

IN THE SUPREME COURT OF THE STATE OF NEVADA

DESIRE EVANS-WAIAU,
individually; GUADALUPE
PARRA-MENDEZ, individually,

Appellants,

vs.

BABYLYN TATE, individually,

Respondent.

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Elizabeth A. Brown
Clerk of Supreme Court
Case No. 79424

**APPELLANTS DESIRE EVANS-WAIAU AND GUADALUPE
PARRA-MENDEZ’S NOTICE OF SUPPLEMENTAL AUTHORITIES**

NOTICE IS HEREBY GIVEN that pursuant to NRAP 31(e), the following supplemental authorities are relevant and pertinent to the legal issues addressed in Appellants Desire Evans-Waiau and Guadalupe Parra-Mendez’s (“Appellants”) Petition for Review, filed on August 9, 2021.

Motor Coach Indus. v. Khiabani, 137 Nev. ___, 493 P.3d 1007 (Aug. 19, 2021).

Appellants supplement page 8 of their Petition for Review. Appellants cite to *Motor Coach* to further illustrate that a timely objection is sufficient to properly preserve an issue for appeal in various legal

contexts as a matter of Nevada law:

Respondents contend that many of the issues raised by MCI in this appeal were not preserved in MCI's original NRCP 50(a) motion. We disagree. This Court has long recognized, in relation to preserving error under NRCP 51, that "[c]ounsel, in the heat of a trial, cannot be expected to respond with all the legal niceties and nuances of a brief writer. *Otterbeck v. Lamb*, 85 Nev. 456, 460, 456 P.2d 855, 858 (1969). The same principle applies to preservation under NRCP 50(a)-(b). In its oral NRCP 50(a) motion for judgment as a matter of law, MCI sufficiently, albeit briefly, put forth its arguments such that they are adequately preserved for appeal.

Motor Coach, 493 P.3d at 1011 n.2.

Capriati Constr. Corp., Inc. v. Yahyavi, 137 Nev. Adv. Op. 69 (Nov. 10, 2021).

Appellants supplement pages 19 through 22 of their Petition for Review. Appellants cite to *Capriati Constr.* to further establish that ability to pay arguments, like the arguments made by Respondent Babylyn Tate's trial counsel, constitute attorney misconduct and are prohibited as a matter of Nevada law:

The record shows that Capriati intentionally elicited inadmissible testimony describing its bankruptcy. See RPC 3.4(e) (providing that a lawyer's allusion to any matter unsupported by admissible evidence is misconduct); see also *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th

Cir. 1977) (explaining “that the financial standing of the defendant is inadmissible as evidence [to] determine[e] . . . compensatory damages”).

Capriati Constr., 137 Nev. Adv. Op. at *4-5.

DATED this 18th day of November, 2021.

Respectfully Submitted,

/s/ Kevin T. Strong

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this document was filed electronically with the Supreme Court of Nevada on the 18th day of November, 2021. Electronic service of the foregoing document entitled **APPELLANTS DESIRE EVANS-WAIAU AND GUADALUPE PARRA-MENDEZ'S NOTICE OF SUPPLEMENTAL AUTHORITIES** shall be made in accordance with the Master Service List as follows:

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