

IN THE SUPREME COURT OF THE STATE OF NEVADA

\* \* \* \*

ASSOCIATED RISK MANAGEMENT, INC.,)

Appellant,

vs.

MANUEL IBANEZ,

Respondent.

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Elizabeth A. Brown  
Clerk of Supreme Court  
Supreme Court No. 80480

District Court No.  
A-19-792902-J

**APPELLANT'S REPLY BRIEF**

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## I.

### REPLY

In the answer, counsel does not and cannot rebut the fact the claimant continues to receive care from the treating physicians, is not medically stable, has not been given permanent work restrictions by the authorized treating physicians and the claimant has not been rated for permanent partial disability. The claimant does not have permanent limitations at this time. The claimant has always had temporary limitations. If the claimant were to have permanent limitations, he could be referred for vocational rehabilitation services that would help give him the tools and training to get him returned back into the workforce. There are resources available to get injured employees back into the workforce, but the claimant is not eligible due to his undocumented status. Counsel cannot and does not rebut the fact the claimant will probably improve with the treatment being rendered. Counsel failed to cite to any case law to support permanent and total disability prior to the treating physicians finding an injured worker medically stable. In fact, counsel does not and cannot rebut Nevada Indus. Comm'n v.

**Hildebrand**, 100 Nev.47, 675 P.2d 401 (1984), where the treating physician found her at maximum medical improvement, medically stable and Hildebrand had been rated for permanent impairment receiving a 5% award unlike the present claim where the claimant continues to treat, is not stable and continues with light duty restrictions. Hildebrand was offered vocational services where a vocational counselor assessed the job market, unlike this claim. Hildebrand was 62 years old and already retired from the workforce unlike this claim where the claimant is 49 years old. Hildebrand was not granted permanent total disability benefits.

Respondent counsel fails to dispute the fact that Dr. Cestkowski was not told the claimant is illegal and cannot work as a matter of law in any capacity in the United States of America.

The permanent total disability assessment is premature and not supported by substantial evidence as the treating physicians find the claimant can work but for the fact the claimant is illegally in the United States of America.

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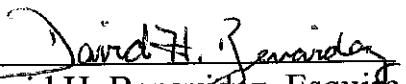
## II.

### CONCLUSION

Based on the foregoing, Appellant requests the decision of the District Court be reversed and the Administrator's determination to deny PTD be affirmed.

DATED this 27th day of April, 2020.

LAW OFFICE OF DAVID H. BENAVIDEZ

  
David H. Benavidez, Esquire

## **CERTIFICATE OF COMPLIANCE**

1. I hereby certify that this 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 brief has been prepared in a proportionally spaced typeface using Times New Roman with font size 14 points or more, and according to the Microsoft Word “word count” contains 976 words.

2. I further certify that this brief complies with the type- volume limitations of NRAP 32(a)(7)(a)(i) because, excluding the parts of the brief exempted by NRAP 32(a)(7)©, it does not exceed 30 pages.

3. Finally, I hereby certify that I have read this Reply 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 a reference to the page and volume number, if any, of the transcript or Appendix where the matter relied on 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.

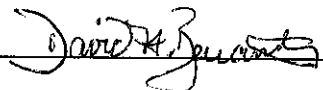
**NRAP 26.1 DISCLOSURE**

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

Appearing on behalf of Appellant is David H. Benavidez of Law Office of David H. Benavidez, who also appeared on behalf of Appellant in District Court. Counsel for Appellant has no parent corporation and there is so publicly held corporation that owns any stock of Counsel as there is no stock.

DATED this 24th day of April, 2020.

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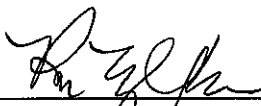
## **CERTIFICATE OF MAILING**

I, the undersigned, declare under penalty of perjury, that I am an employee of the Law Office of David H. Benavidez, and on the 27th day of April, 2020, I deposited the foregoing APPELLANT'S REPLY BRIEF in the United States Mail, with first class postage fully prepaid thereon of had hand-delivered, copies of the attached document addressed as follows:

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