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*Attorneys for Appellant*  
CAPRIATI CONSTRUCTION CORP., INC.

Electronically Filed  
Dec 18 2019 04:49 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

## IN THE SUPREME COURT OF THE STATE OF NEVADA

CAPRIATI CONSTRUCTION CORP., INC.,  
a Nevada Corporation

Appellant,

v.

BAHRAM YAHYAVI, an individual,

Respondent.

Supreme Court No.: 80107  
District Court Case No.: A718689

### DOCKETING STATEMENT CIVIL APPEALS

## GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District: Eighth Judicial District Court, State of Nevada

Department: 28 s County: Clark

Judge: Ronald Israel District Ct. Docket No. A-15-718689-C

2. **Attorney filing this docketing statement:**

Attorney: Michael K. Wall Telephone: (702) 385-2500

Firm: Hutchison & Steffen, PLLC

Address: 10080 W. Alta Dr., Suite 200,  
Las Vegas, Nevada 89145

Client(s): Capriati Construction Corp., Inc., Appellant

If this is a joint statement by multiple applicants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement

///

3. **Attorney(s) representing respondent(s):**

Attorney: Dennis M. Prince Telephone: (702) 534-7600

Firm: Prince Law Group

Address: 8816 Spanish Ridge Ave.  
Las Vegas, NV 89148

Client(s): Bahram Yahyavi, Respondent

4. **Nature of disposition below (check all that apply):**

Judgment after bench trial	Grant/Denial of NRCP 60(b) relief
Judgment after jury verdict <b>XXX</b>	Grant/Denial of Injunction
Summary Judgment	Grant/Denial of declaratory relief
Default Judgment	Review of agency determination
Dismissal	Divorce Decree
Lack of Jurisdiction	Original Modification
Failure to State a Claim	Other disposition (specify):
Failure to Prosecute	
Other (specify): <b>XXX</b> Post-Judgment Order imposing sanctions.	

5. **Does this appeal raise issues concerning any of the following:** No.

Child custody(visitation rights only)

Venue

Termination of parental rights

6. **Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None.

///

IV. Whether the district court's changing of its pretrial evidentiary rulings during trial was error, and whether the district court imposed the same standards on both parties regarding the admissibility of evidence of prior medical conditions.

V. Other issues under investigation.

10. **Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceeding presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket number and identify the same or similar issues raised:

None

11. **Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

N/A ☒ Yes ☐ No

If not, explain

12. **Other issues.** Does this appeal involve any of the following: No.

Reversal of well-settled Nevada precedent (on an attachment, identify the case(s))

An issue arising under the United States and/or Nevada Constitutions

A substantial issue of first-impression

An issue of public policy

An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

A ballot question

If so, explain:

13. **Assignment to the Court of appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstances(s) that warrant retaining the case, and include an explanation of their importance or significance:

Although no section of NRAP 17 directly addresses the circumstances of this appeal, by negative implication, NRAP 17(b)(5) suggests that this appeal should be retained by the Nevada Supreme Court because the amount in controversy far exceeds the limit of \$250,000 set by that subsection, and the issues in this case have far reaching effect because of the draconian nature of the sanction imposed and the manner in which the trial was conducted.

14. **Trial.** If this action proceeded to trial, how many days did the trial last?

15 days. September 9, 2019 through September 27, 2019.

Was it a bench or jury trial?

Jury Trial

15. **Judicial disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal. If so, which Justice? No.

#### **TIMELINESS OF NOTICE OF APPEAL**

16. **Date of entry of written judgment or order appealed from:**

1. The district court's Order of Judgment Upon the Jury Verdict was entered on October 22, 2019; and
2. The district court's post-judgment Decision and Order (for sanctions), was entered on November 5, 2019.

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. **Date written notice of entry of judgment or order served:**

1. Notice of entry of the district court's Order of Judgment Upon the Jury Verdict was served on October 22, 2019 via e-service; and
2. Notice of entry of the district court's post-judgment Decision and Order (for sanctions) was served on November 5, 2019 via e-service.

18. **If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52 (b), or 59,**

(a) Specify the type of motion, and the date and method of service of the motion, and date of filing.

NRCP 50(b)	Date of filing_____
NRCP 52(b)	Date of filing_____
NRCP 59	Date of filing_____

A Motion for a New Trial was filed on November 18, 2019. This is a timely tolling motion. However, because it is not clear whether this motion would toll the running of the time for appeal for the post-judgment order, a notice of appeal was filed to cover all bases.

**Note:** **Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_\_, 245 P.3d 1190 (2010).**

(b) Date of entry of written order resolving tolling motion: still pending

(c) Date of written notice of entry of order resolving motion served:\_\_\_\_\_

Was service by delivery \_\_\_\_\_ or by mail \_\_\_\_\_.

19. **Date notice of appeal was filed:** November 19, 2019

If more than one party has appealed from the judgment or order, list date each notice of appeal was filed and identify by name the party filing the notice of appeal: N/A

20. **Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other:**

NRAP 4(a)

### **SUBSTANTIVE APPEALABILITY**

21. **Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

NRAP 3A(b)(1) **XX**      NRS 38.205  
NRAP 3A(b)(2)            NRS 233B.150  
NRAP 3A(b)(3)            NRS 703.376  
Other (specify) NRAP 3A(b)(8)

Explain how each authority provides a basis for appeal from the judgment or order:

22. **List all parties involved in the action in the district court:**

(a) Parties:

Capriati Construction Corp., Inc., Appellant/Defendant  
Bahram Yahyavi, Respondent/Plaintiff

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal *e.g.*, formally dismissed, not served, or other: N/A

23. **Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims or third-party claims, and the date of formal disposition of each claim.**

This was a complaint with a single negligence cause of action arising from an automobile accident. There were no other claims. The complaint was resolved by final judgment on jury verdict on October 22, 2019

24. **Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below:**

Yes ☒ No ☐

25. **If you answered “No” to question 24, complete the following:**

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b):

Yes ☐ No ☐

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment:

Yes ☐ No ☐

26. **If you answered “No” to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

27. **Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)



- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

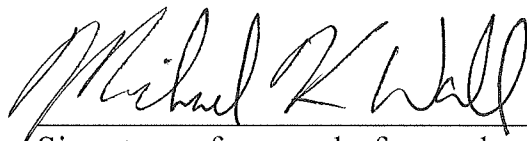
### VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Name of Appellant: CAPRIATI CONSTRUCTION CORP., INC.

Name of counsel of record: Michael K. Wall

Date: Dec 18, 2019

  
\_\_\_\_\_  
Signature of counsel of record

Clark County, Nevada  
State and county where signed

**CERTIFICATE OF SERVICE**

I certify that I am an employee of HUTCHISON & STEFFEN, PLLC and that on this date the **DOCKETING STATEMENT CIVIL APPEALS** was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

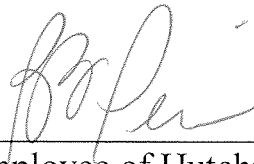
Dennis M. Prince, Esq.  
PRINCE LAW GROUP  
8816 Spanish Ridge Ave.  
Las Vegas, NV 89148  
Tel: (702) 534-7600  
Fax: (702) 534-7601

*Attorney for Respondent Bahram Yahyavi*

A copy was served via U.S. Mail to the below:

Persi J. Mishel  
10161 Park Run Dr., Suite 150  
Las Vegas, NV 89145

*Settlement Judge*



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An employee of Hutchison & Steffen, PLLC