline*, 71 Nev. 55, 279 P.2d 662,669 (1955) (union's constitution "amounts to a binding agreement between the union and its members"); *United Ass'n of Journeymen v. Local 334*, 452 U.S. 615, 619-11 (1981).

79. The CCEA Constitution and Bylaws state that CCEA "shall be governed by its Bylaws and Policies, and such other actions as the Association Representative Council and Executive Board may take consistent therewith." Article I, Section 3.

80. Under the Constitution and Bylaws, the Association Representative Council ("ARC") is the legislative and policy body of the Association. Article III Section 1.

81. As such, the ARC has the authority to alter dues for members of the Association. Article II, Section 4.

82. Here, the ARC and CCEA properly altered the dues payments during the 2017-18 fiscal year in April 2018, which alteration was approved by the majority of the members voting at the April 25, 2018, General Membership Meeting ("Dues Alteration").

83. The Dues Alteration was permitted by the CCEA Bylaws and the Membership Authorization Form does not supersede the CCEA Bylaws, nor does it serve to limit or prohibit the Dues Alteration.

84. The foregoing Dues Alteration took effect immediately upon disaffiliation, as set forth in the uncontested April 1, 2019 Affidavit of John Vellardita.

85. There are no genuine issues of material fact precluding summary judgment in the

CCEA Parties' favor on the NSEA Parties' claim for unauthorized mid-year dues increase.

86. The NSEA Parties have not made any showing that the CCEA Parties are not entitled to summary judgment as a matter of law.

87. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for unauthorized mid-year dues increase.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

That the CCEA Parties' Countermotion for Partial Summary Judgment is **GRANTED** in its entirety and summary judgment is entered in favor of the CCEA Parties on the NSEA Parties' claims for conversion, unjust enrichment, breach of NSEA/NEA/CCEA Bylaws, fraud, and unauthorized mid-year dues increase.

That the NSEA Motion for Partial Summary Judgment on Conversion is **DENIED**; and

That the NSEA Motion for Partial Summary Judgment on Bylaws is **DENIED**.

That this Order disposes of all remaining claims in Case No. A-17-761884-C.

That Final Judgment under NRCP 58 € will be entered in Case No. A-17-761884-C in favor of the CCEA Parties and against the NSEA Parties.

DATED: July 1, 2019

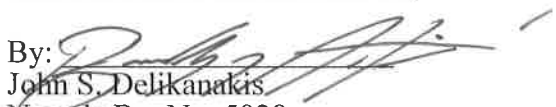

THE HONORABLE JUDGE KERRY EARLEY

A-17-761364-C

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SNELL & WILMER L.L.P.

RESPECTFULLY SUBMITTED BY:

By: 
John S. Delikanakis
Nevada Bar No. 5928
Bradley T. Austin
Nevada Bar No. 13064
Michael Parette
Nevada Bar No. 13926
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169

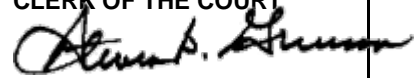
Joel A. D'Alba (*pro hac vice*)
200 West Jackson Blvd., Suite 720
Chicago, IL 60606

Richard G. McCracken
Nevada Bar No. 2748
Kimberley C. Weber
Nevada Bar No. 14434
McCRACKEN, STEMERMAN
& HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Attorneys for the CCEA Parties

APPROVED AS TO FORM AND CONTENT BY:

By:
Richard J. Pocker
Nevada Bar No. 3568
Paul J. Lal
Nevada Bar No. 3755
BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
Las Vegas, NV 89101

Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005
Attorneys for the NSEA Parties



John S. Delikanakis, Nevada Bar No. 5928
Michael Paretti, Nevada Bar No. 13926
Bradley T. Austin, Nevada Bar No. 13064
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Tel: (702) 784-5200
jdelikanakis@swlaw.com
mparetti@swlaw.com
baustin@swlaw.com

Richard G. McCracken, Nevada Bar No. 2748
Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702) 386-5107
rmccracken@msh.law
kweber@msh.law

Joel A. D'Alba (*Pro Hac Vice*)
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
Tel: (312) 263-1500
jad@ulaw.com

*Attorneys for Plaintiffs Clark County Education Association, Victoria Courtney,
James Frazee, Robert G. Hollowood and Maria Neissess*

**IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO, JR., BRIAN WALLA CE, and
BRIAN LEE,

Defendants.

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO; ROBERT
BENSON; DIANE DI ARCHANGEL; AND
JASON WYCKOFF,

Plaintiffs-Counter Defendants,

Case No.: A-17-761364-C
DEPT. NO.: 4
(consolidated with A-17-761884-C)

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING THE CLARK
COUNTY EDUCATION ASSOCIATION
PARTIES' MOTION FOR PARTIAL
SUMMARY JUDGMENT AND
DENYING THE NEVADA STATE
EDUCATION ASSOCIATION PARTIES'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

1 And
2 BRIAN LEE,
3 Counter-Defendant,
4 vs.
5 CLARK COUNTY EDUCATION
6 ASSOCIATION; JOHN VELLARDITA; AND
7 VICTORIA COURTNEY,
8 Defendants-Counter Plaintiffs.

9 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL:

10 PLEASE TAKE NOTICE that the attached Findings of Fact, Conclusions of Law, and
11 Order Granting the Clark County Education Association Parties' Motion for Partial Summary
12 Judgment and Denying the Nevada State Education Association Parties' Motion for Partial
13 Summary Judgment was entered in the above-referenced action on the 3rd day of July, 2019.

14 DATED this 3rd day of July, 2019.

15 SNELL & WILMER L.L.P.

16 By: /s/ Brad Austin

17 John S. Delikanakis (Nevada Bar No. 5928)
18 Michael Paretti (Nevada Bar No. 13926)
19 Brad T. Austin (Nevada Bar No. 13064)

20 Joel A. D' Alba (*pro hac vice*)
21 ASHER, GITTLER& D'ALBA, LTD.
22 200 West Jackson Blvd, Suite 1900
23 Chicago, 11 60606

24 Richard G. McCracken
25 Nevada Bar No. 2748
26 Kimberley C. Weber
27 Nevada Bar No. 14434
28 McCracken, STEMERMAN
& HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen
3 (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be
4 served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF**
5 **FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE CLARK COUNTY**
6 **EDUCATION ASSOCIATION PARTIES' MOTION FOR PARTIAL SUMMARY**
7 **JUDGMENT AND DENYING THE NEVADA STATE EDUCATION ASSOCIATION**
8 **PARTIES' MOTION FOR PARTIAL SUMMARY JUDGMENT** by the method indicated
9 below:

| | | | |
|--------------|------------------------|-------|---------------------|
| 10 <u>XX</u> | Odyssey E-File & Serve | _____ | Federal Express |
| 11 _____ | U.S. Mail | _____ | U.S. Certified Mail |
| 12 _____ | Facsimile Transmission | _____ | Hand Delivery |
| 13 _____ | Email Transmission | _____ | Overnight Mail |

14 and addressed to the following:

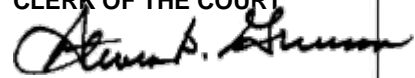
15
16 Richard J. Pocker
Nevada Bar No. 3568
17 Paul J. Lal
Nevada Bar No. 3755
18 BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
19 Las Vegas, NV 89101
Email: rpocker@bsflp.com
20 Email: plal@bsflp.com
21 Attorneys for Defendants

Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
James Graham Lake (*pro hac vice*)
BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005
Email: ralexander@bredhoff.com
Email: mcdrexler@bredhoff.com
Email: glake@bredhoff.com
Attorneys for Defendants

22 DATED this 3rd day of July, 2019.

23 /s/ Ruby Lengsavath
24 An Employee of Snell & Wilmer L.L.P.

25 4852-0219-2795.1
26
27
28



John S. Delikanakis, Nevada Bar No. 5928
Bradley T. Austin, Nevada Bar No. 13064
Michael Paretti, Nevada Bar No. 13926
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Tel: (702) 784-5200
jdelikanakis@swlaw.com
baustin@swlaw.com
mparetti@swlaw.com

Richard G. McCracken, Nevada Bar No. 2748
Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702) 386-5107
rmccracken@msh.law
kweber@msh.law

Joel A. D'Alba
Admitted pro hac vice
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
Tel: (312) 263-1500
jad@ulaw.com

Attorneys for the CCEA Parties

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO, JR., BRIAN WALLACE, and
BRIAN LEE,

Defendants.

Case No.: A-17-761364-C
DEPT. NO.: 4

(consolidated with A-17-761884-C)

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
THE CLARK COUNTY EDUCATION
ASSOCIATION PARTIES' MOTION
FOR PARTIAL SUMMARY JUDGMENT
AND DENYING THE NEVADA STATE
EDUCATION ASSOCIATION PARTIES'
MOTIONS FOR PARTIAL SUMMARY
JUDGMENT**

**Date of Hearing : May 9, 2019
Time of Hearing: 9:00 a.m.**

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO;
ROBERT BENSON; DIANE
DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

And

BRIAN LEE,

Counter-Defendant,

vs.

CLARK COUNTY EDUCATION
ASSOCIATION; JOHN VELLARDITA; AND
VICTORIA COURTNEY,

Defendants-Counter Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

The Court, having read and considered Nevada State Education Association ("NSEA"), National Education Association ("NEA"), Dana Galvin, Ruben Murillo, Jr., Brian Wallace, Brian Lee, Robert Benson, Diane Di Archangel and Jason Wyckoff (collectively "NSEA Parties") Motion for Partial Summary Judgment ("NSEA Motion for Partial Summary Judgment on Conversion"), filed November 9, 2018; the NSEA Parties' Motion for Partial Summary Judgment ("NSEA Motion for Partial Summary Judgment on Bylaws"), filed January 23, 2019; and Clark County Education Association ("CCEA"), Victoria Courtney, James Frazee, Robert Hollowood, and Maria Neisess's (collectively, the "CCEA Parties") Countermotion for Partial Summary Judgment ("CCEA Countermotion for Partial Summary Judgment") filed by the CCEA Parties on December 12, 2018, and all papers filed in support of the foregoing Motions; having heard and considered the oral argument of counsel John S. Delikanakis, Esq., Bradley Austin, Esq. and Michael Paretti, Esq. of Snell & Wilmer L.L.P., and Joel D'Alba, Esq. of Asher, Gittler & D'Alba, Ltd. appearing on behalf of the CCEA Parties, and Robert Alexander, Esq. and James Graham Lake, Esq. of Bredhoff & Kaiser, PPLC and Paul J. Lal, Esq. of Boies Schiller Flexner appearing on behalf of the NSEA Parties, and with good cause appearing, enters the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

The Court concludes, under N.R.C.P. 56, that there is no genuine dispute of fact regarding the following:

1. CCEA is a democratic organization that is the exclusive collective bargaining representative of the licensed professional employees of the Clark County School District (“CCSD”) and is the employee organization that serves as the local voice for educators to advance the cause of education, promote professional excellence among educators to protect the rights of educators, advance their interests and welfare, and secure professional autonomy.

2. CCEA is the recognized and exclusive bargaining agent for CCSD’s licensed professional employees.

3. NSEA was the state-wide affiliate of the CCEA.

4. The NEA was the national affiliate of the CCEA.

5. Members of CCEA pay dues to CCEA pursuant to a membership dues authorization form (“Membership Authorization Form”).

6. The Membership Authorization Form provides that:

Payroll Deduction Authorization. With full knowledge of the above, I hereby agree to pay cash for, or herein, authorize my employer to deduct from my salary, and pay to the local association, in accordance with the agreed-upon payroll deduction procedure, the professional dues as established annually and the political action contributions in the amounts indicated above for this membership year and each year thereafter, provided that I may revoke this authorization by giving written notice to that effect to my local association between July 1 and July 15 of any calendar year, or as otherwise designated by the negotiated agreement. Dues are paid on an annual basis and, although dues may be deducted from my payroll check(s) in order to provide an easier method of payment, a member is obligated to pay the entire amount of dues for a membership year. I understand that if I resign my membership in my local Association, or in the event of termination, resignation or retirement from employment, I am still obligated to pay the balance of my annual dues and political or positive image contributions for that membership year and such payments will continue to be deducted from my payroll check(s).

7. Once an individual CCEA member signs the Membership Authorization Form, CCEA membership dues are then deducted from members’ pay checks by their employer, the

1 CCSD, pursuant to a collective bargaining agreement negotiated and agreed to by and between
2 CCEA and CCSD.

3 8. The membership dues deducted from CCEA members' pay checks are then paid to
4 CCEA by CCSD.

5 9. A portion of the membership dues were then transmitted to NSEA through a dues
6 transmittal agreement by and between CCEA and NSEA ("Dues Transmittal Agreement"), which
7 is attached as an addendum and incorporated into a negotiated services agreement by and between
8 CCEA and NSEA ("Service Agreement") as Addendum A.

9 10. The Service Agreement incorporates the Dues Transmittal Agreement and provides
10 as follows:

11 CCEA agrees to transmit NSEA and NEA dues, and NSEA-TIP and NEA-PAC
12 contributions to NSEA for each by the tenth business day following the payroll
13 deduction. The agreement is attached as Addendum A.

14 11. The Service Agreement incorporates and the Dues Transmittal Agreement and
15 together provide for the quid pro quo exchange between CCEA and NSEA. The Service Agreement
16 sets forth the services and financial payments that NSEA will provide to CCEA in exchange for
17 transmittal of dues that CCEA sends to NSEA, as set forth in both the Service Agreement – Dues
18 Transmittal Agreement.

19 12. Specifically, paragraph 1 of the Service Agreement states that CCEA will transmit
20 dues to NSEA and the following paragraph (paragraph 2) provides that in exchange, NSEA will
21 transmit grants to CCEA.

22 13. The Service Agreement and the Dues Transmittal Agreement allow either party to
23 unilaterally terminate and seek to renegotiate the terms of the agreement.

24 14. Specifically, the Service Agreement provides that:

25 The term of this agreement shall be from September 1 to August 31. This
26 Agreement shall be automatically renewed on an annual basis, unless either party
27 shall give written notice of termination to the other party, with evidence of receipt
28 by the other party no later than thirty (30) days prior to the anniversary date of the
Agreement. Should either party give notice of termination as provided alone, then
this Agreement shall terminate on the anniversary date unless a successor agreement
has been mutually agreed to by the parties.

1 15. The relevant anniversary date is September 1, 2017.

2 16. Similarly, the Dues Transmittal Agreement provides that “[t]his agreement shall
3 remain in force for each subsequent membership year unless terminated in writing by either party
4 prior to September 1 of any NSEA membership year, or amended by mutual consent of both
5 parties.”

6 17. The NSEA membership year runs from September 1 to August 31.

7 18. On May 3, 2017, CCEA gave notice to NSEA and its officers of an intent to
8 terminate the Service Agreement and the Dues Transmittal as follows:

9
10 Pursuant to the terms of the Service Agreement between the Nevada State Education
11 Association and the Clark County Education Association, I write to give you notice
12 to terminate this agreement, unless a successor agreement can be mutually agreed
13 to by the parties....Please accept this letter as our formal notice of termination of the
14 Service Agreement.

15 19. On July 17, 2017 and August 3, 2017, CCEA sent NSEA two additional letters
16 providing for notice of the intent to terminate the Service Agreement and the Dues Transmittal
17 Agreement. Specifically, the July 17, 2017, letter stated in pertinent part that:

18 On May 3, 2017 CCEA served notice that it was terminating the Service Agreement
19 between CCEA and NSEA.....This letter serves notice to NSEA that unless there is
20 a successor agreement in place before the August 31, 2017 all terms and conditions
21 of the agreement shall become null and void.

22 The August 3, 2017, letter stated in pertinent part that:

23 Your letter expressing a claim based on NSEA policies is incorrect as this is a
24 contract matter, there has not been a mutual agreement to modify the Agreement,
25 and without mutual agreement, the terms and conditions of the Agreement will be
26 null and void upon its expiration on August 31, 2017....The Agreement serves as
27 the dues transmittal contract, and it is otherwise set to expire unless a successor is
28 negotiated per the terms and conditions of that Agreement. Upon expiration, CCEA
is not only legally not obligated to transmit dues, but cannot transmit member dues
to NSEA per NSEA’s own ByLaws. To be clear, when the current Agreement
between CCEA and NSEA expires on August 31, 2017 there will not be a contract
in place between the two organizations to collect and remit dues to NSEA.

29 20. On March 24, 2018, CCEA members were given notice of a dues issue to be
30 presented at a general membership meeting to be held on April 25, 2018.

31 21. On April 14, 2018, the Executive Board of CCEA met to consider a proposed bylaw

1 amendment to set CCEA dues at \$510 per year immediately upon disaffiliation from the NSEA and
2 the NEA and upon CCEA becoming an independent labor organization.

3 22. Prior to the termination of the Service Agreement and Dues Transmittal Agreement,
4 the annual dues payments for CCEA members included payments to CCEA, NSEA and NEA and
5 were \$810.50. The \$510 dues payments considered by the dues motion on April 14, 2018,
6 constituted a dues decrease for all CCEA members.

7 23. On April 24, 2018, the CCEA Association Representative Council ("ARC") met to
8 consider, among other things, bylaws changes. The ARC approved a motion to change Article X,
9 Section 1 of the CCEA Bylaws by removing the word "shall" from the affiliate's status and bylaw
10 provision and inserting the "may," which meant that the Association may, rather than shall,
11 maintain affiliate status with the NSEA and NEA. That change to Article X of the Bylaws was
12 approved.

13 24. On April 24, 2018, the ARC adopted a tentative budget for fiscal year 2018-2019,
14 setting the CCEA annual dues rate at \$510 for each member, which budget would take effect
15 immediately upon disaffiliation from NSEA and NEA.

16 25. On April 25, 2018, members of the Association at a general membership meeting
17 were advised that the ARC amended the Bylaws to permit members to effectively authorize the
18 disaffiliation from the NSEA and NEA and upon disaffiliation members' union dues would be
19 reduced from \$33.78 per paycheck to \$21.25 per paycheck.

20 26. On April 25, 2018, the CCEA members were notified by a mass email of this vote
21 and received a second notice of the general membership meeting to that place on that day.

22 27. During CCEA's April 25, 2018, general membership meeting, CCEA's members
23 approved a motion to disaffiliate from the NSEA and NEA, and to reduce the union dues as set
24 forth above.

25 28. CCEA disaffiliated from NSEA and NEA on April 25, 2018, and the foregoing dues
26 reduction took effect immediately upon disaffiliation.

27 29. After the termination of the Dues Transmittal Agreement, but prior to CCEA's April
28

1 25, 2018, disaffiliation from NSEA and NEA, CCSD continued to send the employees' dues to
2 CCEA, whereupon the dues were placed into a restricted bank account ("Sequestered Funds") –
3 with CCEA seeking via the instant litigation a declaratory determination from the Court as to the
4 rightful owner of the funds, and NSEA asserting via the instant litigation a right to the funds under
5 contract, conversion, and unjust enrichment causes of action.

6 30. On May 11, 2018, and to preserve the status quo while the CCEA Parties'
7 declaratory relief claim was pending with the Court, the Court required that: (1) all funds in the
8 possession of or received by CCEA for the 2017-2018 school year in respect to NSEA dues and in
9 respect to NEA dues be deposited into a restricted account, "as [CCEA] has represented to the
10 Court it has done during the course of this litigation"; (2) that no funds shall be withdrawn,
11 transferred, or disbursed out of the Restricted Account, and the Restricted Account shall not be
12 changed or modified, without a further Order from the Court; and (3) that CCEA provide a monthly
13 account statement to the NSEA Parties.

14 31. On December 20, 2018, pursuant to a Motion for Partial Summary Judgment filed
15 by the CCEA Parties, this Court held that the May 3, July 17, and August 3, 2017 termination
16 notices caused both the Service Agreement and Dues Transmittal Agreement to terminate and
17 expire on August 31, 2017.

18 32. The Court further held that in light of the foregoing termination and expiration,
19 CCEA owed no duties to NSEA or NEA under the Service Agreement and Dues Transmittal
20 Agreement to collect and/or transmit membership dues on NSEA or NEA's behalf on or after
21 September 1, 2017, nor did NSEA or NEA have any obligation to CCEA on or after September 1,
22 2017, to perform pursuant to the Service Agreement and Dues Transmittal Agreement, and that
23 there was no dispute that NSEA and NEA ceased to perform under the Service Agreement and
24 Dues Transmittal Agreement on or after September 1, 2017.

25 33. Any finding of fact which should be construed as a conclusion of law shall be
26 construed as such.
27
28

34. Any conclusion of law which should be construed as a finding of fact shall be construed as such.

CONCLUSIONS OF LAW

A. Standard for Summary Judgment

35. The Court will render judgment “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Nevada Rule of Civil Procedure 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986.)

36. “A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party.” *Wood v. Safeway*, 121 Nev. 724, 731 (2005).

37. The moving party bears the initial burden of showing the absence of a genuine issue of material fact. *Celotex*, 477 U.S. at 323.

38. To meet this burden, the moving party may either produce evidence affirmatively demonstrating the absence of such evidence or point out a lack of evidence to support the nonmoving party’s case. *Id.* at 325.

39. Once this burden is met, the burden shifts to the nonmoving party to present evidence demonstrating the existence of a genuine issue of material fact. *See Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986).

B. NSEA Parties’ Claim for Conversion

40. “Conversion is defined as exerting wrongful ‘dominion over another’s personal property or wrongful interference with the owner’s dominion.’” *Larsen v. B.R. Enters., Inc.*, 104 Nev. 252, 254, 757 P.2d 354, 356 (1988). *See also, Bader v. Cerri*, 96 Nev. 352, 356, 609 P.2d 314, 317 (1980), *overruled on other grounds by Evans v. Dean Witter Reynolds, Inc.*, 116 Nev. 598, 5 P.3d 1043 (2000) (“A conversion occurs whenever there is a serious interference to a party’s rights in his property”); *M.C. Multi-Family Dev., L.L.C. v. Crestdale Associates, Ltd.*, 124 Nev. 901, 910–11, 193 P.3d 536, 542–43 (2008) (defining conversion as “a distinct act of dominion wrongfully exerted over another’s personal property in denial of, or inconsistent with his title or rights therein or in derogation, exclusion, or defiance of such title or rights.”).

1 41. A precondition to bringing a claim for conversion is that the claimant must be the
2 rightful owner of the property.

3 42. NSEA and NEA have no legal or contractual right to the Sequestered Funds under
4 the Service Agreement or Dues Transmittal Agreement, which agreements were terminated prior
5 to September 1, 2017.

6 43. NSEA and NEA have no legal or contractual right to the Sequestered Funds under
7 the NSEA or NEA Bylaws, which Bylaws expressly rely upon the (terminated) Dues Transmittal
8 Agreement for any obligation to transmit dues.

9 44. NSEA and NEA have no legal or contractual right to the Sequestered Funds under
10 the Membership Authorization Form, which Form is only between CCEA and the individual
11 members.

12 45. NSEA/NEA have no equitable right to the Sequestered Funds, or any other funds
13 CCEA collected on behalf of its members after September 1, 2017.

14 46. In light of the foregoing, NSEA/NEA are not the rightful owners of, and have no
15 legal or equitable right to, the Sequestered Funds and as a result, cannot meet the rightful owner
16 element.

17 47. There are no genuine issues of material fact precluding summary judgment in the
18 CCEA Parties' favor on the NSEA Parties' claim for conversion.

19 48. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
20 to summary judgment as a matter of law.

21 49. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
22 summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for
23 conversion.

24 **C. NSEA Parties' Claim for Unjust Enrichment**

25 50. The essential elements of unjust enrichment are "a benefit conferred on the
26 defendant by the plaintiff, appreciation by the defendant of such benefit, and acceptance and
27 retention by the defendant of such benefit under circumstances such that it would be inequitable for
28

1 him to retain the benefit without payment of the value thereof.” *Leasepartners Corp. v. Robert L.*
2 *Brooks Tr. Dated Nov. 12, 1975*, 113 Nev. 747, 755, 942 P.2d 182, 187 (1997).

3 51. Similar to a claim for conversion, the claimant must have an underlying right to the
4 property/funds at issue. *See id.* (one of the essential elements for unjust enrichment is “a benefit
5 conferred on the defendant by the plaintiff”).

6 52. Furthermore, “an action based on a theory of unjust enrichment is not available when
7 there is an express, written contract, because no agreement can be implied when there is an express
8 agreement.” *See Leasepartners Corp. v. Robert L. Brooks Trust Dated November 12, 1975*, 113
9 Nev. 747, 755-56, 942 P.2d 182, 187 (1997); *Lipshie v. Tracy Investment Co.*, 93 Nev. 370, 379,
10 566 P.2d 819, 824 (1977) (“To permit recovery by quasi-contract where a written agreement exists
11 would constitute a subversion of contractual principles.”) (emphasis supplied). 66 Am.Jur.2d
12 Restitution § 11 (1973) (“The doctrine of unjust enrichment or recovery in quasi contract applies
13 to situations where there is no legal contract but where the person sought to be charged is in
14 possession of money or property which in good conscience and justice he should not retain but
15 should deliver to another.”).

16 53. For the reasons set forth under the claim for conversion – which findings are
17 incorporated herein by reference – NSEA and NEA do not have standing to assert a claim for unjust
18 enrichment because they do not have an ownership interest or underlying right to the Sequestered
19 Funds.

20 54. To the extent the unjust enrichment claim is asserted on behalf of Parties Murillo,
21 Benson, Di Archangel, and Wyckoff (“Teacher Parties”), such claim fails for the following
22 independent reasons:

- 23 a. First, the Teacher Parties’ claim for unjust enrichment fails because an express,
24 written contract governs the parties’ relationship – specifically, the Membership
25 Authorization Form; thus, no equitable agreement can be implied.
- 26 b. Second, the Teacher Parties’ claim for unjust enrichment fails for lack of
27 damages. Specifically:
28

- i. Simultaneous with granting the CCEA Parties' Motion for Partial Summary Judgment, this Court also granted the CCEA Parties' Motion to Alter or Amend the Restricted Account Order, which Order provides, in part, that CCEA will return the Sequestered Funds to the individual CCEA members, the teachers, inclusive of the Teacher Parties. Further, the Order provides that CCEA will return to the Teacher Parties their full CCEA dues for the entire 2017-2018 membership year.
- ii. The Teacher Parties, therefore, have not suffered any cognizable damages.

55. There are no genuine issues of material fact precluding summary judgment in the CCEA Parties' favor on the NSEA Parties' claim for unjust enrichment.

56. The NSEA Parties have not made any showing that the CCEA Parties are not entitled to summary judgment as a matter of law.

57. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for unjust enrichment.

D. NSEA Parties' Claim for Breach of NSEA, NEA, and CCEA Bylaws

58. "Questions of contract construction, in the absence of ambiguity or other factual issues, are suitable for determination by summary judgment." *See Nelson v. California State Auto. Ass'n Inter-Ins. Bureau*, 114 Nev. 345, 347, 956 P.2d 803, 805 (1998) *S. Tr. Mortg. Co. v. K & B Door Co.*, 104 Nev. 564, 568, 763 P.2d 353, 355 (1988) ("[W]here a document is clear and unambiguous, the court must construe it from the language therein."); *Chwialkowski v. Sachs*, 108 Nev. 404, 406, 834 P.2d 405, 406 (1992) (same); *Renshaw v. Renshaw*, 96 Nev. 541, 543, 611, P.2d 1070, 1071 (1980) (same); *Ellison v. California State Auto Ass'n*, 106 Nev. 601, 603, 797 P.2d 975, 977 (1990) (same); *Watson v. Watson*, 95 Nev. 495, 496, 596 P.2d 507, 508 (1979) ("Courts are bound by language which is clear and free from ambiguity and cannot, using guise of interpretation, distort plain meaning of agreement.").

1 59. As previously determined by this Court in its December 20, 2018 Order, the Service
2 Agreement and Dues Transmittal Agreement were terminated by CCEA within the required
3 contractual timeframe, which termination caused both agreements to expire on August 31, 2017.

4 60. But-for the Service and Dues Transmittal Agreements (which this Court found
5 expired on August 31, 2017, due to CCEA's termination), CCEA is not subject to the NSEA/NEA
6 Bylaws, nor are NSEA/NEA parties to the CCEA Bylaws.

7 61. Accordingly, no contractual relationship between CCEA and NSEA/NEA –
8 inclusive of any contractual relationship created by the NSEA/NEA/CCEA Bylaws – existed on or
9 after September 1, 2017.

10 62. In the absence of a Dues Transmittal Agreement, there is no obligation for CCEA
11 to transmit dues to NSEA and per NEA's bylaws, only NSEA has a contractual obligation to pay
12 NEA.

13 63. Accordingly, because CCEA was not bound by NSEA/NEA Bylaws after
14 September 1, 2017, and because NSEA/NEA are not parties to the CCEA Bylaws, there can be no
15 breach by CCEA and NSEA/NEA's breach of contract claims fail. *Clark Cty. V. Bonanza No. 1*,
16 96 Nev. 643, 648–49, 615 P.2d 939, 943 (1980) (“As a general rule, none is liable upon a contract
17 except those who are parties to it.”).

18 64. There are no genuine issues of material fact precluding summary judgment in the
19 CCEA Parties' favor on the NSEA Parties' claim for breach of NSEA/NEA/CCEA Bylaws.

20 65. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
21 to summary judgment as a matter of law.

22 66. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
23 summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for
24 breach of NSEA/NEA/CCEA Bylaws.

25 **E. NSEA Parties' Claim for Fraud**

26 67. The elements for fraud are: “(1) A false representation made by the defendant; (2)
27 Defendant's knowledge or belief that the representation is false (or insufficient basis for making
28

1 the representation); (3) Defendant's intention to induce the plaintiff to act or to refrain from acting
2 in reliance upon the misrepresentation; (4) Plaintiff's justifiable reliance upon the
3 misrepresentation; and (5) Damage to the plaintiff resulting from such reliance." *Bulbman, Inc. v.*
4 *Nevada Bell*, 108 Nev. 105, 110–11, 825 P.2d 588, 592 (1992).

5 68. "A plaintiff has the burden of proving each element of fraud claim by clear and
6 convincing evidence." *Id.*

7 69. "Where an essential element of a claim for relief is absent, the facts, disputed or
8 otherwise, as to other elements are rendered immaterial and summary judgment is proper." *Id.*
9 (granting summary judgment for defendant on plaintiff's fraud claim because plaintiff could not
10 present a triable issue of material fact as to every element of fraud).

11 70. Simultaneous with granting the CCEA Parties' Motion for Partial Summary
12 Judgment, this Court also granted the CCEA Parties' Motion to Alter or Amend the Restricted
13 Account Order, which Order provides, in part, that CCEA return the Sequestered Funds to the
14 individual CCEA members, the teachers, inclusive of the Teacher Parties.

15 71. Furthermore, as to the Teacher Parties only, and pursuant to the CCEA Parties offer
16 in their briefing and in open court, this Court orders that CCEA return the entire membership years'
17 worth of dues to the Teacher Parties, which totals \$810.50 per individual Teacher Party within 30
18 days of entry of this Order, or final review of this Order by any appellate court, whichever is later.

19 72. The Teacher Parties cannot establish damages related to their fraud cause of action.

20 73. There exists no genuine dispute of material fact that the Teacher Parties failed to
21 establish any fact supporting punitive damages and thus, are not entitled to punitive damages as a
22 matter of law.

23 74. There are no genuine issues of material fact precluding summary judgment in the
24 CCEA Parties' favor on the NSEA Parties' claim for fraud.

25 75. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
26 to summary judgment as a matter of law.

27 76. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
28

summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for fraud.

F. Unauthorized mid-year increase in CCEA dues.

77. The Constitution and Bylaws of the CCEA are the main source of governance for the CCEA and controls as to the how and when dues payments can be charged and the procedures for their alteration.

78. As the governing rules for the Union, the CCEA Constitution and Bylaws constitute a contract between the CCEA and its members, and this is a recognized labor and contract law principle. *Hickman v. Kline*, 71 Nev. 55, 279 P.2d 662,669 (1955) (union's constitution "amounts to a binding agreement between the union and its members"); *United Ass'n of Journeymen v. Local 334*, 452 U.S. 615, 619-11 (1981).

79. The CCEA Constitution and Bylaws state that CCEA "shall be governed by its Bylaws and Policies, and such other actions as the Association Representative Council and Executive Board may take consistent therewith." Article I, Section 3.

80. Under the Constitution and Bylaws, the Association Representative Council ("ARC") is the legislative and policy body of the Association. Article III Section 1.

81. As such, the ARC has the authority to alter dues for members of the Association. Article II, Section 4.

82. Here, the ARC and CCEA properly altered the dues payments during the 2017-18 fiscal year in April 2018, which alteration was approved by the majority of the members voting at the April 25, 2018, General Membership Meeting ("Dues Alteration").

83. The Dues Alteration was permitted by the CCEA Bylaws and the Membership Authorization Form does not supersede the CCEA Bylaws, nor does it serve to limit or prohibit the Dues Alteration.

84. The foregoing Dues Alteration took effect immediately upon disaffiliation, as set forth in the uncontested April 1, 2019 Affidavit of John Vellardita.

85. There are no genuine issues of material fact precluding summary judgment in the

CCEA Parties' favor on the NSEA Parties' claim for unauthorized mid-year dues increase.

86. The NSEA Parties have not made any showing that the CCEA Parties are not entitled to summary judgment as a matter of law.

87. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to summary judgment in their favor and against the NSEA Parties on the NSEA Parties' claim for unauthorized mid-year dues increase.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

That the CCEA Parties' Countermotion for Partial Summary Judgment is **GRANTED** in its entirety and summary judgment is entered in favor of the CCEA Parties on the NSEA Parties' claims for conversion, unjust enrichment, breach of NSEA/NEA/CCEA Bylaws, fraud, and unauthorized mid-year dues increase.

That the NSEA Motion for Partial Summary Judgment on Conversion is **DENIED**; and

That the NSEA Motion for Partial Summary Judgment on Bylaws is **DENIED**.

That this Order disposes of all remaining claims in Case No. A-17-761884-C.

That Final Judgment under NRCP 58 € will be entered in Case No. A-17-761884-C in favor of the CCEA Parties and against the NSEA Parties.

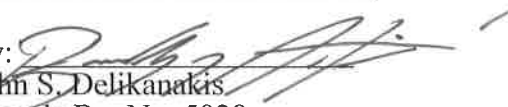
DATED: July 1, 2019


THE HONORABLE JUDGE KERRY EARLEY

A-17-761364-C

1 SNELL & WILMER L.L.P.

2 RESPECTFULLY SUBMITTED BY:

3 By: 
4 John S. Delikanakis
5 Nevada Bar No. 5928
6 Bradley T. Austin
7 Nevada Bar No. 13064
8 Michael Paretti
9 Nevada Bar No. 13926
10 SNELL & WILMER L.L.P.
11 3883 Howard Hughes Parkway, Suite 1100
12 Las Vegas, NV 89169

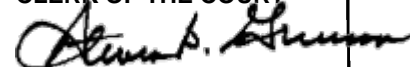
9 Joel A. D'Alba (*pro hac vice*)
10 200 West Jackson Blvd., Suite 720
11 Chicago, IL 60606

11 Richard G. McCracken
12 Nevada Bar No. 2748
13 Kimberley C. Weber
14 Nevada Bar No. 14434
15 McCRACKEN, STEMERMAN
& HOLSBERY, LLP
16 1630 South Commerce Street, Suite 1-A
17 Las Vegas, NV 89102
18 *Attorneys for the CCEA Parties*

17 APPROVED AS TO FORM AND CONTENT BY:

18 By:
19 Richard J. Pocker
20 Nevada Bar No. 3568
21 Paul J. Lal
22 Nevada Bar No. 3755
23 BOIES SCHILLER FLEXNER LLP
24 300 South Fourth Street, Suite 800
25 Las Vegas, NV 89101

23 Robert Alexander (*pro hac vice*)
24 Matthew Clash-Drexler (*pro hac vice*)
25 BREDHOFF & KAISER, PLLC
26 805 15th Street N.W., Suite 1000
27 Washington, DC 20005
28 *Attorneys for the NSEA Parties*



Richard G. McCracken, Nevada Bar No. 2748
 Kimberley C. Weber, Nevada Bar No. 14434
 McCracken, STEMERMAN & HOLSBERRY, LLP
 1630 South Commerce Street, Suite 1-A
 Las Vegas, NV 89102
 Tel: (702) 386-5107
 rmccracken@msh.law
 kweber@msh.law

John S. Delikanakis, Nevada Bar No. 5928
 Michael Paretti, Nevada Bar No. 13926
 SNELL & WILMER L.L.P.
 3883 Howard Hughes Parkway, Suite 1100
 Las Vegas, NV 89169
 Tel: (702) 784-5200
 jdelikanakis@swlaw.com
 mparetti@swlaw.com

Joel A. D'Alba
 Admitted pro hac vice
 ASHER, GITTLER & D'ALBA, LTD.
 200 West Jackson Blvd., Suite 720
 Chicago, IL 60606
 Tel: (312) 263-1500
 jad@ulaw.com

Attorneys for the CCEA Parties

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
 ASSOCIATION, VICTORIA COURTNEY,
 JAMES FRAZEE, ROBERT G.
 HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
 ASSOCIATION, DANA GALVIN, RUBEN
 MURILLO, JR., BRIAN WALLACE, and
 BRIAN LEE,

Defendants.

NEVADA STATE EDUCATION
 ASSOCIATION; NATIONAL EDUCATION
 ASSOCIATION; RUBEN MURILLO;
 ROBERT BENSON; DIANE
 DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

Case No.: A-17-761364-C
 DEPT. NO.: 4

(consolidated with A-17-761884-C)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Date of Hearing : November 15, 2018
 Time of Hearing: 9:00 a.m.

Case No.: A-17-761884-C
 (consolidated with A-17-761364-C)

1 And

2 BRIAN LEE,

3 Counter-Defendant,

4 vs.

5 CLARK COUNTY EDUCATION
6 ASSOCIATION; JOHN VELLARDITA; AND
7 VICTORIA COURTNEY,

8 Defendants-Counter Plaintiffs.

9 The Court, having read and considered Plaintiffs Clark County Education Association
10 (“CCEA”), Victoria Courtney, James Frazee, Robert Hollowood, and Maria Neisess’s (collectively,
11 the “CCEA Parties”) *Motion for Partial Summary Judgment* (“Motion”) filed by the CCEA Parties
12 on June 18, 2018, and all papers filed in support of the Motion; having heard and considered the
13 oral argument of counsel John S. Delikanakis, Esq. and Michael Paretti, Esq. of Snell & Wilmer
14 L.L.P., and Joel D’Alba, Esq. of Asher, Gittler & D’Alba, Ltd. appearing on behalf of the CCEA
15 Parties, and Robert Alexander, Esq. and James Graham Lake, Esq. (telephonically) of Bredhoff &
16 Kaiser, PLLC and Paul J. Lal, Esq. of Boies Schiller Flexner appearing on behalf of Nevada State
17 Education Association (“NSEA”), Dana Galvin, Ruben Murillo, Brian Wallace, and Brian Lee
18 (collectively, the “NSEA Parties”); and with good cause appearing, enters the following findings
19 of fact, conclusions of law and order.

20 **FINDINGS OF FACT**

21 The Court concludes, under N.R.C.P. 56, that there is no genuine dispute of fact regarding
22 the following:

23 1. CCEA is a democratic organization that is the exclusive collective bargaining
24 representative of the licensed professional employees of the Clark County School District
25 (“CCSD”) and is the employee organization that serves as the local voice for educators to advance
26 the cause of education, promote professional excellence among educators to protect the rights of
27 educators, advance their interests and welfare, and secure professional autonomy.
28

2. CCEA is the recognized and exclusive bargaining agent for CCSD's licensed professional employees.

3. NSEA was the state-wide affiliate of the CCEA.

4. The National Education Association ("NEA") was the national affiliate of the CCEA.

5. NEA remains the national affiliate of NSEA.

6. Members of CCEA pay dues to CCEA pursuant to a membership dues authorization form ("Membership Authorization Form").

7. The Membership Authorization Form provides that:

Payroll Deduction Authorization. With full knowledge of the above, I hereby agree to pay cash for, or herein, authorize my employer to deduct from my salary, and pay to the local association, in accordance with the agreed-upon payroll deduction procedure, the professional dues as established annually and the political action contributions in the amounts indicated above for this membership year and each year thereafter, provided that I may revoke this authorization by giving written notice to that effect to my local association between July 1 and July 15 of any calendar year, or as otherwise designated by the negotiated agreement. Dues are paid on an annual basis and, although dues may be deducted from my payroll check(s) in order to provide an easier method of payment, a member is obligated to pay the entire amount of dues for a membership year. I understand that if I resign my membership in my local Association, or in the event of termination, resignation or retirement from employment, I am still obligated to pay the balance of my annual dues and political or positive image contributions for that membership year and such payments will continue to be deducted from my payroll check(s). (emphasis supplied).

8. Once an individual CCEA member signs the CCEA Membership Authorization Form, CCEA membership dues are then deducted from members' pay checks by their employer, the CCSD, pursuant to a collective bargaining agreement negotiated and agreed to by and between CCEA and CCSD.

9. The membership dues deducted from CCEA members' pay checks are then paid to CCEA by CCSD.

10. A portion of the CCEA membership dues are then transmitted to NSEA through a dues transmittal agreement by and between CCEA and NSEA("Dues Transmittal Agreement"), which is attached as an addendum and incorporated into a negotiated services agreement by and

1 between CCEA and NSEA ("Service Agreement") as Addendum A.

2 11. The Service Agreement incorporates the Dues Transmittal Agreement and provides
3 as follows:

4 CCEA agrees to transmit NSEA and NEA dues, and NSEA-TIP and NEA-PAC
5 contributions to NSEA for each by the tenth business day following the payroll
6 deduction. The agreement is attached as Addendum A.

7 12. In the absence of a Dues Transmittal Agreement, there is no obligation for CCEA
8 to transmit dues to NSEA and per NEA's bylaws, only NSEA has a contractual obligation to pay
9 NEA.

10 13. The Service Agreement incorporates and the Dues Transmittal Agreement and
11 together provide for the quid pro quo exchange between CCEA and NSEA. The Service Agreement
12 sets forth the services and financial payments that NSEA will provide to CCEA in exchange for
13 transmittal of dues that CCEA sends to NSEA, as set forth in both the Service Agreement - Dues
14 Transmittal Agreement.

15 14. Specifically, paragraph 1 of the Service Agreement states that CCEA will transmit
16 dues to NSEA and the following paragraph (paragraph 2) provides that in exchange, NSEA will
17 transmit grants to CCEA.

18 15. The Service Agreement and the Dues Transmittal Agreement are a single integrated
19 agreement that allows either party to unilaterally terminate and seek to renegotiate the terms of the
20 agreement.

21 16. Specifically, the Service Agreement provides that:

22 The term of this agreement shall be from September 1 to August 31. This
23 Agreement shall be automatically renewed on an annual basis, **unless either party**
24 **shall give written notice of termination to the other party, with evidence of**
25 **receipt by the other party no later than thirty (30) days prior to the anniversary**
26 **date of the Agreement. Should either party give notice of termination as**
27 **provided alone, then this Agreement shall terminate on the anniversary date**
28 unless a successor agreement has been mutually agreed to by the parties. (emphasis
supplied).

17. The relevant anniversary date is September 1, 2017.

18. Similarly, the Dues Transmittal Agreement provides that "[t]his agreement shall

1 remain in force for each subsequent membership year unless terminated in writing by either
2 party prior to September 1 of any NSEA membership year, or amended by mutual consent of
3 both parties.” (emphasis supplied).

4 19. The NSEA membership year runs from September 1 to August 31.

5 20. On May 3, 2017, CCEA gave notice to NSEA and its officers of an intent to
6 terminate the Service Agreement and the Dues Transmittal as follows:

7 Pursuant to the terms of the Service Agreement between the Nevada State Education
8 Association and the Clark County Education Association, I write to give you notice
9 to terminate this agreement, unless a successor agreement can be mutually agreed
10 to by the parties....Please accept this letter as our formal notice of termination of the
Service Agreement.

11 21. On July 17, 2017 and August 3, 2017, CCEA sent NSEA two additional letters
12 providing for notice of the intent to terminate the Service Agreement and the Due Transmittal
13 Agreement. Specifically, the July 17, 2017, letter stated in pertinent part that:

14 On May 3, 2017 CCEA served notice that it was terminating the Service Agreement
15 between CCEA and NSEA.....This letter serves notice to NSEA that unless there is
16 a successor agreement in place before the August 31, 2017 all terms and conditions
of the agreement shall become null and void.

17 The August 3, 2017, letter stated in pertinent part that:

18 Your letter expressing a claim based on NSEA policies is incorrect as this is a
19 contract matter, there has not been a mutual agreement to modify the Agreement,
20 and without mutual agreement, the terms and conditions of the Agreement will be
21 null and void upon its expiration on August 31, 2017....**The Agreement serves as**
the dues transmittal contract, and it is otherwise set to expire unless a successor
is negotiated per the terms and conditions of that Agreement. Upon expiration,
22 CCEA is not only legally not obligated to transmit dues, but cannot transmit member
23 dues to NSEA per NSEA’s own ByLaws. To be clear, when the current Agreement
24 between CCEA and NSEA expires on August 31, 2017 there will not be a contract
in place between the two organizations to collect and remit dues to NSEA.
(emphasis supplied).

25 22. On April 25, 2018, CCEA voted to disaffiliate from NEA and NSEA.

26 23. Any finding of fact which should be construed as a conclusion of law shall be
27 construed as such.

CONCLUSIONS OF LAW

25. The Court will render judgment “forthwith if the pleadings together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Nevada Rule of Civil Procedure 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986.)

26. “A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party.” *Wood v. Safeway*, 121 Nev. 724,731 (2005).

27. The moving party bears the initial burden of showing the absence of a genuine issue of material fact. *Celotex*, 477 U.S. at 323.

28. To meet this burden, the moving party may either produce evidence affirmatively demonstrating the absence of such evidence or point out a lack of evidence to support the nonmoving party's case. *Id.* at 325.

29. Once this burden is met, the burden shifts to the nonmoving party to present evidence demonstrating the existence of a genuine issue of material fact. *See Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986).

30. “Questions of contract construction, in the absence of ambiguity or other factual issues, are suitable for determination by summary judgment.” See *Nelson v. California State Auto. Ass’n Inter-Ins. Bureau*, 114 Nev. 345, 347, 956 P.2d 803, 805 (1998) *S. Tr. Mortg. Co. v. K & B Door Co.*, 104 Nev. 564, 568, 763 P.2d 353, 355 (1988) (“[W]here a document is clear and unambiguous, the court must construe it from the language therein.”); *Chwialkowski v. Sachs*, 108 Nev. 404, 406, 834 P.2d 405, 406 (1992) (same); *Renshaw v. Renshaw*, 96 Nev. 541, 543, 611, P.2d 1070, 1071 (1980) (same); *Ellison v. California State Auto Ass’n*, 106 Nev. 601, 603, 797 P.2d 975, 977 (1990) (same); *Watson v. Watson*, 95 Nev. 495, 496, 596 P.2d 507, 508 (1979) (“Courts

1 are bound by language which is clear and free from ambiguity and cannot, using guise of
2 interpretation, distort plain meaning of agreement.”).

3 **THE COURT FINDS AS FOLLOWS:**

4 31. The Service Agreement and Dues Transmittal Agreement ~~as an integrated~~ ^(S)
5 ~~agreement~~ expressly allow unilateral termination by either party, and those termination provisions
6 are clear and unambiguous.

7 32. The May 3, 2017, July 17, 2017, and August 3, 2017 letters served to terminate both
8 the Service Agreement and Dues Transmittal Agreement, which termination occurred within the
9 required contractual timeframe.

10 33. The foregoing termination notices caused both the Service Agreement and Dues
11 Transmittal Agreement to expire on August 31, 2017.

12 34. In light of the foregoing termination and expiration, CCEA owed no duties to NSEA
13 or NEA under the Service Agreement and Dues Transmittal Agreement to collect and/or transmit
14 membership dues on NSEA or NEA’s behalf on or after September 1, 2017, nor did NSEA or NEA
15 have any obligation to CCEA on or after September 1, 2017, to perform pursuant to the Service
16 Agreement and Dues Transmittal Agreement, and, in fact, there is no dispute that NSEA and NEA
17 ceased to perform under the Service Agreement and Dues Transmittal Agreement on or after
18 September 1, 2017.

19 35. There are no genuine issues of material fact concerning whether the Service
20 Agreement and Dues Transmittal Agreement were terminated.

21 36. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
22 to summary judgment as a matter of law.

23 37. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
24 summary judgment in their favor and against the NSEA Parties on their declaratory relief claim.

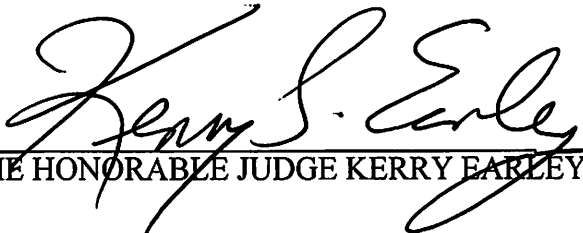
25 **ORDER**

26 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Motion is
27 **GRANTED** in its entirety, and summary judgment is entered in favor of the CCEA Parties on
28

their claim for Declaratory Relief. Judgment will be entered pursuant to this order as follows:

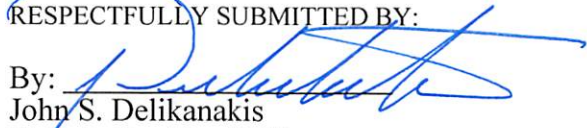
(1) The termination provisions of the Service Agreement and Dues Transmittal Agreement are clear and unambiguous, (2) CCEA's May 3, 2017, July 17, 2017, and August 3, 2017 letters notifying NSEA of the termination of the Service Agreement and Dues Transmittal Agreement are equally clear and unambiguous, (3) the Service Agreement and Dues Transmittal Agreement were terminated by CCEA within the required contractual timeframe, (4) this termination caused both agreements to expire on August 31, 2017, and (5) in light of the foregoing termination and expiration, CCEA owed no duties to NSEA or NEA under the Service Agreement and Dues Transmittal Agreement to collect and/or transmit membership dues on NSEA or NEA's behalf on or after September 1, 2017, nor did NSEA or NEA have any obligation to CCEA on or after September 1, 2017, to perform pursuant to the Service Agreement and Dues Transmittal Agreement, and, in fact, there is no dispute that NSEA and NEA ceased to perform under the Service Agreement and Dues Transmittal Agreement on or after September 1, 2017.

DATED: 12-18-18, 2018


THE HONORABLE JUDGE KERRY EARLEY

1 SNELL & WILMER L.L.P.

2 RESPECTFULLY SUBMITTED BY:

3 By: 
4 John S. Delikanakis
5 Nevada Bar No. 5928
6 Michael Paretti
7 Nevada Bar No. 13926
8 SNELL & WILMER L.L.P.
9 3883 Howard Hughes Parkway, Suite 1100
10 Las Vegas, NV 89169

11 Joel A. D'Alba (*pro hac vice*)
12 200 West Jackson Blvd., Suite 720
13 Chicago, IL 60606

14 Richard G. McCracken
15 Nevada Bar No. 2748
16 Kimberley C. Weber
17 Nevada Bar No. 14434
18 McCracken, STEMERMAN
19 & HOLSBERRY, LLP
20 1630 South Commerce Street, Suite 1-A
21 Las Vegas, NV 89102

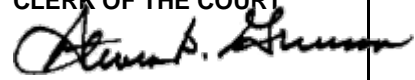
22 *Attorneys for the CCEA Parties*

23 APPROVED AS TO FORM AND CONTENT BY:

24 By: To submit competing order
25 Richard J. Pocker
26 Nevada Bar No. 3568
27 Paul J. Lal
28 Nevada Bar No. 3755
BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
Las Vegas, NV 89101

John M. West (*pro hac vice*)
Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
James Graham Lake (*pro hac vice*)
BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005

Attorneys for the NSEA Parties



Richard G. McCracken, Nevada Bar No. 2748
 Kimberley C. Weber, Nevada Bar No. 14434
 McCRACKEN, STEMERMAN & HOLSBERRY, LLP
 1630 South Commerce Street, Suite 1-A
 Las Vegas, NV 89102
 Tel: (702) 386-5107
 rmccracken@msh.law
 kweber@msh.law

John S. Delikanakis, Nevada Bar No. 5928
 Michael Paretti, Nevada Bar No. 13926
 SNELL & WILMER L.L.P.
 3883 Howard Hughes Parkway, Suite 1100
 Las Vegas, NV 89169
 Tel: (702) 784-5200
 jdelikanakis@swlaw.com
 mparetti@swlaw.com

Joel A. D'Alba
 Admitted pro hac vice
 ASHER, GITTLER & D'ALBA, LTD.
 200 West Jackson Blvd., Suite 720
 Chicago, IL 60606
 Tel: (312) 263-1500
 jad@ulaw.com

Attorneys for the CCEA Parties

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
 ASSOCIATION, VICTORIA COURTNEY,
 JAMES FRAZEE, ROBERT G.
 HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
 ASSOCIATION, DANA GALVIN, RUBEN
 MURILLO, JR., BRIAN WALLACE, and
 BRIAN LEE,

Defendants.

NEVADA STATE EDUCATION
 ASSOCIATION; NATIONAL EDUCATION
 ASSOCIATION; RUBEN MURILLO;
 ROBERT BENSON; DIANE
 DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

Case No.: A-17-761364-C
 DEPT. NO.: 4

(consolidated with A-17-761884-C)

**NOTICE OF ENTRY OF FINDINGS OF
 FACT, CONCLUSIONS OF LAW, AND
 ORDER GRANTING PLAINTIFFS'
 MOTION FOR PARTIAL SUMMARY
 JUDGMENT**

Case No.: A-17-761884-C
 (consolidated with A-17-761364-C)

1 And
2 BRIAN LEE,
3 Counter-Defendant,
4 vs.
5 CLARK COUNTY EDUCATION
6 ASSOCIATION; JOHN VELLARDITA; AND
7 VICTORIA COURTNEY,
Defendants-Counter Plaintiffs.

8
9 PLEASE TAKE NOTICE that Findings of Fact, Conclusions of Law, and Order Granting
10 Plaintiffs' Motion for Partial Summary Judgment were entered in the above-captioned matter on
11 December 20, 2018, a copy of which is attached hereto.

12 DATED this 20th day of December, 2018.

13 SNELL & WILMER L.L.P.

14 By: /s/ Michael Paretti
15 John S. Delikanakis
16 Nevada Bar No. 5928
17 Michael Paretti
18 Nevada Bar No. 13926
19 Brad T. Austin
20 Nevada Bar No. 13064
21 3883 Howard Hughes Parkway, Suite 1100
22 Las Vegas, NV 89169

23 Joel A. D' Alba (*pro hac vice*)
24 ASHER, GITTLER & D'ALBA, LTD.
25 200 West Jackson Blvd, Suite 1900
26 Chicago, IL 60606

27 Richard G. McCracken
28 Nevada Bar No. 2748
Kimberley C. Weber
Nevada Bar No. 14434
McCRACKEN, STEMERMAN
& HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT** by the method indicated below:

| | | | |
|-----------|------------------------|--|---------------------|
| <u>XX</u> | Odyssey E-File & Serve | | Federal Express |
| | U.S. Mail | | U.S. Certified Mail |
| | Facsimile Transmission | | Hand Delivery |
| | Email Transmission | | Overnight Mail |

and addressed to the following:

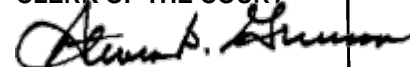
Richard J. Pocker, Esq.
Paul J. Lal, Esq.
BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
Las Vegas, NV 89101
Email: rpocker@bsflp.com
Email: plal@bsflp.com
Attorneys for Defendants

Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
James Graham Lake (*pro hac vice*)
BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005
Email: ralexander@bredhoff.com
Email: mcdrexler@bredhoff.com
Email: glake@bredhoff.com
Attorneys for Defendants

DATED this 20th day of December, 2018.

/s/ Maricris Williams
An Employee of Snell & Wilmer L.L.P

4852-6859-4564



Richard G. McCracken, Nevada Bar No. 2748
 Kimberley C. Weber, Nevada Bar No. 14434
 McCracken, STEMERMAN & HOLSBERRY, LLP
 1630 South Commerce Street, Suite 1-A
 Las Vegas, NV 89102
 Tel: (702) 386-5107
 rmccracken@msh.law
 kweber@msh.law

John S. Delikanakis, Nevada Bar No. 5928
 Michael Paretti, Nevada Bar No. 13926
 SNELL & WILMER L.L.P.
 3883 Howard Hughes Parkway, Suite 1100
 Las Vegas, NV 89169
 Tel: (702) 784-5200
 jdelikanakis@swlaw.com
 mparetti@swlaw.com

Joel A. D'Alba
 Admitted pro hac vice
 ASHER, GITTLER & D'ALBA, LTD.
 200 West Jackson Blvd., Suite 720
 Chicago, IL 60606
 Tel: (312) 263-1500
 jad@ulaw.com

Attorneys for the CCEA Parties

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
 ASSOCIATION, VICTORIA COURTNEY,
 JAMES FRAZEE, ROBERT G.
 HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
 ASSOCIATION, DANA GALVIN, RUBEN
 MURILLO, JR., BRIAN WALLACE, and
 BRIAN LEE,

Defendants.

NEVADA STATE EDUCATION
 ASSOCIATION; NATIONAL EDUCATION
 ASSOCIATION; RUBEN MURILLO;
 ROBERT BENSON; DIANE
 DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

Case No.: A-17-761364-C
 DEPT. NO.: 4

(consolidated with A-17-761884-C)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Date of Hearing : November 15, 2018
Time of Hearing: 9:00 a.m.

Case No.: A-17-761884-C
 (consolidated with A-17-761364-C)

1 And
2 BRIAN LEE,
3 Counter-Defendant,
4 vs.
5 CLARK COUNTY EDUCATION
6 ASSOCIATION; JOHN VELLARDITA; AND
7 VICTORIA COURTNEY,
8 Defendants-Counter Plaintiffs.

9 The Court, having read and considered Plaintiffs Clark County Education Association
10 ("CCEA"), Victoria Courtney, James Frazee, Robert Hollowood, and Maria Neisess's (collectively,
11 the "CCEA Parties") *Motion for Partial Summary Judgment* ("Motion") filed by the CCEA Parties
12 on June 18, 2018, and all papers filed in support of the Motion; having heard and considered the
13 oral argument of counsel John S. Delikanakis, Esq. and Michael Paretti, Esq. of Snell & Wilmer
14 L.L.P., and Joel D'Alba, Esq. of Asher, Gittler & D'Alba, Ltd. appearing on behalf of the CCEA
15 Parties, and Robert Alexander, Esq. and James Graham Lake, Esq. (telephonically) of Bredhoff &
16 Kaiser, PLLC and Paul J. Lal, Esq. of Boies Schiller Flexner appearing on behalf of Nevada State
17 Education Association ("NSEA"), Dana Galvin, Ruben Murillo, Brian Wallace, and Brian Lee
18 (collectively, the "NSEA Parties"); and with good cause appearing, enters the following findings
19 of fact, conclusions of law and order.

20 FINDINGS OF FACT

21 The Court concludes, under N.R.C.P. 56, that there is no genuine dispute of fact regarding
22 the following:

23 1. CCEA is a democratic organization that is the exclusive collective bargaining
24 representative of the licensed professional employees of the Clark County School District
25 ("CCSD") and is the employee organization that serves as the local voice for educators to advance
26 the cause of education, promote professional excellence among educators to protect the rights of
27 educators, advance their interests and welfare, and secure professional autonomy.
28

2. CCEA is the recognized and exclusive bargaining agent for CCSD's licensed professional employees.

3. NSEA was the state-wide affiliate of the CCEA.

4. The National Education Association ("NEA") was the national affiliate of the CCEA.

5. NEA remains the national affiliate of NSEA.

6. Members of CCEA pay dues to CCEA pursuant to a membership dues authorization form ("Membership Authorization Form").

7. The Membership Authorization Form provides that:

Payroll Deduction Authorization. With full knowledge of the above, I hereby agree to pay cash for, or herein, authorize my employer to deduct from my salary, and pay to the local association, in accordance with the agreed-upon payroll deduction procedure, the professional dues as established annually and the political action contributions in the amounts indicated above for this membership year and each year thereafter, provided that I may revoke this authorization by giving written notice to that effect to my local association between July 1 and July 15 of any calendar year, or as otherwise designated by the negotiated agreement. Dues are paid on an annual basis and, although dues may be deducted from my payroll check(s) in order to provide an easier method of payment, a member is obligated to pay the entire amount of dues for a membership year. I understand that if I resign my membership in my local Association, or in the event of termination, resignation or retirement from employment, I am still obligated to pay the balance of my annual dues and political or positive image contributions for that membership year and such payments will continue to be deducted from my payroll check(s). (emphasis supplied).

8. Once an individual CCEA member signs the CCEA Membership Authorization Form, CCEA membership dues are then deducted from members' pay checks by their employer, the CCSD, pursuant to a collective bargaining agreement negotiated and agreed to by and between CCEA and CCSD.

9. The membership dues deducted from CCEA members' pay checks are then paid to CCEA by CCSD.

10. A portion of the CCEA membership dues are then transmitted to NSEA through a dues transmittal agreement by and between CCEA and NSEA("Dues Transmittal Agreement"), which is attached as an addendum and incorporated into a negotiated services agreement by and

1 between CCEA and NSEA ("Service Agreement") as Addendum A.

2 11. The Service Agreement incorporates the Dues Transmittal Agreement and provides
3 as follows:

4 CCEA agrees to transmit NSEA and NEA dues, and NSEA-TIP and NEA-PAC
5 contributions to NSEA for each by the tenth business day following the payroll
6 deduction. The agreement is attached as Addendum A.

7 12. In the absence of a Dues Transmittal Agreement, there is no obligation for CCEA
8 to transmit dues to NSEA and per NEA's bylaws, only NSEA has a contractual obligation to pay
9 NEA.

10 13. The Service Agreement incorporates and the Dues Transmittal Agreement and
11 together provide for the quid pro quo exchange between CCEA and NSEA. The Service Agreement
12 sets forth the services and financial payments that NSEA will provide to CCEA in exchange for
13 transmittal of dues that CCEA sends to NSEA, as set forth in both the Service Agreement - Dues
14 Transmittal Agreement.

15 14. Specifically, paragraph 1 of the Service Agreement states that CCEA will transmit
16 dues to NSEA and the following paragraph (paragraph 2) provides that in exchange, NSEA will
17 transmit grants to CCEA.

18 15. The Service Agreement and the Dues Transmittal Agreement are a single integrated
19 agreement that allows either party to unilaterally terminate and seek to renegotiate the terms of the
20 agreement.

21 16. Specifically, the Service Agreement provides that:

22 The term of this agreement shall be from September 1 to August 31. This
23 Agreement shall be automatically renewed on an annual basis, unless either party
24 shall give written notice of termination to the other party, with evidence of
25 receipt by the other party no later than thirty (30) days prior to the anniversary
26 date of the Agreement. Should either party give notice of termination as
27 provided alone, then this Agreement shall terminate on the anniversary date
28 unless a successor agreement has been mutually agreed to by the parties. (emphasis
supplied).

17. The relevant anniversary date is September 1, 2017.

18. Similarly, the Dues Transmittal Agreement provides that "[t]his agreement shall

1 remain in force for each subsequent membership year unless terminated in writing by either
2 party prior to September 1 of any NSEA membership year, or amended by mutual consent of
3 both parties.” (emphasis supplied).

4 19. The NSEA membership year runs from September 1 to August 31.

5 20. On May 3, 2017, CCEA gave notice to NSEA and its officers of an intent to
6 terminate the Service Agreement and the Dues Transmittal as follows:

7 Pursuant to the terms of the Service Agreement between the Nevada State Education
8 Association and the Clark County Education Association, I write to give you notice
9 to terminate this agreement, unless a successor agreement can be mutually agreed
10 to by the parties....Please accept this letter as our formal notice of termination of the
11 Service Agreement.

12 21. On July 17, 2017 and August 3, 2017, CCEA sent NSEA two additional letters
13 providing for notice of the intent to terminate the Service Agreement and the Due Transmittal
14 Agreement. Specifically, the July 17, 2017, letter stated in pertinent part that:

15 On May 3, 2017 CCEA served notice that it was terminating the Service Agreement
16 between CCEA and NSEA.....This letter serves notice to NSEA that unless there is
17 a successor agreement in place before the August 31, 2017 all terms and conditions
18 of the agreement shall become null and void.

19 The August 3, 2017, letter stated in pertinent part that:

20 Your letter expressing a claim based on NSEA policies is incorrect as this is a
21 contract matter, there has not been a mutual agreement to modify the Agreement,
22 and without mutual agreement, the terms and conditions of the Agreement will be
23 null and void upon its expiration on August 31, 2017....**The Agreement serves as**
24 **the dues transmittal contract, and it is otherwise set to expire unless a successor**
25 **is negotiated per the terms and conditions of that Agreement.** Upon expiration,
26 CCEA is not only legally not obligated to transmit dues, but cannot transmit member
27 dues to NSEA per NSEA's own ByLaws. To be clear, when the current Agreement
28 between CCEA and NSEA expires on August 31, 2017 there will not be a contract
in place between the two organizations to collect and remit dues to NSEA.
(emphasis supplied).

22. On April 25, 2018, CCEA voted to disaffiliate from NEA and NSEA.

23. Any finding of fact which should be construed as a conclusion of law shall be
construed as such.

24. Any conclusion of law which should be construed as a finding of fact shall be construed as such.

CONCLUSIONS OF LAW

A. Standard for Summary Judgment

25. The Court will render judgment “forthwith if the pleadings together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Nevada Rule of Civil Procedure 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986.)

26. “A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party.” *Wood v. Safeway*, 121 Nev. 724, 731 (2005).

27. The moving party bears the initial burden of showing the absence of a genuine issue of material fact. *Celotex*, 477 U.S. at 323.

28. To meet this burden, the moving party may either produce evidence affirmatively demonstrating the absence of such evidence or point out a lack of evidence to support the nonmoving party’s case. *Id.* at 325.

29. Once this burden is met, the burden shifts to the nonmoving party to present evidence demonstrating the existence of a genuine issue of material fact. *See Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986).

B. CCEA Terminated the Service Agreement and Dues Transmittal Agreement within the Contractually-Permitted Timeframe Prior to September 1, 2017.

30. “Questions of contract construction, in the absence of ambiguity or other factual issues, are suitable for determination by summary judgment.” *See Nelson v. California State Auto. Ass’n Inter-Ins. Bureau*, 114 Nev. 345, 347, 956 P.2d 803, 805 (1998) *S. Tr. Mortg. Co. v. K & B Door Co.*, 104 Nev. 564, 568, 763 P.2d 353, 355 (1988) (“[W]here a document is clear and unambiguous, the court must construe it from the language therein.”); *Chwialkowski v. Sachs*, 108 Nev. 404, 406, 834 P.2d 405, 406 (1992) (same); *Renshaw v. Renshaw*, 96 Nev. 541, 543, 611, P.2d 1070, 1071 (1980) (same); *Ellison v. California State Auto Ass’n*, 106 Nev. 601, 603, 797 P.2d 975, 977 (1990) (same); *Watson v. Watson*, 95 Nev. 495, 496, 596 P.2d 507, 508 (1979) (“Courts

1 are bound by language which is clear and free from ambiguity and cannot, using guise of
2 interpretation, distort plain meaning of agreement.”).

3 **THE COURT FINDS AS FOLLOWS:**

4 31. The Service Agreement and Dues Transmittal Agreement ~~as an integrated~~
5 ~~agreement~~ expressly allow unilateral termination by either party, and those termination provisions
6 are clear and unambiguous.

7 32. The May 3, 2017, July 17, 2017, and August 3, 2017 letters served to terminate both
8 the Service Agreement and Dues Transmittal Agreement, which termination occurred within the
9 required contractual timeframe.

10 33. The foregoing termination notices caused both the Service Agreement and Dues
11 Transmittal Agreement to expire on August 31, 2017.

12 34. In light of the foregoing termination and expiration, CCEA owed no duties to NSEA
13 or NEA under the Service Agreement and Dues Transmittal Agreement to collect and/or transmit
14 membership dues on NSEA or NEA’s behalf on or after September 1, 2017, nor did NSEA or NEA
15 have any obligation to CCEA on or after September 1, 2017, to perform pursuant to the Service
16 Agreement and Dues Transmittal Agreement, and, in fact, there is no dispute that NSEA and NEA
17 ceased to perform under the Service Agreement and Dues Transmittal Agreement on or after
18 September 1, 2017.

19 35. There are no genuine issues of material fact concerning whether the Service
20 Agreement and Dues Transmittal Agreement were terminated.

21 36. The NSEA Parties have not made any showing that the CCEA Parties are not entitled
22 to summary judgment as a matter of law.

23 37. Pursuant to Nevada Rule of Civil Procedure 56, the CCEA Parties are entitled to
24 summary judgment in their favor and against the NSEA Parties on their declaratory relief claim.

25 **ORDER**

26 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Motion is
27 **GRANTED** in its entirety, and summary judgment is entered in favor of the CCEA Parties on
28


1 their claim for Declaratory Relief. Judgment will be entered pursuant to this order as follows:
2 (1) The termination provisions of the Service Agreement and Dues Transmittal Agreement are
3 clear and unambiguous, (2) CCEA's May 3, 2017, July 17, 2017, and August 3, 2017 letters
4 notifying NSEA of the termination of the Service Agreement and Dues Transmittal Agreement
5 are equally clear and unambiguous, (3) the Service Agreement and Dues Transmittal
6 Agreement were terminated by CCEA within the required contractual timeframe, (4) this
7 termination caused both agreements to expire on August 31, 2017, and (5) in light of the
8 foregoing termination and expiration, CCEA owed no duties to NSEA or NEA under the
9 Service Agreement and Dues Transmittal Agreement to collect and/or transmit membership
10 dues on NSEA or NEA's behalf on or after September 1, 2017, nor did NSEA or NEA have any
11 obligation to CCEA on or after September 1, 2017, to perform pursuant to the Service Agreement
12 and Dues Transmittal Agreement, and, in fact, there is no dispute that NSEA and NEA ceased to
13 perform under the Service Agreement and Dues Transmittal Agreement on or after September 1,
14 2017.

15
16
17 DATED: 12-18-18, 2018

18 
19 THE HONORABLE JUDGE KERRY EARLEY
20
21
22
23
24
25
26
27
28

1 SNELL & WILMER L.L.P.

2 RESPECTFULLY SUBMITTED BY:

3 By: 
4 John S. Delikanakis
5 Nevada Bar No. 5928
6 Michael Paretti
7 Nevada Bar No. 13926
8 SNELL & WILMER L.L.P.
9 3883 Howard Hughes Parkway, Suite 1100
10 Las Vegas, NV 89169

11 Joel A. D'Alba (*pro hac vice*)
12 200 West Jackson Blvd., Suite 720
13 Chicago, IL 60606

14 Richard G. McCracken
15 Nevada Bar No. 2748
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18 McCracken, STEMERMAN
19 & HOLSBERRY, LLP
20 1630 South Commerce Street, Suite 1-A
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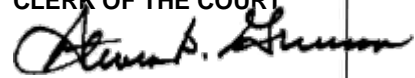
22 *Attorneys for the CCEA Parties*

23 APPROVED AS TO FORM AND CONTENT BY:

24 By: To submit competing order
25 Richard J. Pocker
26 Nevada Bar No. 3568
27 Paul J. Lal
28 Nevada Bar No. 3755
BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
Las Vegas, NV 89101

John M. West (*pro hac vice*)
Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
James Graham Lake (*pro hac vice*)
BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005

Attorneys for the NSEA Parties



John S. Delikanakis, Nevada Bar No. 5928
Bradley T. Austin, Nevada Bar No. 13064
Michael Paretti, Nevada Bar No. 13926
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Tel: (702) 784-5200
jdelikanakis@swlaw.com
baustin@swlaw.com
mparetti@swlaw.com

Joel A. D'Alba
Admitted pro hac vice
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
Tel: (312) 263-1500
jad@ulaw.com

Richard G. McCracken, Nevada Bar No. 2748
Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702) 386-5107
rmccracken@msh.law
kweber@msh.law

Attorneys for the CCEA Parties

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
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Plaintiffs,

vs.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO, JR., BRIAN WALLACE, and
BRIAN LEE,

Defendants.

Case No.: A-17-761364-C
DEPT. NO.: 4

(consolidated with A-17-761884-C)

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING IN
PART AND DENYING IN PART THE
NSEA PARTIES' MOTION FOR
PARTIAL RECONSIDERATION OF
THE DECEMBER 20 FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER**

**Date of Hearing : May 9, 2019
Time of Hearing: 9:00 a.m.**

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO;
ROBERT BENSON; DIANE
DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

And

BRIAN LEE,

Counter-Defendant,

vs.

CLARK COUNTY EDUCATION
ASSOCIATION; JOHN VELLARDITA; AND
VICTORIA COURTNEY,

Defendants-Counter Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

The Court, having read and considered Nevada State Education Association (“NSEA”), National Education Association (“NEA”), Dana Galvin, Ruben Murillo, Jr., Brian Wallace, Brian Lee, Robert Benson, Diane Di Archangel and Jason Wyckoff (collectively “NSEA Parties”) Motion for Partial Reconsideration of the December 20 Findings of Fact, Conclusions of Law, and Order (“Motion for Reconsideration”), filed January 10, 2019; the Clark County Education Association (“CCEA”), Victoria Courtney, James Frazee, Robert Hollowood, and Maria Neisess’s (collectively, the “CCEA Parties”) Opposition to the Motion for Reconsideration, filed February 25, 2019; the NSEA Parties’ Reply in Support of the Motion for Reconsideration, filed April 4, 2019; and all other papers filed in support of the foregoing; having heard and considered the oral argument of counsel John S. Delikanakis, Esq., Bradley Austin, Esq. and Michael Paretti, Esq. of Snell & Wilmer L.L.P., and Joel D’Alba, Esq. of Asher, Gittler & D’Alba, Ltd. appearing on behalf of the CCEA Parties, and Robert Alexander, Esq. and James Graham Lake, Esq. of Bredhoff & Kaiser, PLLC and Paul J. Lal, Esq. of Boies Schiller Flexner appearing on behalf of the NSEA Parties, and with good cause appearing, enters the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. The CCEA Parties filed a Motion for Partial Summary Judgment (“MPSJ”) on June 18, 2018 seeking summary judgment on their claim for Declaratory Relief.

2. The NSEA Parties filed their Opposition to the MPSJ on July 20, 2018.

3. The CCEA Parties filed their Reply in Support of the MPSJ on August 14, 2018.

4. The Court entertained oral argument on the MPSJ on November 15, 2018 – with the consolidated hearing spanning nearly two-and-a-half hours in length (beginning at 9:06 am and concluding at 11:30 am).

5. Following the hearing, the Court issued a Minute Order on November 15, 2018, granting the CCEA Parties' MPSJ and directing CCEA's counsel to draft a proposed order.

6. The Parties subsequently exchanged redlines of a proposed order but were unable to reach a consensus.

7. On December 6, 2018, CCEA submitted its proposed order, along with a redline from NSEA, highlighting for the Court all of the specific changes that the NSEA Parties requested.

8. On December 7, 2018, the NSEA Parties submitted a competing order, along with a seven-page, single spaced letter – much of which contained arguments identical to those found in the instant Motion for Reconsideration.

9. After reviewing both competing orders, the redline of the NSEA Parties' proposed changes, and the NSEA Parties' seven-page letter, the Court entered its Findings of Fact, Conclusions of Law, and Order granting the CCEA Parties' Motion for Partial Summary Judgment on December 20, 2018.

10. Pertinent to the Motion for Reconsideration, the December 20, 2018, Findings of Fact, Conclusions of Law, and Order provides:

- a. Paragraph 6: "Members of CCEA pay dues to CCEA pursuant to a membership dues authorization form ('Membership Authorization Form')."
- b. Paragraph 8: "Once an individual CCEA member signs the CCEA Membership Authorization Form, CCEA membership dues are then deducted from members' pay checks by their employer, the CCSD, pursuant to a collective bargaining agreement negotiated and agreed to by and between CCEA and CCSD."

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- c. Paragraph 9: "The membership dues deducted from CCEA members' pay checks are then paid to CCEA by CCSD."
- d. Paragraph 10: "A portion of the CCEA membership dues are then transmitted to NSEA through a dues transmittal agreement by and between CCEA and NSEA('Dues Transmittal Agreement'), which is attached as an addendum and incorporated into a negotiated services agreement by and between CCEA and NSEA ('Service Agreement') as Addendum A."
- e. Paragraph 12: "In the absence of a Dues Transmittal Agreement, there is no obligation for CCEA to transmit dues to NSEA and per NEA's bylaws, only NSEA has a contractual obligation to pay NEA."

11. Any finding of fact which should be construed as a conclusion of law shall be construed as such.

12. Any conclusion of law which should be construed as a finding of fact shall be construed as such.

CONCLUSIONS OF LAW

A. Standard for Reconsideration

13. "A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous." *Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997) (internal citations omitted.).

14. "Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted." *Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976).

15. Further, a petition for rehearing may not be utilized as a vehicle to reargue matters considered and decided in the court's initial opinion. *Matter of Estate of Herrmann*, 100 Nev. 149, 151, 679 P.2d 246, 247 (1984).

1 16. A decision is erroneous “when although there is evidence to support it, the reviewing
2 court on the entire evidence is left with the definite and firm conviction that a mistake has been
3 committed.” *Union America Mortgage and Equity v. McDonald*, 97 Nev. 210,211-212, 626 P.2d
4 1272, 1273 (1981), quoting *United States v. Gypsum Co.*, 333 U.S. 364, 395 (1948).

5 **B. Paragraph 6 of the December 20 Order**

6 17. Paragraph 6 of the Court’s December 20, 2018, Findings of Fact, Conclusions of
7 Law, and Order did not classify the subject enrollment form as a CCEA enrollment form.

8 18. The Court did not interpret the findings of fact in Paragraph 6 to limit NSEA or
9 NEA’s rights.

10 19. Substantially different evidence has not been subsequently introduced, and the
11 Court’s decision is not clearly erroneous.

12 20. Accordingly, the Court denies the NSEA Parties’ Motion for Reconsideration with
13 respect to Paragraph 6.

14 **C. Paragraphs 8-10 of the December 20 Order**

15 21. Paragraphs 8-10 of the Court’s December 20, 2018, Findings of Fact, Conclusions
16 of Law, and Order explained the mechanisms as to how membership dues were transmitted from
17 CCSD to CCEA, NSEA, and NEA prior to CCEA’s termination of the Service Agreement and
18 Dues Transmittal Agreement.

19 22. Substantially different evidence has not been subsequently introduced, and the
20 Court’s decision is not clearly erroneous.

21 23. Accordingly, the Court denies the NSEA Parties’ Motion for Reconsideration with
22 respect to Paragraphs 8-10, but does so without prejudice to ruling on the parties’ pending motions
23 for summary judgment.

24 **D. Paragraph 12 of the December 20 Order**

25 24. Paragraph 12 of the Court’s December 20, 2018, Findings of Fact, Conclusions of
26 Law, and Order did not serve as a basis in any way for the Court’s ruling on the CCEA Parties’
27 MPSJ.
28

25. Accordingly, because Paragraph 12 did not serve as a basis for the Court's ruling on the CCEA Parties' MPSJ, the Court grants the NSEA Parties' Motion for Reconsideration with respect to Paragraph 12 and amends the December 20, 2018, Findings of Fact, Conclusions of Law, and Order to omit Paragraph 12.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

That the NSEA Parties' Motion for Reconsideration is **GRANTED IN PART** with respect to Paragraph 12 and the Court amends its December 20, 2018, Findings of Fact, Conclusions of Law, and Order to omit Paragraph 12; and


That the remainder of the NSEA Parties' Motion for Reconsideration, specifically regarding Paragraphs 6, 8, 9, and 10 of the Court's December 20, 2018, Findings of Fact, Conclusions of Law, and Order, is **DENIED**.

DATED: January 24, 2019


THE HONORABLE JUDGE KERRY EARLEY

SNELL & WILMER L.L.P.

RESPECTFULLY SUBMITTED BY:

By: 
John S. Delikanakis
Nevada Bar No. 5928
Bradley T. Austin
Nevada Bar No. 13064
Michael Paretti
Nevada Bar No. 13926
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169

Joel A. D'Alba (*pro hac vice*)
200 West Jackson Blvd., Suite 720
Chicago, IL 60606

1 Richard G. McCracken
Nevada Bar No. 2748
2 Kimberley C. Weber
Nevada Bar No. 14434
3 McCRACKEN, STEMERMAN
& HOLSBERY, LLP
4 1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102

5 *Attorneys for the CCEA Parties*
6

7 APPROVED AS TO FORM AND CONTENT BY:

8 By:

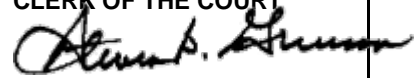
9 Richard J. Pocker
Nevada Bar No. 3568
10 Paul J. Lal
Nevada Bar No. 3755
11 BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
12 Las Vegas, NV 89101

13 Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
14

15 BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005
16

17 *Attorneys for the NSEA Parties*

18 4838-3011-7017
19
20
21
22
23
24
25
26
27
28



John S. Delikanakis, Nevada Bar No. 5928
Michael Paretti, Nevada Bar No. 13926
Bradley T. Austin, Nevada Bar No. 13064
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Tel: (702) 784-5200
jdelikanakis@swlaw.com
mparetti@swlaw.com
baustin@swlaw.com

Richard G. McCracken, Nevada Bar No. 2748
Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702) 386-5107
rmccracken@msh.law
kweber@msh.law

Joel A. D'Alba (*Pro Hac Vice*)
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
Tel: (312) 263-1500
jad@ulaw.com

*Attorneys for Plaintiffs Clark County Education Association,
Victoria Courtney, James Frazee, Robert G. Hollowood and
Maria Neisess*

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO, JR., BRIAN WALLACE, and
BRIAN LEE,

Defendants.

Case No.: A-17-761364-C
DEPT. NO.: 4

(consolidated with A-17-761884-C)

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING IN PART AND
DENYING IN PART THE NSEA
PARTIES' MOTION FOR PARTIAL
RECONSIDERATION OF THE
DECEMBER 20, 2018 FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER**

1 NEVADA STATE EDUCATION
2 ASSOCIATION; NATIONAL EDUCATION
3 ASSOCIATION; RUBEN MURILLO;
4 ROBERT BENSON; DIANE
5 DI ARCHANGEL; AND JASON WYCKOFF,

6 Plaintiffs-Counter Defendants,

7 And

8 BRIAN LEE,

9 Counter-Defendant,

10 vs.

11 CLARK COUNTY EDUCATION
12 ASSOCIATION; JOHN VELLARDITA; AND
13 VICTORIA COURTNEY,

14 Defendants-Counter Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

15 PLEASE TAKE NOTICE that Findings of Fact, Conclusions of Law, and Order Granting
16 in Part and Denying in Part the NSEA Parties' Motion for Partial Reconsideration of the
17 December 20, 2018 Findings of Fact, Conclusions of Law, and Order were entered in the above-
18 captioned matter on June 28, 2019, a copy of which are attached hereto.

19 DATED this 28th day of June, 2019.

20 SNELL & WILMER L.L.P.

21 By: /s/ Michael Paretti

22 John S. Delikanakis

23 Nevada Bar No. 5928

24 Michael Paretti

25 Nevada Bar No. 13926

26 Brad T. Austin

27 Nevada Bar No. 13064

28 SNELL & WILMER L.L.P.

3883 Howard Hughes Parkway, Suite 1100

Las Vegas, NV 89169

Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen
3 (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be
4 served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF**
5 **FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART AND DENYING**
6 **IN PART THE NSEA PARTIES' MOTION FOR PARTIAL RECONSIDERATION OF**
7 **THE DECEMBER 20, 2018 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND**
8 **ORDER** by the method indicated below:

| | | | |
|-------------|------------------------|-------|---------------------|
| 9 <u>XX</u> | Odyssey E-File & Serve | _____ | Federal Express |
| 10 _____ | U.S. Mail | _____ | U.S. Certified Mail |
| 11 _____ | Facsimile Transmission | _____ | Hand Delivery |
| 12 _____ | Email Transmission | _____ | Overnight Mail |

13 and addressed to the following:

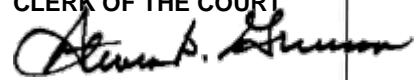
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15 Richard J. Pocker
16 Paul J. Lal
17 BOIES SCHILLER FLEXNER LLP
18 300 South Fourth Street, Suite 800
19 Las Vegas, NV 89101
Email: rpocker@bsflp.com
Email: plal@bsflp.com
Attorneys for Defendants

Robert Alexander
Matthew Clash-Drexler
BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005
Email: ralexander@bredhoff.com
Email: mcdrexler@bredhoff.com
Attorneys for Defendants

20 DATED this 28th day of June, 2019.

21 /s/ Maricris Williams
22 An Employee of Snell & Wilmer L.L.P.

23 4832-9232-3227.1



1 John S. Delikanakis, Nevada Bar No. 5928
2 Bradley T. Austin, Nevada Bar No. 13064
3 Michael Paretti, Nevada Bar No. 13926
4 SNELL & WILMER L.L.P.
5 3883 Howard Hughes Parkway, Suite 1100
6 Las Vegas, NV 89169
7 Tel: (702) 784-5200
8 jdelikanakis@swlaw.com
9 baustin@swlaw.com
10 mparetti@swlaw.com

11 Joel A. D'Alba
12 Admitted pro hac vice
13 ASHER, GITTLER & D'ALBA, LTD.
14 200 West Jackson Blvd., Suite 720
15 Chicago, IL 60606
16 Tel: (312) 263-1500
17 jad@ulaw.com

18 Richard G. McCracken, Nevada Bar No. 2748
19 Kimberley C. Weber, Nevada Bar No. 14434
20 McCracken, STEMERMAN & HOLSBERRY, LLP
21 1630 South Commerce Street, Suite 1-A
22 Las Vegas, NV 89102
23 Tel: (702) 386-5107
24 rmccracken@msh.law
25 kweber@msh.law

26 *Attorneys for the CCEA Parties*

27 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

28 **CLARK COUNTY, NEVADA**

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
ASSOCIATION, DANA GALVIN, RUBEN
MURILLO, JR., BRIAN WALLACE, and
BRIAN LEE,

Defendants.

Case No.: A-17-761364-C
DEPT. NO.: 4

(consolidated with A-17-761884-C)

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING IN
PART AND DENYING IN PART THE
NSEA PARTIES' MOTION FOR
PARTIAL RECONSIDERATION OF
THE DECEMBER 20 FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER**

**Date of Hearing : May 9, 2019
Time of Hearing: 9:00 a.m.**

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO;
ROBERT BENSON; DIANE
DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

And

BRIAN LEE,

Counter-Defendant,

vs.

CLARK COUNTY EDUCATION
ASSOCIATION; JOHN VELLARDITA; AND
VICTORIA COURTNEY,

Defendants-Counter Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

The Court, having read and considered Nevada State Education Association (“NSEA”), National Education Association (“NEA”), Dana Galvin, Ruben Murillo, Jr., Brian Wallace, Brian Lee, Robert Benson, Diane Di Archangel and Jason Wyckoff (collectively “NSEA Parties”) Motion for Partial Reconsideration of the December 20 Findings of Fact, Conclusions of Law, and Order (“Motion for Reconsideration”), filed January 10, 2019; the Clark County Education Association (“CCEA”), Victoria Courtney, James Frazee, Robert Hollowood, and Maria Neisess’s (collectively, the “CCEA Parties”) Opposition to the Motion for Reconsideration, filed February 25, 2019; the NSEA Parties’ Reply in Support of the Motion for Reconsideration, filed April 4, 2019; and all other papers filed in support of the foregoing; having heard and considered the oral argument of counsel John S. Delikanakis, Esq., Bradley Austin, Esq. and Michael Paretti, Esq. of Snell & Wilmer L.L.P., and Joel D’Alba, Esq. of Asher, Gittler & D’Alba, Ltd. appearing on behalf of the CCEA Parties, and Robert Alexander, Esq. and James Graham Lake, Esq. of Bredhoff & Kaiser, PLLC and Paul J. Lal, Esq. of Boies Schiller Flexner appearing on behalf of the NSEA Parties, and with good cause appearing, enters the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. The CCEA Parties filed a Motion for Partial Summary Judgment (“MPSJ”) on June 18, 2018 seeking summary judgment on their claim for Declaratory Relief.

2. The NSEA Parties filed their Opposition to the MPSJ on July 20, 2018.

3. The CCEA Parties filed their Reply in Support of the MPSJ on August 14, 2018.

4. The Court entertained oral argument on the MPSJ on November 15, 2018 – with the consolidated hearing spanning nearly two-and-a-half hours in length (beginning at 9:06 am and concluding at 11:30 am).

5. Following the hearing, the Court issued a Minute Order on November 15, 2018, granting the CCEA Parties' MPSJ and directing CCEA's counsel to draft a proposed order.

6. The Parties subsequently exchanged redlines of a proposed order but were unable to reach a consensus.

7. On December 6, 2018, CCEA submitted its proposed order, along with a redline from NSEA, highlighting for the Court all of the specific changes that the NSEA Parties requested.

8. On December 7, 2018, the NSEA Parties submitted a competing order, along with a seven-page, single spaced letter – much of which contained arguments identical to those found in the instant Motion for Reconsideration.

9. After reviewing both competing orders, the redline of the NSEA Parties' proposed changes, and the NSEA Parties' seven-page letter, the Court entered its Findings of Fact, Conclusions of Law, and Order granting the CCEA Parties' Motion for Partial Summary Judgment on December 20, 2018.

10. Pertinent to the Motion for Reconsideration, the December 20, 2018, Findings of Fact, Conclusions of Law, and Order provides:

- a. Paragraph 6: "Members of CCEA pay dues to CCEA pursuant to a membership dues authorization form ('Membership Authorization Form')."
- b. Paragraph 8: "Once an individual CCEA member signs the CCEA Membership Authorization Form, CCEA membership dues are then deducted from members' pay checks by their employer, the CCSD, pursuant to a collective bargaining agreement negotiated and agreed to by and between CCEA and CCSD."

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- c. Paragraph 9: "The membership dues deducted from CCEA members' pay checks are then paid to CCEA by CCSD."
- d. Paragraph 10: "A portion of the CCEA membership dues are then transmitted to NSEA through a dues transmittal agreement by and between CCEA and NSEA('Dues Transmittal Agreement'), which is attached as an addendum and incorporated into a negotiated services agreement by and between CCEA and NSEA ('Service Agreement') as Addendum A."
- e. Paragraph 12: "In the absence of a Dues Transmittal Agreement, there is no obligation for CCEA to transmit dues to NSEA and per NEA's bylaws, only NSEA has a contractual obligation to pay NEA."

11. Any finding of fact which should be construed as a conclusion of law shall be construed as such.

12. Any conclusion of law which should be construed as a finding of fact shall be construed as such.

CONCLUSIONS OF LAW

A. Standard for Reconsideration

13. "A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous." *Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997) (internal citations omitted.).

14. "Only in very rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted." *Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976).

15. Further, a petition for rehearing may not be utilized as a vehicle to reargue matters considered and decided in the court's initial opinion. *Matter of Estate of Herrmann*, 100 Nev. 149, 151, 679 P.2d 246, 247 (1984).

1 16. A decision is erroneous “when although there is evidence to support it, the reviewing
2 court on the entire evidence is left with the definite and firm conviction that a mistake has been
3 committed.” *Union America Mortgage and Equity v. McDonald*, 97 Nev. 210,211-212, 626 P.2d
4 1272, 1273 (1981), quoting *United States v. Gypsum Co.*, 333 U.S. 364, 395 (1948).

5 **B. Paragraph 6 of the December 20 Order**

6 17. Paragraph 6 of the Court’s December 20, 2018, Findings of Fact, Conclusions of
7 Law, and Order did not classify the subject enrollment form as a CCEA enrollment form.

8 18. The Court did not interpret the findings of fact in Paragraph 6 to limit NSEA or
9 NEA’s rights.

10 19. Substantially different evidence has not been subsequently introduced, and the
11 Court’s decision is not clearly erroneous.

12 20. Accordingly, the Court denies the NSEA Parties’ Motion for Reconsideration with
13 respect to Paragraph 6.

14 **C. Paragraphs 8-10 of the December 20 Order**

15 21. Paragraphs 8-10 of the Court’s December 20, 2018, Findings of Fact, Conclusions
16 of Law, and Order explained the mechanisms as to how membership dues were transmitted from
17 CCSD to CCEA, NSEA, and NEA prior to CCEA’s termination of the Service Agreement and
18 Dues Transmittal Agreement.

19 22. Substantially different evidence has not been subsequently introduced, and the
20 Court’s decision is not clearly erroneous.

21 23. Accordingly, the Court denies the NSEA Parties’ Motion for Reconsideration with
22 respect to Paragraphs 8-10, but does so without prejudice to ruling on the parties’ pending motions
23 for summary judgment.

24 **D. Paragraph 12 of the December 20 Order**

25 24. Paragraph 12 of the Court’s December 20, 2018, Findings of Fact, Conclusions of
26 Law, and Order did not serve as a basis in any way for the Court’s ruling on the CCEA Parties’
27 MPSJ.
28

25. Accordingly, because Paragraph 12 did not serve as a basis for the Court's ruling on the CCEA Parties' MPSJ, the Court grants the NSEA Parties' Motion for Reconsideration with respect to Paragraph 12 and amends the December 20, 2018, Findings of Fact, Conclusions of Law, and Order to omit Paragraph 12.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

That the NSEA Parties' Motion for Reconsideration is **GRANTED IN PART** with respect to Paragraph 12 and the Court amends its December 20, 2018, Findings of Fact, Conclusions of Law, and Order to omit Paragraph 12; and


That the remainder of the NSEA Parties' Motion for Reconsideration, specifically regarding Paragraphs 6, 8, 9, and 10 of the Court's December 20, 2018, Findings of Fact, Conclusions of Law, and Order, is **DENIED**.

DATED: January 24, 2019


THE HONORABLE JUDGE KERRY EARLEY

SNELL & WILMER L.L.P.

RESPECTFULLY SUBMITTED BY:

By: 
John S. Delikanakis
Nevada Bar No. 5928
Bradley T. Austin
Nevada Bar No. 13064
Michael Paretti
Nevada Bar No. 13926
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169

Joel A. D'Alba (*pro hac vice*)
200 West Jackson Blvd., Suite 720
Chicago, IL 60606

1 Richard G. McCracken
Nevada Bar No. 2748
2 Kimberley C. Weber
Nevada Bar No. 14434
3 McCRACKEN, STEMERMAN
& HOLSBERY, LLP
4 1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102

5 *Attorneys for the CCEA Parties*
6

7 APPROVED AS TO FORM AND CONTENT BY:

8 By:

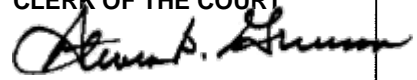
9 Richard J. Pocker
Nevada Bar No. 3568
10 Paul J. Lal
Nevada Bar No. 3755
11 BOIES SCHILLER FLEXNER LLP
300 South Fourth Street, Suite 800
12 Las Vegas, NV 89101

13 Robert Alexander (*pro hac vice*)
Matthew Clash-Drexler (*pro hac vice*)
14

15 BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005

16 *Attorneys for the NSEA Parties*
17

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18
19
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21
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23
24
25
26
27
28



John S. Delikanakis, Nevada Bar No. 5928
 Bradley T. Austin, Nevada Bar No. 13064
 Michael Paretti, Nevada Bar No. 13926
 SNELL & WILMER L.L.P.
 3883 Howard Hughes Parkway, Suite 1100
 Las Vegas, NV 89169
 Tel: (702) 784-5200
 jdelikanakis@swlaw.com
 baustin@swlaw.com
 mparetti@swlaw.com

Joel A. D'Alba
 Admitted pro hac vice
 ASHER, GITTLER & D'ALBA, LTD.
 200 West Jackson Blvd., Suite 720
 Chicago, IL 60606
 Tel: (312) 263-1500
 jad@ulaw.com

Richard G. McCracken, Nevada Bar No. 2748
 Kimberley C. Weber, Nevada Bar No. 14434
 McCracken, Stemerman & Holsberry, LLP
 1630 South Commerce Street, Suite 1-A
 Las Vegas, NV 89102
 Tel: (702) 386-5107
 rmccracken@msh.law
 kweber@msh.law

Attorneys for the CCEA Parties

IN THE EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CLARK COUNTY EDUCATION
 ASSOCIATION, VICTORIA COURTNEY,
 JAMES FRAZEE, ROBERT G.
 HOLLOOOD, and MARIA NEISESS,

Plaintiffs,

vs.

NEVADA STATE EDUCATION
 ASSOCIATION, DANA GALVIN, RUBEN
 MURILLO, JR., BRIAN WALLACE, and
 BRIAN LEE,

Defendants.

Case No.: A-17-761364-C
 DEPT. NO.: 4

(consolidated with A-17-761884-C)

**FINDINGS OF FACT, CONCLUSIONS
 OF LAW, AND ORDER GRANTING
 CCEA PARTIES' MOTION TO ALTER
 OR AMEND COURT'S MAY 11, 2018
 ORDER PURSUANT TO NRCP 59(E) and
 60(B)**

**Date of Hearing : May 9, 2019
 Time of Hearing: 9:00 a.m.**

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO;
ROBERT BENSON; DIANE
DI ARCHANGEL; AND JASON WYCKOFF,

Plaintiffs-Counter Defendants,

And

BRIAN LEE,

Counter-Defendant,

vs.

CLARK COUNTY EDUCATION
ASSOCIATION; JOHN VELLARDITA; AND
VICTORIA COURTNEY,

Defendants-Counter Plaintiffs.

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

The Court, having read and considered the Clark County Education Association (“CCEA”), Victoria Courtney, James Frazee, Robert Hollowood, and Maria Neisess’s (collectively, the “CCEA Parties”) Motion to Alter or Amend the Court’s May 11, 2018, Order Pursuant to NRCP 59(E) and NRCP 60(B) (“Motion”), filed December 12, 2018; Nevada State Education Association (“NSEA”), National Education Association (“NEA”), Dana Galvin, Ruben Murillo, Jr., Brian Wallace, Brian Lee, Robert Benson, Diane Di Archangel and Jason Wyckoff’s (collectively “NSEA Parties”) Opposition to the Motion, filed January 23, 2019; the CCEA Parties’ Reply in support of the Motion, filed April 4, 2019; and all other papers filed in support of the foregoing; having heard and considered the oral argument of counsel John S. Delikanakis, Esq., Bradley Austin, Esq. and Michael Parette, Esq. of Snell & Wilmer L.L.P., and Joel D’Alba, Esq. of Asher, Gittler & D’Alba, Ltd. appearing on behalf of the CCEA Parties, and Robert Alexander, Esq. and James Graham Lake, Esq. of Bredhoff & Kaiser, PPLC and Paul J. Lal, Esq. of Boies Schiller Flexner appearing on behalf of the NSEA Parties, and with good cause appearing, enters the following findings of fact, conclusions of law and order.

///

FINDINGS OF FACT

1. On March 30, 2018, the NSEA Parties filed an Application for Order Directing the Issuance of a Prejudgment Writ of Attachment with Notice (the “Application”), which the CCEA Parties opposed.

2. In opposition, the CCEA Parties represented to the Court that CCEA had been placing the dues at issue into a restricted account since the inception of this lawsuit.

3. The Honorable Judge Joanna Kishner entertained oral argument on the Application on April 23, 2018, and issued an equitable order on May 11, 2018, ordering as follows:

- a. That all funds in the possession of or received by CCEA for the 2017-2018 school year in respect to NSEA dues (numerically calculated traditionally at the annual rate of \$376.66) and in respect to NEA dues (numerically calculated traditionally at the annual rate of \$189.00) shall continue to be deposited by CCEA into account number ending in -4739 (the “Restricted Account”), maintained at the Bank of America Las Vegas, Nevada Branch (the “Bank”) as CCEA has represented to the Court it had done during the course of this litigation; and
- b. That all funds on deposit in the Restricted Account with respect to the 2017-2018 NSEA and NEA dues shall remain in the Restricted Account, and that no funds shall be withdrawn, transferred, or disbursed out of the Restricted Account, and the Restricted Account shall not be changed or modified, without a further Order from this Department 31¹ of this Court.
- c. The Restricted Account Order further required CCEA to provide NSEA and NEA with a monthly statement from the Restricted Account.

¹ The May 11, 2018, Order makes specific reference to Department 31 because at the time it was issued, two separate actions between the NSEA Parties and CCEA Parties were proceeding in Departments 28 and 31. On June 29, 2018 – after the Order was issued, the Department 31 action was consolidated into the Department 28 action upon motion by the CCEA Parties. On July 2, 2018, the consolidated action was reassigned to Department 1. Upon CCEA Parties’ peremptory challenge, and on July 9, 2018, the consolidated action was ultimately assigned to this Department. Thus, this Department is the proper Department to issue this order.

1 4. On June 18, 2018, the CCEA Parties filed a Motion for Partial Summary Judgment
2 on their declaratory relief claim.

3 5. On December 20, 2018, the Court granted the CCEA Parties' Motion for Partial
4 Summary Judgment, finding that: (1) the termination provisions of the underlying Service
5 Agreement and Dues Transmittal Agreement are clear and unambiguous, (2) CCEA's letters
6 notifying NSEA of the termination of the Service Agreement and Dues Transmittal Agreement are
7 equally clear and unambiguous, (3) the Service Agreement and Dues Transmittal Agreement were
8 terminated by CCEA within the required contractual timeframe, (4) this termination caused both
9 agreements to expire on August 31, 2017, and (5) in light of the foregoing termination and
10 expiration, CCEA owed no duties to NSEA/NEA under the Service Agreement or Dues Transmittal
11 Agreement to collect and/or transmit membership dues on NSEA/NEA's behalf on or after
12 September 1, 2017.

13 6. Court subsequently considered the NSEA Parties Motion for Partial Summary
14 Judgment on Conversion (filed November 9, 2018), the CCEA Parties' Countermotion for Partial
15 Summary Judgment (filed December 12, 2018), and the NSEA Parties' Motion for Partial Summary
16 Judgment on Bylaws (filed January 23, 2019). The Court heard oral argument from the parties on
17 these motions on May 9, 2019, and issued its ruling from the bench at the hearing, granting the
18 CCEA Parties' Motion for Partial Summary Judgment in its entirety, and denying the NSEA
19 Parties' Motions for Partial Summary Judgment on Conversion and Bylaws in their entirety.²

20 7. Any finding of fact which should be construed as a conclusion of law shall be
21 construed as such.

22 8. Any conclusion of law which should be construed as a finding of fact shall be
23 construed as such.

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² The Court's findings are subsequently being incorporated into a Findings of Fact, Conclusions
28 of Law, and Order to be entered concurrently herewith. The findings and conclusions in that order
are incorporated herein by reference.

CONCLUSIONS OF LAW

A. Standard for Reconsideration

9. “A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous.” *Masonry and Tile Contractors Ass'n v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486 (1997).

10. Rule 59(e) motions have been interpreted as “cover[ing] a broad range of motions, [with] the only real limitation on the type of motion permitted [being] that it must request a substantive alteration of the judgment, not merely correction of a clerical error, or relief of a type wholly collateral to the judgment.” *AA Primo Builders, LLC v. Washington*, 245 P.3d 1190, 1193 (Nev. 2010).

11. “Among the ‘basic grounds’ for a Rule 59(e) motion are ‘correct[ing] manifest errors of law or fact,’ ‘newly discovered or previously unavailable evidence,’ the need ‘to prevent manifest injustice,’ or a ‘change in controlling law’.” *Id.* (citing *Coury v. Robison*, 115 Nev. 84, 124–27, 976 P.2d 518 (1999)). *See also*, *Lytle v. Rosemere Estates Prop. Owners*, 314 P.3d 946, 948 (Nev. 2013) (holding that Rule 59(e) applies to any appealable order).³ The requirements for filing a Rule 59(e) motion are minimal; in addition to being timely filed (no later than 10 days after service of written notice of entry of the judgment), the motion must “be in writing, . . . state with particularity [its] grounds [and] set forth the relief or order sought.” *Id.* at 1192.

12. NRCP 60(b) states that:

(b) On motion and upon such terms as are just, the court may relieve a party or a party’s legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation or other misconduct of an adverse party; (4) the judgment is void; or, (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that an injunction should have prospective application. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 6 months after the proceeding

³ Because this Court’s Order is injunctive in nature, it is appealable. *See* NRAP 3A(b)(3).

1 was taken or the date that written notice of entry of the judgment or order
2 was served. A motion under this subdivision (b) does not affect the finality
3 of a judgment or suspend its operation. This rule does not limit the power of
4 a court to entertain an independent action to relieve a party from a judgment,
5 order, or proceeding, or to set aside a judgment for fraud upon the court.
6 Writs of coram nobis, coram vobis, audita querela, and bills of review and
bills in the nature of a bill of review, are abolished, and the procedure for
obtaining any relief from a judgment shall be by motion as prescribed in
these rules or by an independent action.

7 **B. The CCEA Parties Are Entitled to Modification of the May 11, 2018, Order**

8 13. The Court has already determined that, as a matter of law: (1) the termination
9 provisions of the underlying Service Agreement and Dues Transmittal Agreement are clear and
10 unambiguous, (2) CCEA's letters notifying NSEA of the termination of the Service Agreement and
11 Dues Transmittal Agreement are equally clear and unambiguous, (3) the Service Agreement and
12 Dues Transmittal Agreement were terminated by CCEA within the required contractual timeframe,
13 (4) this termination caused both agreements to expire on August 31, 2017, and (5) in light of the
14 foregoing termination and expiration, CCEA owed no duties to NSEA/NEA under the Service
15 Agreement or Dues Transmittal Agreement to collect and/or transmit membership dues on
16 NSEA/NEA's behalf on or after September 1, 2017.

17 14. As determined by the Court in denying the NSEA Parties' Motions for Partial
18 Summary Judgment on Bylaws and Conversion, and granting the CCEA Parties' Motion for Partial
19 Summary Judgment, NSEA and NEA have no legal or contractual right to the funds held in the
20 Restricted Account under the NSEA or NEA Bylaws, which Bylaws expressly rely upon the
21 (terminated) Dues Transmittal Agreement for any obligation to transmit dues.

22 15. As determined by the Court in denying the NSEA Parties' Motions for Partial
23 Summary Judgment on Bylaws and Conversion, and granting the CCEA Parties' Motion for Partial
24 Summary Judgment, NSEA and NEA have no legal or contractual right to the funds held in the
25 Restricted Account under the Membership Authorization Form, which Form is only between CCEA
26 and the individual members.

27 16. As determined by the Court in denying the NSEA Parties' Motions for Partial
28 Summary Judgment on Bylaws and Conversion, and granting the CCEA Parties' Motion for Partial

Summary Judgment, NSEA/NEA have no equitable right to the funds held in the Restricted Account

17. In light of this Court's findings that CCEA owed no duties to NSEA or NEA under the Service Agreement or Dues Transmittal Agreement to collect and/or transmit membership dues on NSEA/NEA's behalf on or after September 1, 2017, and that in the absence of a Dues Transmittal Agreement, there is no obligation for CCEA to transmit dues to NSEA or NEA, the underlying basis for the Court's May 11, 2018, Order no longer exists.

18. As such, the Court vacates the Restricted Account Order in its entirety and permits CCEA to disgorge and return the funds held in the Restricted Account to the individual CCEA members (including the individual NSEA Parties) from whom they were collected.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

That the CCEA Parties Motion is **GRANTED**;

That the Court's May 11, 2018, Order is **VACATED**; and

That CCEA shall return the funds held in the Restricted Account to CCEA's members, including any interest that accrued while the subject funds were held in the Restricted Account.

That this Order is stayed for 14 days of notice of entry, to permit NEA and NSEA to move for a stay pending appeal of this Order. If NEA and NSEA move in this Court for a stay of this Order within 14 days of notice of entry, this Order will remain stayed until disposition of the motion.

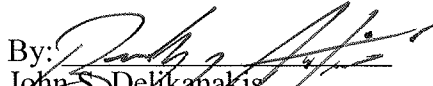
DATED: July 1, 2019


THE HONORABLE JUDGE KERRY EARLEY

A-17-761364-C

1 SNELL & WILMER L.L.P.

2 RESPECTFULLY SUBMITTED BY:

3 By: 
4 John S. Delikanakis
Nevada Bar No. 5928
5 Bradley T. Austin
Nevada Bar No. 13064
6 Michael Paretti
Nevada Bar No. 13926
7 SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
8 Las Vegas, NV 89169

9 Joel A. D'Alba (*pro hac vice*)
200 West Jackson Blvd., Suite 720
10 Chicago, IL 60606

11 Richard G. McCracken
Nevada Bar No. 2748
12 Kimberley C. Weber
Nevada Bar No. 14434
13 McCracken, STEMERMAN
& HOLSBERY, LLP
14 1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102

15 *Attorneys for the CCEA Parties*

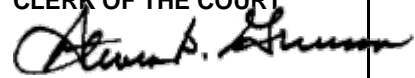
17 APPROVED AS TO FORM AND CONTENT BY:

19 By:
20 Richard J. Pocker
Nevada Bar No. 3568
Paul J. Lal
21 Nevada Bar No. 3755
BOIES SCHILLER FLEXNER LLP
22 300 South Fourth Street, Suite 800
Las Vegas, NV 89101

23 Robert Alexander (*pro hac vice*)
24 Matthew Clash-Drexler (*pro hac vice*)
BREDHOFF & KAISER, PLLC
25 805 15th Street N.W., Suite 1000
Washington, DC 20005

26 *Attorneys for the NSEA Parties*

27 4830-2271-3497



John S. Delikanakis, Nevada Bar No. 5928
Michael Paretti, Nevada Bar No. 13926
Bradley T. Austin, Nevada Bar No. 13064
SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
Las Vegas, NV 89169
Tel: (702) 784-5200
jdelikanakis@swlaw.com
mparetti@swlaw.com
baustin@swlaw.com

Richard G. McCracken, Nevada Bar No. 2748
Kimberley C. Weber, Nevada Bar No. 14434
McCRACKEN, STEMERMAN & HOLSBERRY, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Tel: (702) 386-5107
rmccracken@msh.law
kweber@msh.law

Joel A. D'Alba (*Pro Hac Vice*)
ASHER, GITTLER & D'ALBA, LTD.
200 West Jackson Blvd., Suite 720
Chicago, IL 60606
Tel: (312) 263-1500
jad@ulaw.com

*Attorneys for Plaintiffs Clark County Education Association, Victoria Courtney,
James Frazee, Robert G. Hollowood and Maria Neissess*

**IN THE EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

CLARK COUNTY EDUCATION
ASSOCIATION, VICTORIA COURTNEY,
JAMES FRAZEE, ROBERT G.
HOLLOWOOD, and MARIA NEISESS,

Plaintiffs,

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Defendants.

NEVADA STATE EDUCATION
ASSOCIATION; NATIONAL EDUCATION
ASSOCIATION; RUBEN MURILLO; ROBERT
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Plaintiffs-Counter Defendants,

Case No.: A-17-761364-C
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(consolidated with A-17-761884-C)

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING CCEA PARTIES'
MOTION TO ALTER OR AMEND
COURT'S MAY 11, 2018 ORDER
PURSUANT TO NRCP 59(E) AND 60(B)**

Case No.: A-17-761884-C
(consolidated with A-17-761364-C)

1 And
2 BRIAN LEE,
3 Counter-Defendant,
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6 ASSOCIATION; JOHN VELLARDITA; AND
7 VICTORIA COURTNEY,
8 Defendants-Counter Plaintiffs.

9 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL:

10 PLEASE TAKE NOTICE that the attached Findings of Fact, Conclusions of Law, and
11 Order Granting CCEA Parties' Motion to Alter or Amend Court's May 11, 2018 Order Pursuant to
12 NRCP 59(E) and 60(B) was entered in the above-referenced action on the 3rd day of July, 2019.

13 DATED this 3rd day of July, 2019.

14 SNELL & WILMER L.L.P.

15 By: /s/ Brad Austin

16 John S. Delikanakis (Nevada Bar No. 5928)
17 Michael Paretti (Nevada Bar No. 13926)
18 Brad T. Austin (Nevada Bar No. 13064)

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22 Chicago, IL 60606

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25 Kimberley C. Weber
26 Nevada Bar No. 14434
27 McCracken, Stemerman
28 & Holsberry, LLP
1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102
Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen
3 (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be
4 served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF**
5 **FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING CCEA PARTIES'**
6 **MOTION TO ALTER OR AMEND COURT'S MAY 11, 2018 ORDER PURSUANT TO**
7 **NRCP 59(E) AND 60(B)** by the method indicated below:

| | | | |
|-------------|------------------------|-------|---------------------|
| 8 <u>XX</u> | Odyssey E-File & Serve | _____ | Federal Express |
| 9 _____ | U.S. Mail | _____ | U.S. Certified Mail |
| 10 _____ | Facsimile Transmission | _____ | Hand Delivery |
| 11 _____ | Email Transmission | _____ | Overnight Mail |

12 and addressed to the following:

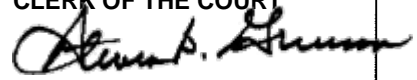
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Email: rpocker@bsflp.com
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Attorneys for Defendants

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BREDHOFF & KAISER, PLLC
805 15th Street N.W., Suite 1000
Washington, DC 20005
Email: ralexander@bredhoff.com
Email: mcdrexler@bredhoff.com
Email: glake@bredhoff.com
Attorneys for Defendants

19
20 DATED this 3rd day of July, 2019.

21 /s/ Ruby Lengsavath
22 An Employee of Snell & Wilmer L.L.P.

23
24
25
26
27
28
4812-2658-2427.1



John S. Delikanakis, Nevada Bar No. 5928
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11. “Among the ‘basic grounds’ for a Rule 59(e) motion are ‘correct[ing] manifest errors of law or fact,’ ‘newly discovered or previously unavailable evidence,’ the need ‘to prevent manifest injustice,’ or a ‘change in controlling law’.” *Id.* (citing *Coury v. Robison*, 115 Nev. 84, 124–27, 976 P.2d 518 (1999)). *See also*, *Lytle v. Rosemere Estates Prop. Owners*, 314 P.3d 946, 948 (Nev. 2013) (holding that Rule 59(e) applies to any appealable order).³ The requirements for filing a Rule 59(e) motion are minimal; in addition to being timely filed (no later than 10 days after service of written notice of entry of the judgment), the motion must “be in writing, . . . state with particularity [its] grounds [and] set forth the relief or order sought.” *Id.* at 1192.

12. NRCP 60(b) states that:

(b) On motion and upon such terms as are just, the court may relieve a party or a party’s legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation or other misconduct of an adverse party; (4) the judgment is void; or, (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that an injunction should have prospective application. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 6 months after the proceeding

³ Because this Court’s Order is injunctive in nature, it is appealable. *See* NRAP 3A(b)(3).

was taken or the date that written notice of entry of the judgment or order was served. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

B. The CCEA Parties Are Entitled to Modification of the May 11, 2018, Order

13. The Court has already determined that, as a matter of law: (1) the termination provisions of the underlying Service Agreement and Dues Transmittal Agreement are clear and unambiguous, (2) CCEA's letters notifying NSEA of the termination of the Service Agreement and Dues Transmittal Agreement are equally clear and unambiguous, (3) the Service Agreement and Dues Transmittal Agreement were terminated by CCEA within the required contractual timeframe, (4) this termination caused both agreements to expire on August 31, 2017, and (5) in light of the foregoing termination and expiration, CCEA owed no duties to NSEA/NEA under the Service Agreement or Dues Transmittal Agreement to collect and/or transmit membership dues on NSEA/NEA's behalf on or after September 1, 2017.

14. As determined by the Court in denying the NSEA Parties' Motions for Partial Summary Judgment on Bylaws and Conversion, and granting the CCEA Parties' Motion for Partial Summary Judgment, NSEA and NEA have no legal or contractual right to the funds held in the Restricted Account under the NSEA or NEA Bylaws, which Bylaws expressly rely upon the (terminated) Dues Transmittal Agreement for any obligation to transmit dues.

15. As determined by the Court in denying the NSEA Parties' Motions for Partial Summary Judgment on Bylaws and Conversion, and granting the CCEA Parties' Motion for Partial Summary Judgment, NSEA and NEA have no legal or contractual right to the funds held in the Restricted Account under the Membership Authorization Form, which Form is only between CCEA and the individual members.

16. As determined by the Court in denying the NSEA Parties' Motions for Partial Summary Judgment on Bylaws and Conversion, and granting the CCEA Parties' Motion for Partial

Summary Judgment, NSEA/NEA have no equitable right to the funds held in the Restricted Account

17. In light of this Court's findings that CCEA owed no duties to NSEA or NEA under the Service Agreement or Dues Transmittal Agreement to collect and/or transmit membership dues on NSEA/NEA's behalf on or after September 1, 2017, and that in the absence of a Dues Transmittal Agreement, there is no obligation for CCEA to transmit dues to NSEA or NEA, the underlying basis for the Court's May 11, 2018, Order no longer exists.

18. As such, the Court vacates the Restricted Account Order in its entirety and permits CCEA to disgorge and return the funds held in the Restricted Account to the individual CCEA members (including the individual NSEA Parties) from whom they were collected.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

That the CCEA Parties Motion is **GRANTED**;

That the Court's May 11, 2018, Order is **VACATED**; and

That CCEA shall return the funds held in the Restricted Account to CCEA's members, including any interest that accrued while the subject funds were held in the Restricted Account.

That this Order is stayed for 14 days of notice of entry, to permit NEA and NSEA to move for a stay pending appeal of this Order. If NEA and NSEA move in this Court for a stay of this Order within 14 days of notice of entry, this Order will remain stayed until disposition of the motion.

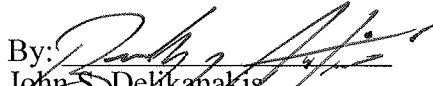
DATED: July 1, 2019


THE HONORABLE JUDGE KERRY EARLEY

A-17-761364-C

1 SNELL & WILMER L.L.P.

2 RESPECTFULLY SUBMITTED BY:

3 By: 
4 John S. Delikanakis
Nevada Bar No. 5928
5 Bradley T. Austin
Nevada Bar No. 13064
6 Michael Paretti
Nevada Bar No. 13926
7 SNELL & WILMER L.L.P.
3883 Howard Hughes Parkway, Suite 1100
8 Las Vegas, NV 89169

9 Joel A. D'Alba (*pro hac vice*)
200 West Jackson Blvd., Suite 720
10 Chicago, IL 60606

11 Richard G. McCracken
Nevada Bar No. 2748
12 Kimberley C. Weber
Nevada Bar No. 14434
13 McCracken, STEMERMAN
& HOLSBERY, LLP
14 1630 South Commerce Street, Suite 1-A
Las Vegas, NV 89102

15 *Attorneys for the CCEA Parties*

17 APPROVED AS TO FORM AND CONTENT BY:

19 By:
20 Richard J. Pocker
Nevada Bar No. 3568
Paul J. Lal
21 Nevada Bar No. 3755
BOIES SCHILLER FLEXNER LLP
22 300 South Fourth Street, Suite 800
Las Vegas, NV 89101

23 Robert Alexander (*pro hac vice*)
24 Matthew Clash-Drexler (*pro hac vice*)
BREDHOFF & KAISER, PLLC
25 805 15th Street N.W., Suite 1000
Washington, DC 20005

26 *Attorneys for the NSEA Parties*

27 4830-2271-3497

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

November 29, 2017

A-17-761364-C Clark County Education Association, Plaintiff(s)
vs.
Nevada State Education Association, Defendant(s)

November 29, 2017 3:00 AM All Pending Motions

HEARD BY: Israel, Ronald J. **COURTROOM:** RJC Courtroom 15C

COURT CLERK: Kathy Thomas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- MOTION TO ASSOCIATE COUNSEL (JAMES GRAHAM LAKE, ESQ.)...MOTION TO ASSOCIATE COUNSEL (JOHN M. WEST, ESQ.)...MOTION TO ASSOCIATE COUNSEL (MATTHEW CLASH-DREXLER, ESQ.)

Upon Court's review, COURT ORDERED, Above Motions to Associate Counsel, GRANTED. Moving Counsel to prepare the order.

CLERK'S NOTE: A copy of this minute order was e-served to all parties. kk 12/01/17.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****January 16, 2018**

A-17-761364-C Clark County Education Association, Plaintiff(s)
vs.
Nevada State Education Association, Defendant(s)

January 16, 2018**9:00 AM****All Pending Motions****All Pending Motions
(01/16/18)****HEARD BY:** Israel, Ronald J.**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Kathy Thomas**RECORDER:** Judy Chappell**REPORTER:****PARTIES**

| | | |
|-----------------|---------------------|----------|
| PRESENT: | Lake, James G. | Attorney |
| | Lal, Paul Joseph | Attorney |
| | Weber, Kimberley C. | Attorney |
| | West, John M. | Attorney |

JOURNAL ENTRIES

- Colloquy regarding Motion to Associate Joel D'Alba, Esq. Pro Hac Vice, that may have been submitted to Dept. 31, another related cases. Upon Court's inquiry, Ms. Weber noted the Defendant's filed their case after this case and she had just filed a motion to consolidate these cases. COURT ORDERED, Motion to Associate Joel D'Alba, Esq., GRANTED. Ms. Weber to prepare the order. Mr. West agreed both cases deal with an attempt to withhold money.

DEFENDANT NEVADA STATE EDUCATION ASSOCIATION'S PARTIAL MOTION TO DISMISS...INDIVIDUAL PLAINTIFF'S JOINDER IN THE CLARK COUNTY SCHOOL DISTRICT'S MOTION TO DISMISS: Arguments by Counsel. Mr. West stated Plaintiff's were asking for more than the general information they had asked for an independent audit. Court noted this is a Motion to Dismiss. Mr. D'Alba argued and noted the policy and the union members wanting to know if the dues are spent on political issues and the amount of dues paid are listed in the bi-laws. Further arguments. COURT stated its findings noting there are questions of fact and the high standard for a motion to dismiss and ORDERED, Motion & Joinder, DENIED. Court noted it was inappropriate to

request a full audit, However the oral request, there are questions of facts that need to be addressed at a later time. Court directed Plaintiff's Counsel to prepare the order and pass it by Defendants.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****May 02, 2018**

A-17-761364-C Clark County Education Association, Plaintiff(s)
 vs.
 Nevada State Education Association, Defendant(s)

| | | | |
|---------------------|----------------|--|---|
| May 02, 2018 | 3:00 AM | Motion to Associate Counsel | Motion to Associate Counsel - Robert Alexander, Esq. |
|---------------------|----------------|--|---|

HEARD BY: Israel, Ronald J.**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Kathy Thomas**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- On March 26th, 2018, Defendant filed a Motion to Associate Counsel, Robert Alexander, Esq. pursuant to Nevada Supreme Court Rule 42. The matter was subsequently placed on Department XXVIII's May 2, 2018 Chambers Calendar. Given there was no opposition and good cause set forth in the pleadings, the COURT ORDERED, Motion, GRANTED pursuant to EDCR 2.20 and EDCR 2.23, Nevada Supreme Court Rule 42 and on the merits. An order has been signed and is available for pick in the Department outbox on the 15th floor.

CLERK'S NOTE: A copy of this minute order was e-served to Counsel. kk/ -- 05/02/18.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract**COURT MINUTES****June 19, 2018**

A-17-761364-C Clark County Education Association, Plaintiff(s)
vs.
Nevada State Education Association, Defendant(s)

| | | | |
|----------------------|----------------|------------------------------|--|
| June 19, 2018 | 9:00 AM | Motion to Consolidate | Plaintiffs' Motion to Consolidate Cases A-17-761364-C and A-17-761884-C |
|----------------------|----------------|------------------------------|--|

HEARD BY: Israel, Ronald J.**COURTROOM:** RJC Courtroom 15C**COURT CLERK:** Kathy Thomas**RECORDER:** Judy Chappell**REPORTER:****PARTIES**

| | | |
|-----------------|---------------------|----------|
| PRESENT: | D'Alba, Joel A. | Attorney |
| | Delikanakis, John S | Attorney |
| | Pocker, Richard J. | Attorney |
| | West, John M. | Attorney |

JOURNAL ENTRIES

- Court noted the Court reviewed all the pleadings regarding this matter and noted the lower case has hearings pending before Judge Kishner. Mr. West argued against the Motion to Consolidate and stated this same motion was set in January and at that time it would have been appropriate, however the Plaintiff had withdrew their motion. Mr. West further noted the lower case proceeded and has discovery issues. Colloquy regarding judicial economy and the standard for a motion to consolidate. Court stated its findings and ORDERED, Motion to Consolidate A761364 and A761884, GRANTED. Discussions regarding the case reassignments taking place on July 1st to include Department 28 cases and the effect it could have in this case. Counsel inquired of the pending motions before Judge Kishner. Court directed the Plaintiff to prepare the order. Court stated, until the order is signed the consolidation does not take effect.

*****CASE A761884 CONSOLIDATED INTO A761364 (LEAD

CASE)*****

*****SEE LEAD CASE A761364 FOR ALL FUTURE

MINUTES*****

CLERK'S NOTE: Cases to be consolidated when Order to Consolidate is signed. /kk
06/19/18....Judge signed the Order to Consolidate 06/28/18. Email sent to Master Calendar to
consolidate cases. kk 06/29/18.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

August 01, 2018

A-17-761364-C Clark County Education Association, Plaintiff(s)
vs.
Nevada State Education Association, Defendant(s)

August 01, 2018

9:30 AM

All Pending Motions

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT: Alexander, Robert Attorney
D'Alba, Joel A. Attorney
Delikanakis, John S Attorney
Lal, Paul Joseph Attorney
Weber, Kimberley C. Attorney

JOURNAL ENTRIES

- Discovery Conference

Plaintiffs Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production

Discovery Conference - Letter to Commissioner from Mr. Delikanakis. It appears there was significant production. Commissioner stated there was no compliance with EDCR 2.40, and no sufficient 2.34 conference. Commissioner suggested continuing the Motion to allow the parties to meet and confer. Commissioner would like a detailed list from counsel. Arguments by counsel. Commissioner advised all counsel to file documents in the lead case. Department 4 case. No Trial date.

COMMISSIONER RECOMMENDED, Plaintiffs Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production is CONTINUED; provide supplemental briefs by 9-7-18; contact Commissioner if a new date is needed. Commissioner stated Mr. Delikanakis can file a Motion to Compel on OST.

Counsel anticipate two days for trial re: Breach of contract; no Settlement Conference requested. Colloquy. COMMISSIONER RECOMMENDED, discovery cutoff is 3-29-19; adding parties and amended pleadings are CLOSED; experts are Not Applicable; file dispositive motions by 5-29-19. Scheduling Order will issue. Trial ready 7-29-19.

9-7-18 10:00 a.m.

Plaintiffs Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

September 26, 2018

A-17-761364-C Clark County Education Association, Plaintiff(s)
vs.
Nevada State Education Association, Defendant(s)

**September 26, 2018 9:30 AM Motion to Compel COURT CALL -
Plaintiffs' Motion to
Compel Complete
Responses to Their
First Set of
Interrogatories and
Their First Set of
Requests for
Production**

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT: Alexander, Robert Attorney
D'Alba, Joel A. Attorney
Delikanakis, John S Attorney
Lal, Paul Joseph Attorney

JOURNAL ENTRIES

- Mr. Alexander stated Judge Earley moved dispositive Motions to 10-25-18, and counsel requested to continue the Hearing after 10-25-18. Mr. Delikanakis is working with Chambers to move the date (possibly November). COMMISSIONER RECOMMENDED, Part of Motion CONTINUED. Commissioner addressed 1) date for Plaintiff/Mr. Delikanakis by which to complete document production, and 2) if post disaffiliation documents are discoverable. Disaffiliation occurred April 24, 2018. Arguments by counsel. Upon Commissioner's inquiry, Mr. Delikanakis stated dues collected from up until disaffiliation are in the restricted account. Mr. Delikanakis stated Defts want Board

Minutes post-disaffiliation, but they are not entitled to the inner workings of the organization. Mr. Delikanakis stated dues continue to be collected. Commissioner advised Mr. Delikanakis to maintain and preserve minutes and other related items.

COMMISSIONER RECOMMENDED, post-disaffiliation documents are PROTECTED pending resolution by Judge Earley. Mr. Delikanakis has a plan to produce documents; Defense counsel provided search terms, and eight servers are being searched. COMMISSIONER RECOMMENDED, all sides will keep working on document production, and everyone will give Commissioner an updated on 11-14-18, and Commissioner will consider parameters to ensure production is timely. Commissioner declined to put a certain date on it at this time; disclose information as timely as possible. Advise Commissioner the timeframe to complete document production. July 2019 Trial date. The Report and Recommendation is needed on two issues as discussed. Mr. Delikanakis will prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

11-16-18 10:30 a.m. Further Proceedings: Plaintiffs' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production
(11-14-18 hearing reset to 11-16-18)

CLERK'S NOTE: At the request of counsel, the above continued hearing was moved to 11-16-18 at 9:00 a.m. (jl 10-16-18)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

November 13, 2018

A-17-761364-C Clark County Education Association, Plaintiff(s)
vs.
Nevada State Education Association, Defendant(s)

November 13, 2018 2:00 PM Minute Order

HEARD BY: Earley, Kerry

COURTROOM: Chambers

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- This matter came before the Court on Nevada State Education Association s Motion to File Bank Records Under Seal, filed June 22, 2018 by counsel Richard J. Pocker, Esq. Having received no Opposition to the matter and pursuant to EDCR 2.20 and for good cause showing, the Court hereby GRANTS the Motion to File Bank Records Under Seal. Counsel for Nevada State Education Association to prepare and submit the Order. The hearing on the Motion to File Bank Records Under Seal scheduled November 15, 2018 at 9:00 a.m. is hereby vacated.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder(s) of: Richard McCracken, Esq. (mccracken@dcbsf.com) and Richard Pocker, Esq. (rpocker@bsflp.com) //ev
11/13/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

November 15, 2018

A-17-761364-C Clark County Education Association, Plaintiff(s)
vs.
Nevada State Education Association, Defendant(s)

November 15, 2018 9:00 AM

All Pending Motions

HEARD BY: Earley, Kerry

COURTROOM: RJC Courtroom 12D

COURT CLERK: Elizabeth Vargas

RECORDER: Sharon Nichols

REPORTER:

PARTIES

| | | |
|-----------------|------------------------|----------|
| PRESENT: | Alexander, Robert | Attorney |
| | Clash-Drexler, Matthew | Attorney |
| | D'Alba, Joel A. | Attorney |
| | Delikanakis, John S | Attorney |
| | Lake, James G. | Attorney |
| | Lal, Paul Joseph | Attorney |
| | Paretti, Michael | Attorney |

JOURNAL ENTRIES

- PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Court reviewed the pleadings and provided initial thoughts. Arguments by counsel regarding the Motion. Court stated there were questions of law and inquired regarding the agreements. Mr. Delikanakis argued NSEA funds should be returned back to the teachers, and requested the Motion be granted. Mr. Alexander and Mr. Delikanakis provided further reply regarding dues and agreements. COURT ORDERED, matter TAKEN UNDER SUBMISSION.

PLAINTIFFS' MOTION TO DISMISS SECOND AMENDED COUNTERCLAIM [SUB CASE]

Arguments by counsel regarding whether NEA was a proper party to the service agreement, and there was a claim for information under the NSEA bylaws. COURT ORDERED, Motion to Dismiss

GRANTED.

DEFENDANTS-COUNTER PLAINTIFFS CLARK COUNTY EDUCATION ASSOCIATION'S, JOHN VELLARDITA'S AND VICTORIA COURTNEY'S NOTICE OF MOTION AND PARTIAL MOTION TO DISMISS SECOND AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Following arguments by counsel, COURT ORDERED, Motion GRANTED IN PART; as to Count 7 granted as to Defendants Victoria Courtney and John Vellardita, dismissed as to other Defendants; ruling for Count 8 ruling deferred; Count 9 denied at the pleading stage as a matter of law.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

November 15, 2018

A-17-761364-C Clark County Education Association, Plaintiff(s)
vs.
Nevada State Education Association, Defendant(s)

November 15, 2018 2:00 PM Minute Order

HEARD BY: Earley, Kerry

COURTROOM: Chambers

COURT CLERK: Elizabeth Vargas

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- This matter came before the Court for Clark County Education Association s (CCEA) Motion for Partial Summary Judgment and Partial Motion to Dismiss Nevada State Education Association s (NSEA) Seconded Amended Complaint, and NSEA s Motion to Dismiss CCEA s Second Amended Counterclaim. Having reviewed all points, authorities, and exhibits, along with oral arguments by counsel, the Court hereby enters its decision on the issues remaining in these matters: (1) CCEA s Motion for Partial Summary judgment, and (2) CCEA s Motion to Dismiss Count 8 of NSEA s Second Amended Complaint.

In regards to CCEA s Motion for Partial Summary Judgment, the Court finds there are no genuine issues of material facts concerning whether the Service Agreement and Dues Transmittal Agreement were terminated. CCEA sent multiple letters to NSEA informing NSEA that the Agreements were being terminated. The Court finds these letters to NSEA terminated the Service Agreement and the Dues Transmittal Agreement pursuant to the terms of the agreements. The Service Agreement and Dues Transmittal Agreement allowed for unilateral termination. Therefore, CCEA s Motion for Partial Summary Judgment is GRANTED.

Due to the Court s finding that the Service Agreement and Dues Transmittal Agreement properly terminated on August 31, 2017, CCEA s Motion to Dismiss Count 8 of NSEA s Second Amended

Complaint is GRANTED. Counsel for CCEA to prepare the Findings of Fact, Conclusions of Law, and Orders, to be approved as to form and content by Counsel for NSEA.

CLERK'S NOTE: A copy of this minute order was emailed to the following: Joel D' Alba, Esq. (JAD@ulaw.com), Michael Paretti, Esq. (mparetti@swlaw.com), Richard Pocker, Esq. (rpocker@bsfllp.com), Matthew Clash-Drexler, Esq. (mcdrexler@bredhoff.com). //ev 11/15/18

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

November 16, 2018

A-17-761364-C Clark County Education Association, Plaintiff(s)
vs.
Nevada State Education Association, Defendant(s)

| | | | |
|--------------------------|----------------|-------------------------|--|
| November 16, 2018 | 9:00 AM | Motion to Compel | COURT CALL - NSEA Parties' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production (Motion filed in A761884 on 6- 29-18 and NSEA Parties are Plaintiffs in A761884/ Consolidated 7-2-18 in Notice of Entry of Order) |
|--------------------------|----------------|-------------------------|--|

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

| | | |
|-----------------|---------------------|----------|
| PRESENT: | D'Alba, Joel A. | Attorney |
| | Delikanakis, John S | Attorney |
| | Lake, James G. | Attorney |
| | Lal, Paul Joseph | Attorney |

JOURNAL ENTRIES

- Mr. Delikanakis stated Judge Earley Granted Clark County Education Association's Motion for

PRINT DATE: 07/17/2019 Page 16 of 19 Minutes Date: November 29, 2017

Partial Summary Judgment as to the Declaratory Relief claim, Count 8, and found as a matter of law that the Transmittal Agreement and Services Agreement were terminated as of 8-31-17. This Court was waiting to see if Judge Earley would rule that dis-affiliation cutoff the duty to transmit (cutoff as of 8-31-17). Mr. Delikanakis is reviewing 26,000 pages of documents. Colloquy re: documentation production. Mr. Delikanakis didn't believe there would be expert disclosures in light of the Summary Judgment Motion. Mr. Lal somewhat agreed. Discovery cutoff is the end of March 2019. Bench Trial is 8-5-19. Arguments by counsel.

The Motion is NSEA Parties' Motion to Compel Complete Responses to Their First Set of Interrogatories and Their First Set of Requests for Production. COMMISSIONER RECOMMENDED, motion is GRANTED IN PART and DENIED IN PART; GRANTED for additional documents as discussed by 1-4-19; DENIED related to post dis-affiliation documents, and Commissioner continued to PROTECT that group of documents. Commissioner stated counsel can bring a Motion to Reconsider, or counsel can file an Objection with the District Court Judge.

Commissioner understood Plaintiffs' counsel was going to provide relevant drafts of documents. Commissioner Will Not address it today, but if privilege is raised, prepare a privilege log for redactions made to documents. Commissioner provided a cautionary note concerning the Rules of Civil Procedures are being re-written to mirror the Federal Rules in many respects. Arguments by counsel. Commissioner stated it is premature to address the issue, and Commissioner asked counsel to make a good faith effort to review documents, and drafts of key documents should be produced unless there is a reason to protect them. Commissioner will address the privilege log by separate Motion if necessary. Colloquy re: Rule 34(d). If counsel cannot figure it out, have a 2.34 conference or file a Motion if counsel cannot agree.

No discovery modification today. Prepare a 2.35 Stipulation, or file a Motion. Commissioner Will Not move the trial date. Request would be made to the Judge. Commissioner is available by conference call. Mr. Lake requested rolling production. Commissioner already provided the date. Rolling production is Not Recommended as discussed. Mr. Lal to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 10 days of the hearing. Otherwise, counsel will pay a contribution.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

May 09, 2019

A-17-761364-C Clark County Education Association, Plaintiff(s)
vs.
Nevada State Education Association, Defendant(s)

May 09, 2019

9:00 AM

All Pending Motions

HEARD BY: Earley, Kerry

COURTROOM: RJC Courtroom 12D

COURT CLERK: Natalie Ortega

RECORDER: Rubina Feda

REPORTER:

PARTIES

PRESENT: Alexander, Robert Attorney
 D'Alba, Joel A. Attorney
 Delikanakis, John S Attorney
 Lal, Paul Joseph Attorney
 Paretti, Michael Attorney

JOURNAL ENTRIES

- MOTION FOR RECONSIDERATION MOTION FOR PARTIAL SUMMARY JUDGMENT MOTION
TO AMEND COMPLAINT OPPOSITION AND COUNTERMOTION .MOTION FOR PARTIAL
SUMMARY JUDGMENT

James G. Lake, Esq. also present on behalf of Defendant Danan Galvin.

AS TO NSEA PARTIES MOTION FOR PARTIAL RECONSIDERATION OF THE December 20
FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER:

Arguments by counsel. Colloquy regarding the word 'contractual'. COURT ORDERED, motion
GRANTED as to paragraph (12) and DENIED WITHOUT PREJUDICE as to paragraphs six, eight,
nine, and 10 (6, 8, 9 and 10).

AS TO NSEA AND NEA PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO COUNT SIX (6) CONVERSION CLAIM:

Arguments by counsel. COURT stated FINDINGS and ORDERED, Nsea And Nea Plaintiffs' Motion For Partial Summary Judgment As To Count Six (6) Conversion Claim DENIED.

AS TO CCEA MOTION FOR SUMMARY JUDGMENT AS TO COUNT SIX (6) CONVERSION CLAIM and COUNT FIVE (5):

COURT ORDERED, count six (6) GRANTED as to conversion. COURT FURTHER ORDERED, count five (5) GRANTED as to unjust enrichment.

Colloquy regarding the accounting issue and disbursement of funds. COURT NOTED those issues would be addressed at a later date.

COURT ORDERED, count seven (7) GRANTED fraud as to damages.

As to CCEA's Motion as to Count nine (9) GRANTED as there was no genuine issue of material facts, the Court relies on the affidavit.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

November 14, 2017

A-17-761884-C Nevada State Education Association, Plaintiff(s)
vs.
Clark County Education Association, Defendant(s)

November 14, 2017 9:30 AM All Pending Motions

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Kristen Brown

RECORDER: Sandra Harrell

REPORTER:

PARTIES

PRESENT: Lal, Paul Joseph Attorney
 Ricciardi, Mark J. Attorney

JOURNAL ENTRIES

- Holly Walker, Esq., also present on behalf of Clark County School District.

MOTION TO ASSOCIATE COUNSEL JOHN M. WEST: There being no opposition, COURT ORDERED, Motion GRANTED. Order SIGNED IN OPEN COURT.

DEFT. CLARK COUNTY SCHOOL DISTRICT'S MOTION TO DISMISS: Court disclosed that prior to this Court did extensive labor work. Counsel stated that they have no concerns or objections to this Court continuing with this case. Arguments by counsel. Court stated its findings and ORDERED, Motion and Joinder is GRANTED; FURTHER ORDERED, 54(b) Certification is GRANTED. Colloquy between Court and counsel as to the Motions to Associate Counsel set for December 1, 2017. COURT ORDERED, the Motions to Associate Counsel are RESET to November 17, 2017 and if the Court receives any oppositions by November 16, 2017 then it will be put back on calendar for hearing on December 1, 2017. Court DIRECTED Mr. Ricciardi to prepare the Order, circulate it to all parties and to the Court in accordance with EDCR 7.21.

11/17/17 3:00 AM MOTION TO ASSOCIATE COUNSEL...MOTION TO ASSOCIATE COUNSEL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

January 16, 2018

A-17-761884-C Nevada State Education Association, Plaintiff(s)
vs.
Clark County Education Association, Defendant(s)

| | | | |
|-------------------------|-----------------|--------------------------|---|
| January 16, 2018 | 10:00 AM | Motion to Dismiss | Defendants Clark County Education Association's, John Vellardita's and Victoria Courtney's Partial Motion to Dismiss and Supporting Memorandum |
|-------------------------|-----------------|--------------------------|---|

HEARD BY: Kishner, Joanna S.

COURTROOM: RJC Courtroom 12B

COURT CLERK: Tena Jolley

RECORDER: Sandra Harrell

REPORTER:

PARTIES

| | | |
|-----------------|---------------------|----------|
| PRESENT: | D'Alba, Joel A. | Attorney |
| | Lake, James G. | Attorney |
| | Lal, Paul Joseph | Attorney |
| | Weber, Kimberley C. | Attorney |
| | West, John M. | Attorney |

JOURNAL ENTRIES

- Stipulation to permit Joel D'Alba, Esq. to appear pro hac vice provided for the Court's review and consideration. Order SIGNED IN OPEN COURT and returned to counsel for filing. Pursuant to the parties waiver on the Notice of Entry of Order, Mr. D'Alba will be permitted to argue the motion today. Following arguments by Mr. D'Alba and Mr. Lake, COURT ORDERED, Motion to Dismiss DENIED IN PART and GRANTED IN PART; DENIED WITHOUT PREJUDICE as to Unjust Enrichment and with regard to the individual defendants, John Vellardita and Victoria Courtney;

GRANTED as to Fraud. COURT FURTHER ORDERED Countermotion for Leave to Amend GRANTED, Plaintiff has 20 days from Notice of Entry of Order to file its Amended Complaint. Defense counsel to prepare the Order and circulate to counsel pursuant to EDCR 7.21.

April 03, 2018

Minutes Date: November 14, 2017

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

April 19, 2018

A-17-761884-C Nevada State Education Association, Plaintiff(s)
vs.
Clark County Education Association, Defendant(s)

April 19, 2018 2:30 PM Telephonic Conference

HEARD BY: Kishner, Joanna S. **COURTROOM:** RJC Courtroom 12B

COURT CLERK: Tena Jolley

RECORDER: Rubina Feda

REPORTER:

PARTIES

PRESENT: D'Alba, Joel A. Attorney
 Delikanakis, John S Attorney
 Lal, Paul Joseph Attorney
 Paretti, Michael Attorney
 Weber, Kimberley C. Attorney
 West, John M. Attorney

JOURNAL ENTRIES

- Also appearing, Robert Alexander, Esq. and indicated he currently has a pro hac vice application pending.

The Court made a disclosure about a possible conflict of interest and inquired of the parties position regarding whether there would be a waiver of any conflict or a request that the Court recuse. Mr. D'Alba requested that he have an opportunity to confer with local counsel and Mr. Delikanakis suggested the parties could submit their respective positions by letter to Chambers by 10:00 a.m. on Friday, April 20, 2018. Upon the Court's receipt of the parties' position, the Court will determine whether to set a hearing regarding the Court's recusal to be heard prior to the pending motions currently set for April 24, 2018.

April 23, 2018

PRINT DATE: 07/17/2019 Page 6 of 16 Minutes Date: November 14, 2017

agreement between the parties, PRELIMINARY INJUNCTION HEARING HELD:

John Vellardita SWORN and TESTIFIED. Exhibits OFFERED and ADMITTED; Objection to Exhibit D-1 sustained and no admitted (see Worksheet). Following witness testimony, Mr. D'Alba and Mr. West provided their summations, answered the Court's inquiries, COURT ORDERED RULING DEFERRED until the vote on disaffiliation and CONTINUED FOR DECISION. Anyone wanting to appear by Court Call, the request is DUE by Friday, April 27, 2018.

CONTINUED FOR DECISION TO: 5/1/18 9:30 AM

SHOW CAUSE HEARING: ORDER TO SHOW CAUSE WHY AN ORDER FOR ATTACHMENT AND GARNISHMENT SHOULD NOT ISSUE

Mr. Alexander argued for a requested the Court issue a Writ of Attachment. Mr. Delikanakis argued there has to be extraordinary circumstances; that this is an abuse of the Writ of Attachment process as there is no certainty of what the damages are or equitable reasons; that CCEA should not be penalized for placing the funds into a separate account. Following further representations by counsel, the Court stated its inclination for a modified resolution to put a restriction on the account, that no funds can be released without a Court Order, which addressed both sides' concerns and eliminates the injunction issue. MATTER TRAILED for counsel to confer. MATTER RECALLED with all present as before. Mr. Alexander indicated a strict escrow account upon Order of the Court and be provided a list of the members for whom the dues are being placed for purposes of NSEA determination of members dues being paid. Mr. Delikanakis indicated the money could be transmitted to the restricted account every two weeks; that two weeks from today they can provide a total amount in the account and the list of the employees numbers (not the names of the employees). Mr. Alexander asserted that it most important that they receive evidence from the bank showing when the monies were transferred and that they are in there and a separate agreement of a restriction of the account that forbids any monies being withdrawn without a Court Order. Mr. Delikanakis requested that a Bond be posted on the amount reconciled by the end of the month. As there was an affirmative representation to the Court that the funds would not be dissipated, COURT ORDERED Order for Attachment and Garnishment GRANTED AS MODIFIED AND ORDERED the funds that the parties have characterized that traditionally had been collected bi-monthly, the \$377.66 in annual NSEA and \$189.00 to NEA, that all funds through April 23, 2018, need to be deposited no later than April 30, 2018, with a monthly reporting. That the funds are maintained in an restricted account whereby any withdraw will require an Order of this Court. COURT FURTHER ORDERED an accounting is to be provided five (5) days after the last day of the month and matter SET for Status Check in sixty (60) days. Mr. Lal offered to prepare the Order within ten (10) days pursuant to EDCR 7.21.

6/26/18 9:30 AM STATUS CHECK

DEFENDANTS - COUNTER PLAINTIFFS CLARK COUNTY EDUCATION ASSOCIATION'S, JOHN

VELLARDITA'S AND VICTORIA COURTNEY'S PARTIAL MOTION TO DISMISS AMENDED
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

At the request of the movant, COURT ORDERED, matter OFF CALENDAR, to be renoticed.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Contract

COURT MINUTES

April 25, 2018

A-17-761884-C Nevada State Education Association, Plaintiff(s)
vs.
Clark County Education Association, Defendant(s)

| | | | |
|-----------------------|----------------|------------------------|---|
| April 25, 2018 | 9:30 AM | Motion to Quash | COURT CALL - Defendants - Counter Plaintiffs Clark County Education Association's, John Vellardita's and Victoria Courtney's Motion to Quash Subpoena Duces Tecum for Business Records of Bank of America on OST |
|-----------------------|----------------|------------------------|---|

HEARD BY: Bulla, Bonnie

COURTROOM: RJC Level 5 Hearing Room

COURT CLERK: Jennifer Lott

RECORDER: Francesca Haak

REPORTER:

PARTIES

PRESENT: Delikanakis, John S Attorney
 Lal, Paul Joseph Attorney

JOURNAL ENTRIES

- Robert Alexander, Esquire, for Plaintiff.

Argument by Mr. Delikanakis. COMMISSIONER RECOMMENDED, motion is GRANTED IN PART; 1 - for account ending in 4739, and Subpoena is MODIFIED to 9-1-17 through the present time with an ongoing obligation to provide monthly statements until the matter is resolved; 2 and 3 are

PROTECTED at the present time. Argument by Mr. Alexander. COMMISSIONER RECOMMENDED, 3 is PROTECTED; statements will show deposits and withdrawals. If counsel feels there is relevant information, bring the issue back to Commissioner's attention. Mr. Delikanakis to prepare the Report and Recommendations, and counsel to approve as to form and content. A proper report must be timely submitted within 20 days of the hearing. Otherwise, counsel will pay a contribution.

May 01, 2018

| | | | |
|--------------|---------|-----------------------------------|---|
| May 01, 2018 | 9:30 AM | Motion for Preliminary Injunction | Defendants - Counter Plaintiffs Clark County Education Association's, John Vellardita's and Victoria Courtney's Motion for Injunction |
|--------------|---------|-----------------------------------|---|

COURTROOM: RJC Courtroom 12B

REPORTER:

| | | |
|-----------------|---------------------|----------|
| PRESENT: | D'Alba, Joel A. | Attorney |
| | Delikanakis, John S | Attorney |
| | Lake, James G. | Attorney |
| | Lal, Paul Joseph | Attorney |
| | Paretti, Michael | Attorney |
| | West, John M. | Attorney |

- Mr. D'Alba, Mr. West and Mr. Lake appearing by Court Call.

Mr. D'Alba state the CCEA voted to disassociate and the motion can be withdrawn and ruled as moot. Mr. West had no objection to the motion being denied as moot. COURT ORDERED, Defendants - Counter Plaintiffs Clark County Education Association's, John Vellardita's and Victoria Courtney's Motion for Injunction DENIED as moot.

Court noted there is a pending Motion to Dismiss that should be rescheduled. Mr. D'Alba requested that the motion be heard by telephone conference call. Colloquy regarding scheduling and waiver on local counsel rule. Mr. West indicated counsel would confer and contact Chambers for scheduling.

Mr. D'Alba asked if they could receive permission from the Court by oral statement today or by written motion to return the dues collected after May 1, 2018 to the members. Mr. West was not stipulating to an oral statement today and requested an opportunity to respond to a written motion. As there was no agreement by counsel, Court will require a written motion be properly noticed and appearance by Court Call is APPROVED.

CASE)*****

*****SEE LEAD CASE A761364 FOR ALL FUTURE

MINUTES*****

CLERK'S NOTE: Cases to be consolidated when Order to Consolidate is signed. /kk
06/19/18....Judge signed the Order to Consolidate 06/28/18. Email sent to Master Calendar to
consolidate cases. kk 06/29/18.

June 26, 2018

| | | | |
|---------------|---------|--------------|---|
| June 26, 2018 | 9:30 AM | Status Check | Status Check Re Modified Order for Attachment from Show Cause Hearing 4/23/18 |
|---------------|---------|--------------|---|

COURTROOM: RJC Courtroom 12B

REPORTER:

| | | |
|-----------------|---------------------|----------|
| PRESENT: | Alexander, Robert | Attorney |
| | Delikanakis, John S | Attorney |
| | Pocker, Richard J. | Attorney |

- Robert Alexander, Esq. appearing by Court Call.

Court noted this case has been consolidated with Judge Israel's case, noted today's hearing was to confirm the Order had been entered on the April 23, 2018, hearing, and anything that may be the parties' interpretation down road would be more appropriate brought before the Consolidated case because there is nothing currently pending in this Department. Mr. Alexander indicated there is an issue with the compliance of that order and wanted to raise the issue regarding compliance as it would be appropriate to address the issue with this Court as it is under the jurisdiction of Department 31; and while it is true the cases will be consolidated, there was a question of how to raise the issue with Department 28. Under local rules, there must be one judicial day's notice to allow for a response, and there is currently no motion before this Court, and the case is now properly before Department 28 pursuant to the Order for Consolidation. Court further noted the Motion to File Bank

Records Under Seal will be heard in Department 28.

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; NOTICE OF POSTING BON PURSUANT TO NRAP 7; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE CLARK COUNTY EDUCATION ASSOCIATION PARTIES' MOTION FOR PARTIAL SUMMARY JUDGMENT AND DENYING THE NEVADA STATE EDUCATION ASSOCIATION PARTIES' MOTIONS FOR PARTIAL SUMMARY JUDGMENT; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING THE CLARK COUNTY EDUCATION ASSOCIATION PARTIES' MOTION FOR PARTIAL SUMMARY JUDGMENT AND DENYING THE NEVADA STATE EDUCATION ASSOCIATION PARTIES' MOTION FOR PARTIAL SUMMARY JUDGMENT; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART AND DENYING IN PART THE NSEA PARTIES' MOTION FOR PARTIAL RECONSIDERATION OF THE DECEMBER 20 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING IN PART AND DENYING ON PART THE NSEA PARTIES' MOTION FOR PARTIAL RECONSIDERATION OF THE DECEMBER 20, 2018 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING CCEA PARTIES' MOTION TO ALTER OR AMEND COURT'S MAY 11, 2018 ORDER PURSUANT TO NRCP 59(E) AND 60(B); NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING CCEA PARTIES' MOTION TO ALTER OR AMEND COURT'S MAY 11, 2018 ORDER PURSUANT TO NRCP 59(E) AND 60(B); DISTRICT COURT MINUTES (A761364); DISTRICT COURT MINUTES (A761884)

CLARK COUNTY EDUCATION
ASSOCIATION; VICTORIA COURTNEY;
JAMES FRAZEE; ROBERT G.
HOLLOWOOD; MARIE NEISESS,

Plaintiff(s),

vs.

NEVADA EDUCATION ASSOCIATION;
DANA GALVIN; RUBEN MURILLO, JR.;
BRIAN WALLACE; BRIAN LEE,

Defendant(s),

Case No: A-17-761364-C
Consolidated with A-17-761884-C
Dept No: IV

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 17 day of July 2019.

Steven D. Grierson, Clerk of the Court

A handwritten signature in black ink, appearing to read 'Amanda Hampton', is written over a faint, circular court seal. The seal contains the text 'UNITED STATES DISTRICT COURT OF THE EIGHTH JUDICIAL DISTRICT LAS VEGAS, NEVADA'.

Amanda Hampton, Deputy Clerk
A-17-761364-C

July 15, 2019

To: Nevada Supreme Court

\$250.00

Notice of Appeal

09976.0001

