IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

RAJWANT KAUR,

Appellant/Cross-Respondent,

vs.

JASWINDER SINGH,

Respondent/Cross-Appellant.

CASE NO. 80090

APPELLANT'S REPLY BRIEF AND CROSS-ANSWERING BRIEF

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NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the justices of this court may evaluate possible disqualification or recusal.

1. All parent corporations and publicly-held companies owning 10 percent or more of the party's stock: None.

2. Names of all law firms whose attorneys have appeared for the party or amicus in this case (including proceedings in the district court or before an administrative agency) or are expected to appear in this court:

Kainen Law Group, PLLC

Law Offices of F. Peter James, Esq.

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3. If litigant is using a pseudonym, the litigant's true name: None.

Dated this 17 day of June, 2020.

By: ______________________

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ROUTING STATEMENT

Pursuant to NRAP 17(b)(10) this is an appeal from a family law decision which is presumptively assigned to the Court of Appeals. Rajwant agrees that the issues within the cross-appeal are appropriate for the Court of Appeals. However, pursuant to NRAP 17(a)(11) and (12), there are issues within the initiating appeal which should be heard by the Supreme Court. Those matters have been identified in the Routing Statement for Rajwant's Opening Brief.

ARGUMENT

I. Jaswinder's Answering Brief/Cross-Opening Brief Is Insufficient

Respondent/Cross-Appellant's Answering Brief/Cross-Opening Brief ("*Answering Brief*") fails to consider, or address, the numerous citations to the record Rajwant has provided, which evidence clearly supports her claims in this appeal. Rather, Jaswinder focuses on twisting limited statements (many of which are arguments from the preliminary papers, not the evidence presented at trial) in an effort to support the claims and positions the District Court already found to be not credible. (**AA VII: 0284** - the Order specifically drafted by Jaswinder).

In the interests of judicial economy, because many of Jaswinder's "factual," and legal assertions from his Statement of the Case and Statement of

Facts are repeated and relevant within Jaswinder's argument itself, Rajwant will address those matters within her responsive argument. Rajwant has provided her statement of the case and statement of facts within her Opening Brief. Jaswinder's statements do not contain sufficient independent facts to require an additional statement, he has merely provided his "version," of the facts and case history that Rajwant has already provided. Jaswinder's Answering Brief is an attempt to rehash his claims and get someone to believe him.

But credibility determinations and the weighing of evidence are the purview of the trier of fact. *Grosjean v. Imperial Palace, Inc.,* 125 Nev. 349, 366, 212 P.3d 1068, 1080 (2009). This Court will not "reweigh credibility on appeal." *Ellis v. Carucci,* 123 Nev. 18, 161 P.3d 239, 244 (2007). Therefore, Jaswinder's version of the facts is not what this Court should rely upon. Rather, this Court should presume that the Court "believed all evidence favorable to" Rajwant. *Supra* at 1080.

Ultimately, this case is strictly a matter of law. The issues on appeal are not "whether or not Rajwant proved coercion," despite the multiple times Jaswinder insists that is what is being appealed.[1] The issues are whether Rajwant

[1] Jaswinder is the one attempting to "cloud the real issues," not Rajwant. Jaswinder's brief continually insists that Rajwant is appealing whether or not she "proved" coercion, despite

was absolutely required to prove coercion, or if the District Court's understanding and application of *Vaile v. Eighth Judicial Dist. Ct.*,118 Nev. 262, 44 P.3d 506 (2002) (absolutely requiring proof of coercion) was inaccurate. Alternatively, Rajwant has asked this Court to consider if *Vaile* itself creates an inequitable result, and if the District Court could have, or should have considered NRCP 60(b)(6) or NRCP 60(d)(3) as alternatives to NRCP 60(b)(3) and the application of *Vaile.*

Jaswinder also spends limited-to-no time actually addressing Rajwant's legal analysis. Instead, he focuses almost exclusively on his claim that Rajwant's Motion was time-barred and the allegation that she raised arguments on appeal that were not addressed in the District Court. Neither of Jaswinder's arguments in this matter are accurate.

A. <u>The Court Did Not Err in Setting the Trial on this Matter</u>

Jaswinder claims that:

> [t]he deadline to set aside a fraud claim is six months under, but more realistically three years, under the statutory limitations periods. The deadline for setting aside a Decree as to it being void is less than two years. (*Answering Brief* Page vii, lines 3-7).

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the fact Rajwant is not appealing this. *Answering Brief,* Page 17, lines 10-14.

There is *no* citation for those claims. They are referenced again, without citation on page 5, lines 5-7. It is only on page 7, where Jaswinder finally provides any citation, and the citation provided *does not* stand for the premise he has asserted.

Jaswinder claims that the case of *Deal v. Baines*, 110 Nev. 509, 874 P.2d 775 (1994) affirmatively states that two years from knowledge of an order is too long to wait in requesting to set an Order aside. *(Answering Brief* Page 7, lines 17-20). In that case, Baines actually waited five years to file his Motion to Set Aside, however he argued that he had been unaware of the judgment until approximately three years after it was entered. Baines then waited *nearly* two years from when he <u>knew</u> of the judgment to file. The Court specifically noted that during that time, Deal had been engaged in active efforts to collect on the judgment. In its decision, this Court did not issue a rule that there was a two year moratorium on Motions to Set Aside. Rather, the Court stated, "we hold that <u>*under the circumstances of **this** case*</u>, it was unreasonable to wait nearly two years..." *Id* at 778 (emphasis added). The concept of an "unreasonable delay" was further expounded upon in the case of *In the Matter of Harrison Living Trust*, 121 Nev. 217, 112 P.3d 1058 (2005). There too, the Court found an unreasonable delay after Teriano waited more than a year after *receiving* the benefits under the probate Order to seek to set it aside. *Id* at 1062.[2] Ultimately, the consideration in both cases was whether the delay had been reasonable, and the Court looked to the knowledge of the parties and what actions had occurred between the time of that knowledge and the time the Set Aside was sought. *See Harrison Living Trust* at 1062; *Deal* at 777 -778. Two years is not, and has never been made, a bright line rule.

In this matter, to imply that there has been an unreasonable delay is contrary to the entirety of the evidence provided. Rajwant specifically testified that she was unaware that the parties were divorced until 2018; she moved for the set aside within two months of learning about the Decree. **AA VIII: 0473-AA0476; AA VI: 0041; AA VI: 0044**. Even Jaswinder did not believe that the parties were divorced. In addition to repeatedly referring to Rajwant as his wife *during* his testimony (i.e., **AA VII: 0380**), he affirmatively stated that he told a social worker in 2012 that he "[did not] have an ex-wife." **AA VIII: 0397**.

In *Deal* and *Harrison Living Trust*, the Court looked to the moving party's knowledge, as well as the potential equity of the Set Aside. It is clear that

[2] It is also worth noting that in *Harrison Living Trust,* with regard to orders which are void under NRCP 60(b)(4), the Court held that there is no deadline for seeking to set aside, although the Court may use its discretion in considering due diligence. *Id* at 1061.

Rajwant did not have the knowledge to pursue a Set Aside earlier. Additionally, as Rajwant set forth in her Opening Brief, there is no equity in denying the Set Aside. To deny the Set Aside is to grant Jaswinder a windfall for his fraudulent conduct.

Jaswinder's next claim, that Rajwant must have known the parties were divorced as she married "another man" disregards both the Court's findings, and Rajwant's testimony on the issue.[3] The "[]other man," Rajwant married, was Jaswinder's brother. **AA VI: 0045**. She "married" him on Jaswinder's orders (in a ceremony to which she was taken by Jaswinder and his parents), to bring him to the United States. **AA VIII: 0476-0477**. The District Court found the marriage to be a "sham." **AA VIII: 0503**.

Jaswinder further wrongfully asserts that NRS 11.190(3)(d), sets an absolute time limit of three years on actions for fraud. In fact, what the statute actually says is:

> ... an action for relief on the ground of fraud or mistake, but <u>the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved</u>

[3] Rajwant will remind this Court that the District Court made a specific finding that she was the credible witness and Jaswinder was not.

party of the facts constituting the fraud or mistake. (Emphasis added).

Regardless of whether the "aggrieved party," is Rajwant or the Court (although the case law supports the District Court's finding that the Court itself is the aggrieved party, *see NC-DSH, INC v. Garner*, 218 P.3d 853 (Nev. 2009)), the *credible* testimony is that neither Rajwant nor the Court knew of the fraud until at least November 2018. The Motion was filed in January 2019, well under the "three year," timelimit set in the statute.

There is a balance that must be maintained between the public policy favoring final judgments and the issues related to fraud on the Court. This Court has found that "the policy of repose yields when 'the court finds after a proper hearing that fraud has been practiced upon it, or the very temple of justice has been defiled.'" *Id* at 858 (quoting *Universal Oil Co. v. Root Rfg. Co.,* 328 U.S. 575, 580, 66 S.Ct. 1176, 90 L.Ed 1447 (1946)). In *NC-DSH*, the Court even noted that, where fraud on the court has been committed, a judgment may be set aside "even years after it was entered." *Id.*

It should be noted that despite Jaswinder's allegations, the *credible* testimony from the trial was that his brother was already married when he "married" Rajwant, and therefore that marriage (between Rajwant and

Jaswinder's brother) was void. **AA VIII: 0479**. Nor has Jaswinder married anyone else. **AA VII: 0378**. Neither party is married to someone else. There is no "bigamy" issue.

The "evidentiary issues," argued by Jaswinder as being a further basis for finding that Rajwant's Motion should be "time-barred," are obviated by the evidence. Jaswinder and Rajwant both testified. The so called "documentary evidence," does not exist.[4] Jaswinder testified that he provided a California I.D. card to the notary **(AA VII: 0330)**, that he never had a job in Nevada **(AA VII: 0338)** and never applied for one **(AA VIII: 0436-0439)**, that he did not get a Nevada license **(AA VII: 0351)**, that he and Rajwant did not move their furniture or register vehicles here **(AA VII: 0351)** , that he did not go to a bank in Nevada **(AA VII: 0352-0353)**, that he did not register to vote **(AA VII: 0338)**, did not buy groceries here **(AA VII: 0339)**, and slept on a mattress in the living room of his resident witness's house **(AA VII: 0342)** without paying any rent **(AA VIII: 0435)**. Given his testimony, there was no documentary evidence to provide.

[4] There is a distinguishable difference between evidence to support or defend against the set aside and evidence as to the assets in the marriage. The District Court was only concerned with the former. The latter is the province of the California Court - and if the marriage still exists then the same evidence as exists in any long term marriage will exist in that case.

Further, under no stretch of imagination does Jaswinder's testimony meet the burdens set forth under *Aldabe v. Aldabe,* 84 Nev 392, 441 P.2d 691, 694 (1968).

There was also no genuine issue in presenting witness testimony. The resident witness (who Jaswinder's counsel found) did not want to testify and Jaswinder ***chose*** not to subpoena him. **AA VIII: 0441-0442**. Jaswinder's argument that there are evidentiary issues is nothing more than a red herring.

Rajwant will not reiterate her arguments as to why *Vaile* is distinguishable from this matter. Rajwant has already provided ample analysis and authority as to the implications of *Vaile* to this matter. Jaswinder's conclusory statements regarding *Vaile* provide no analysis to challenge the analysis and authority provided by Rajwant.

B. Rajwant's Arguments on Appeal Were Made to the District Court

"Generally, failure to raise an argument in the district court proceedings precludes a party from presenting the argument on appeal." *Mason v. Cuisenaire*, 122 Nev. 43, 48, 128 P.3d 446, 449 (2006). In *Mason*, the Court noted that the District Court made no findings related to the issues Ms. Cuisenaire had raised on appeal. *Id* at 48. The necessity of having issues to be addressed on appeal raised before the District Court is to ensure that "the trier of fact ha[s an] opportunity to consider" the argument. *Petrilla v. Castillo*, Docket No. 67566 (Order of Affirmance, February 12, 2016).

The issue is not *how* it was raised, or the *document* an argument was raised in. The question is: was it raised, and was it considered. There is ample evidence that every claim Rajwant made on appeal was made to the District Court.

Rajwant's first claim was whether the District Court erred in denying Rajwant's request to set aside the 2004 Decree of Divorce. This was the purpose of the Motion that initiated this matter, and the subject of the trial - clearly this issue was raised.

Rajwant's second issue on appeal is whether or not the Court erred in finding that *Vaile* was applicable to the facts of this case. Rajwant specifically argued in her preliminary papers (specifically in her Reply) that *Vaile* is a fact driven analysis (indicating that it is inapplicable to her facts). **AA VI: 0079**, lines 4-12; **AA VII: 0249-0250**. Rajwant even discussed the issues of coercion and reliance that were addressed in the appeal. **AA VI: 0080; AA VI: 0250.**

Rajwant's factual assertions are part of the specific transcript - and in many places, specifically identified in the final Order, drafted by Jaswinder's counsel, to wit:

That Rajwant did not understand the Decree **(AA VII: 0283; AA VIII: 0471-0472)**; that Rajwant did not rely on the divorce **(AA VII: 0283; AA VIII: 0474-0475; AA VIII: 0492)**; that there was no intent to form an agreement because Rajwant could not read the Decree (**AA VIII: 0471-0472**); that she was did not have reasonable knowledge as to what the Decree meant (**AA VIII: 0489; AA VIII: 0491**). There was testimony at the time of trial to support each of these contentions, and many of those made it into the Order drafted by Jaswinder's counsel.

As far as the Deed, Jaswinder testified regarding the same and it is clear from the record that the Deed stated that Jaswinder took title "as a married man." **AA VII: 0385 - 00387**. That said, the Deed itself is also in the record, it was attached as an exhibit to Rajwant's *Reply to Plaintiff's Opposition to Defendant's Motion to Set aside Decree of Divorce....* **AA VI: 0084**. The transcript from the trial contains sufficient detail and description to prove that the trial exhibit is the same as the Reply exhibit. Whether or not the deed was "signed" by Jaswinder, he took title in a legal document. If the document was inaccurate, he could have, and should have, had the same corrected. He did not, and the document is evidence as to his understanding and intent.

Rajwant has, within both her *Opening Brief*, as well as herein above, addressed her sham marriage to Jaswinder's brother; she will not spend further time on the same. But it is clear, from the citations previously provided, that Rajwant did not understand how her "paper divorce" impacted her actual marriage - nor had she sufficient understanding of how her marriage was impacted by the "sham" marriage to Jaswinder's brother.

As to whether or not Rajwant could be contractually bound by the divorce that she did not understand, Jaswinder's argument (which is based on treatises and persuasive law from another jurisdiction) flatly ignores the binding precedent of cases like *General Motors v. Jackson,* 111 Nev. 1026, 900 P.2d 345, which is Nevada law.

The argument regarding Rajwant's capacity to understand the contract was discussed during the trial, and absolutely meets the standards under *Nevada* law. Pursuant to *General Motors:*

> Where one of the parties, for any reason, is incapable of understanding the force and effect of the alleged agreement, there is not contract...the capacity to contract involves a person's inability to understand the terms of the agreement, not his actual understanding. Capacity relates to the status of the person, rather that to the circumstances surrounding the transaction. 111 Nev. at 1031.

The evidence was specifically provided that Rajwant did not "fail [] to or refuse[] to read [the] contract," as claimed by Jaswinder on page 16, lines 11-12 of his *Answering Brief.* The evidence provided at trial is that Rajwant was neither given the time or ability to read the paper work (**AA VIII: 0471**), that she does not speak English (**AA VIII: 0464**) and that a translator was not provided (**AA VII: 0331-0332**). Therefore it is clear that Rajwant had *no capacity* to understand the divorce paperwork at all; and therefore no capacity, under Nevada law, to enter into a contract - including a "settlement agreement." *General Motors* very clearly defines being "mentally defective" as stated herein above. Jaswinder's attempt to redirect the Court away from that legal definition must fail.

It is clear that one party must have initiated the Decree in Nevada and the fact is that the testimony, and credibility determinations support the conclusion that this was Jaswinder's scheme. The same must therefore lead to the conclusion that *Nevada law* supports that Rajwant had no capacity to enter into an agreement - and that those facts were provided (and challenged) at the time of the trial. The issues related to judicial estoppel were also raised in Rajwant's preliminary Motion, in consideration of the "fact based analysis" Rajwant believes *Vaile* actually requires. **AA VI: 0080**. The facts which support Rajwant's argument regarding judicial estoppel were presented during trial, and Rajwant has provided those citations previously.

As far as Jaswinder's "claims," that Rajwant never made the arguments that *Vaile* was "bad law and should be overturned," the argument contains a logical fallacy. (*Answering Brief,* page 17 lines 7-9). There is no one at the District Court level to whom Rajwant could appropriately make that argument. The District Court cannot overturn a decision by this Court. That said, this issue was substantially discussed, and the appeal on this issue was *specifically requested* by the District Court. **AA VIII: 0488; AA VIII: 0491; AA VIII: 0494; AA VIII: 0498; AA VIII: 0504**. Both parties were on notice, and given an opportunity to address the Court's reliance on *Vaile* and the Court's statements that *Vaile* should be revisited.

Jaswinder's Order even *specifically notes* that the Court ***requested*** that an appeal be taken on the future applicability of *Vaile*. **AA VII: 0286-0287**. The case law as to the ability of a party to raise an issue on appeal, cited herein above, is clearly concerned with the parties' ability to present evidence. In fact, there does not appear to be case law in Nevada requiring that a party argue for reconsideration of precedent to the District Court. Rather the standard for reconsideration of precedent is set forth in *Miller v. Burk,* 124 Nev. 579, 597, 188 P.3d 1112, 1124 (2008), to wit: "under the doctrine of *stare decisis* we will not overturn [precedent] absent compelling reasons for so doing."

Compelling reasons for addressing *Vaile* and its application to this case were set forth both in Rajwant's *Opening Brief* and by the District Court, as set forth in the transcript and the final Order. Notably, Jaswinder spends no time on whether or not *Vaile* should be reconsidered, only on his opinion that, despite the extensive discussion surrounding that topic, the issue was not addressed in the District Court.

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C. NRCP 60(b)(6)

Jaswinder's arguments on the issues related to NRCP 60(b)(6) are also nothing more than smoke and mirrors. This case was not started solely under NRCP 60(b)(3). NRS 125.184(2), was also cited in the initial Motion. **AA VI: 0046**. The circumstances which make up NRCP 60(d)(1) (which was cited under its previous iteration in 60(b)), and 60(d)(3), were addressed in the Reply and the Court's Order from the preliminary hearing. **AA VI: 0076; AA VI: 0078; AA VI: 0139**. NRCP 60(b)(6), was not within the NRCP at the time of the initial papers on this matter. Therefore no one could specifically plead it.

However, this Court has historically determined that where changes to the NRCP are made during the pendency of an action, and the ADKT specifies that the amended rules apply to all "actions pending," the District Court is to apply the new rules, except "when the District Court determines that the new rules application would 'not be feasible' or 'would work an injustice.'" *Nelson v. Heer,* 163 P.3d 420 (Nev. 2007), footnote 4. In *Nelson*, that Court stated that where the District Court does not make findings as to the feasibility or injustice of applying the new rule, the Court presumes the new rule was applied. *Id.*

ADKT 0522, on page 3, applied to rules the all pending actions and new actions, effective March 1, 2019. The rules went into effect six months before the trial. The Court was obligated to utilize the amended rules. Rajwant filed a timely Motion under NRCP 60(b). She was unable to specifically cite NRCP 60(b)(6) at that time as the same was not enacted. Yet the Court can and should consider the relevant rules under which a case may be decided. It is clear from the Court's decision that, although NRCP 60(b)(6) was in effect on the date of the trial, the Court failed to consider it entirely. Therefore it is appropriate that the rule be considered.

Rajwant's arguments as to *Kahn v. Orme,* 108 Nev. 510, 835 P.2d 790 (1992), and the additional case law cited in her brief related to NRCP 60(b)(6), was set forth to this Court as persuasive authority specifically relating to the propriety of the application of NRCP 60(b)(6). That rule is brand new and does not appear to have been specifically addressed by this Court. Therefore, Rajwant is addressing the persuasive elements she anticipates will be considered by this Court in determining the application of NRCP 60(b)(6) in this matter.

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II. The District Court Did Not Err in Denying Jaswinder's Request for Attorney's Fees and Costs

Attorney's fees awards are reviewed for an abuse of discretion. Awards as a sanction under NRS 18.010(2)(b), NRCP 11, and EDCR 7.60(b) are appropriate when the Court concludes that a party brought a frivolous claim. The Court has discretion to award attorney's fees as a sanction, but there must be evidence that there was no credible evidence or reasonable basis for the claim, when it was filed, or that the same was brought to harass. *Rivero v. Rivero,* 125 Nev. 410, 216 P.3d 213, 234 (2009).

The Court did not find that Rajwant's Motion was frivolous. Rather, the Judge/Court found that Rajwant's testimony had not overcome the burden set by *Vaile*. **AA VIII: 0506**. In fact, the Court did find that the fraud had been committed. **AA VIII: 0500**. While the Court found that Jaswinder was the prevailing party because the Motion to set aside was denied, she found him to be, at a minimum, equally at fault for the fraud. **AA VIII: 0504**. As this Court has ruled, attorney's fees as a sanction are for when the Court *specifically* finds there was no credible evidence or reasonable basis for a claim. *None* of the cases cited by Jaswinder, to allege that Rajwant's "failure to prove coercion," are Nevada

Law - or even 9th Circuit law. They are at best persuasive. The are also inaccurate. The Court did not find that Rajwant provided no evidence, rather that the evidence was "insufficient," to overcome the standard set by *Vaile.* **AA VIII: 0504.**[5] Given that there must be a basis for the claim, the fact that the District Court found there was a fraud, and that the Court was the injured party, there cannot be a finding that Rajwant did not have a reasonable basis for the claim.

It is not enough to simply determine that the evidence was insufficient for a claim to be "unreasonable." If the Court were to make that the rule, it would have an immensely chilling effect on parties seeking the help of the Court. Such a rule would tell potential parties that a loss at trial means an immediate award of attorney's fees as *sanctions*, solely for being the party who did not prevail. There is no motivation at that point to litigate in good faith by either party, because sanctions are inevitable for the party who does not "win."

Additionally, such a rule would completely remove judicial discretion in determining if a claim was "reasonable" when filed, or based on

[5] In light of the fact that Rajwant is appealing the appropriateness of the Court's determination that proving coercion is necessary, it is appropriate to find that there was a reasonable basis for the claim, as there is a question as to the standard applied.

credible evidence. The District Court appropriately utilized its discretion in denying Jaswinder's request for attorney's fees and costs.

CONCLUSION

Based on the foregoing, Rajwant requests that the Court affirm the District Court's decision that the Motion was not time-barred; confirm that Rajwant's arguments on appeal are appropriate for this Court's consideration; affirm the District Court's Order denying Jaswinder's request for attorney's fees; and grant reversal and remand on the issues appealed and set forth in Rajwant's *Opening Brief*.

By:________________________
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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this appellate brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this appellate brief has been prepared in a proportionally spaced typeface using Word Perfect X5 in 14-point Times New Roman style;

2. I further certify that this appellate brief complies with the page- or type-volume limitations of NRAP 28.1(e) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more, and contains 4,285 words;

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by appropriate references to page and volume number, if any, of the transcript or appendix where the matter relied upon is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not

in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 14 day of June, 2020.

By: ______________________
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of June, 2020, I caused to be served the ***Appellant's Reply/Cross-Answering Brief*** to all interested parties as follows:

____ BY MAIL: Pursuant to NRCP 5(b), I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, postage fully prepaid thereon, addressed as follows:

____ BY CERTIFIED MAIL: I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, certified mail, return receipt requested, postage fully paid thereon, addressed as follows:

____ BY FACSIMILE: Pursuant to EDCR 7.26, I caused a true copy thereof to be transmitted, via facsimile, to the following number(s):

X BY ELECTRONIC MAIL: Pursuant to EDCR 7.26 and NEFCR Rule 9, I caused a true copy thereof to be served via electronic mail, via Wiznet, to the following e-mail address(es):

F. James
Racheal Mastel
Andrew Kynaston

An Employee of
KAINEN LAW GROUP, PLLC