

IN THE SUPREME COURT OF THE STATE OF NEVADA

SPECIAL ADMINISTRATOR
SHALONDA MOLLETTE, AN
INDIVIDUAL, IN PLACE AND STEAD
OF JOE N. BROWN,

Appellant,

vs.

GNL, CORP., A NEVADA
CORPORATION, AND
THYSSENKRUPP ELEVATOR
CORP.,
A FOREIGN CORPORATION,

Respondents.

SPECIAL ADMINISTRATOR
SHALONDA MOLLETTE, AN
INDIVIDUAL, IN PLACE AND STEAD
OF JOE N. BROWN,

Appellant,

vs.

GNL, CORP., A NEVADA
CORPORATION, AND
THYSSENKRUPP ELEVATOR
CORP.,
A FOREIGN CORPORATION,

Respondents.

No. 80581

Electronically Filed
Aug 19 2021 01:06 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

No. 81151

**MOTION FOR AN ORDER DIRECTING THE DISTRICT COURT TO ORDER
TRANSCRIPTS PURSUANT TO NRAP RULE 9(a)(3) OR, IN THE ALTERNATIVE,
RULE 9(a)(6)**

Appellant Special Administrator Shalonda Mollette (“Appellant”) respectfully moves this Court for an order directing the District Court to Order Transcripts pursuant to NRAP Rule 9(a)(3) or, in the alternative, Rule 9(a)(6).

I. SUMMARY AND RELIEF REQUESTED

Appellant respectfully requests guidance from this Court and an order under either NRAP Rule 9(a)(3) or Rule 9(a)(6), given that the parties and this Court need the transcripts of the record in order for this appeal to be adjudicated on the merits. The District Court ordered Appellant to provide clarification on Appellant's transcript request per order dated May 26, 2020, so it could "determine whether ... [the requested transcripts] would be helpful to the adjudication or appellate review of the case." Within eight (8) days, Appellant filed a detailed notice of clarification with very specific portions of the record highlighted with justification for each such portion.

However, despite assuming the role of gatekeeper for the transcripts, the District Court has taken no action, showing the same reticence it displayed in not approving Appellant's *in forma pauperis* motion until ordered by this Court. Appellant has the obligation to ensure that the applicable transcripts are properly before this Court for the adjudication of this appeal. The District Court has required (per its May 26, 2020 order) Appellant to first submit his request for those transcripts to the District Court. Given that the District Court has done nothing, and with the date for submission of Appellant's opening brief fast approaching, Appellant moves under NRAP Rule 9(a)(3) for an order from this Court requiring the District Court to order the transcripts. To the extent this Court concludes that Appellant acted

incorrectly by following the District Court’s order rather than submitting a motion under NRAP Rule 9(c)(6), there is a clear basis for finding excusable neglect and, *in the alternative*, Appellant moves under NRAP Rule 9(c)(6) for the same order.

Appellant respectfully requests that this Court order the transcripts of the record highlighted in Appellant’s June 3, 2020 Notice of Clarification be produced and that briefing be suspended until such transcripts are produced. Pending this Court’s adjudication of this motion, Appellant respectfully reserves the right to file an opening brief and, subsequently, a supplemental brief with citations to the transcripts and record if the transcripts are ordered in the ordinary course by this Court (or, by the District Court) and are produced following the filing of Appellant’s opening brief.

II. PROCEDURAL HISTORY AND SUPPORT FOR MOTION

Following a timely notice of appeal, the original Appellant Joe N. Brown (“Joe Brown” or “Appellant”), a Vietnam War veteran whose monthly income consisted entirely of approximately \$1,400 in social security payments, diligently filed a motion for leave to proceed *in forma pauperis* (“IFP Motion”) with the District Court on February 24, 2020. Appellant then filed a transcript request with the District Court (and with the Clerk of this Court) on February 27, 2020.

Despite the IFP Motion being a routine request that district courts grant in the ordinary course, that did not occur here. Appellant filed a motion for leave to

proceed on appeal *in forma pauperis* with this Court on March 31, 2020 that resulted in a procedural order from this Court on April 8, 2020 that denied such motion as premature but—importantly—ordered the District Court to enter a written order on the IFP Motion within 30 days, in compliance with NRAP Rule 24. The District Court scheduled an evidentiary hearing on the IFP Motion and, following the April 28, 2020 filing of a supplemental IFP Motion by Appellant, complied with this Court’s order on May 6, 2020 by granting Appellant’s IFP Motion.

On May 26, 2020, the District Court ordered clarification of Appellant’s requests for transcripts originally filed on February 27, 2020 (the “Clarification Order”, attached hereto as **Exhibit 1**). The District Court assumed the role of gatekeeper, stating therein: “[i]n order for the Court to be able to make the determination set forth in NRS 12.015, as to what should be transcribed ... Plaintiff needs to provide the Court with written information as to what he needs for the Appeal including clarifying which portions/time periods he is requesting of the hearings and/or trial days ...” The order further states that pursuant to NRS 12.015, the *District Court* would “make the determination” on what transcripts should be prepared. The Clarification Order complained that there was no “analysis” in the initial transcript request and required Appellant to provide “information to evaluate” that request. In good faith and as ordered, Appellant filed a detailed Notice of Clarification on June 3, 2020 (“Notice of Clarification”) that highlighted and

justified the need for very specific portions of the record for transcription. The Notice of Clarification is attached hereto as **Exhibit 2**.

In May of 2020, this matter entered the Supreme Court settlement program, and the anticipated settlement conference was delayed several times—and into the 2021 calendar year—based on Joe Brown being unavailable due to personal health issues. Joe Brown died on January 16, 2021 and, pursuant to this Court’s February 17, 2021 order, undersigned counsel timely moved to substitute Joe Brown’s daughter Shalonda Mollette as the Personal Representative (hereinafter, “Appellant”) on May 14, 2021,¹ and this Court ordered said substitution on May 25, 2021. This Court’s May 25 order also reinstated the briefing schedule and ordered Appellant to file an opening brief within sixty (60) days.

This Court subsequently approved a stipulation executed by the parties to this matter on July 26, 2021 that set August 25, 2021 as the due date for Appellant’s opening brief. On August 4, 2021, undersigned counsel contacted the District Court’s JEA and left a voicemail regarding the transcripts and, as of today, has yet to hear back from the District Court. Iqbal Decl. at ¶ 3.

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¹ At that time, undersigned counsel had returned from five (5) months abroad, dealing with the sickness and subsequent death of his father and the administration of his estate and personal effects. See Declaration of Mohamed A. Iqbal, Jr. attached hereto as **Exhibit 3** (“Iqbal Decl.”), at ¶ 2.

III. LAW AND ARGUMENT

Appellant has an affirmative obligation to ensure that the applicable, necessary transcripts for an appeal are prepared. See generally Huckabay Props., Inc. v. NC Auto Parts, LLC, 322 P.3d 429, 434 (2014)(internal citations omitted). NRAP Rule 9(a)(3) sets forth specific requirements, including the filing of a transcript request form, service of the form, and its contents, including a certification from counsel, and a timeframe of “no later than 14 days from the date that the appeal is docketed under Rule 12.” Appellant filed this form, with the applicable certification, with the District Court and with the Clerk of this Court on February 27, 2020—which was timely in light of Appellant’s February 13, 2020 Notice of Appeal. Rule 9(a)(3) focuses on the filing with the District Court and—as written—the District Court has no discretion to grant or deny the request.

NRAP Rule 9(a)(6), regarding appellants permitted to proceed *in forma pauperis*, states in its entirety:

(6) In Forma Pauperis. In a civil case, if appellant is represented by counsel but has been permitted to proceed in forma pauperis or has filed a statement of legal aid eligibility under [NRAP 24](#), counsel may request a waiver of the costs associated with the preparation and delivery of the transcripts by filing a motion with the clerk of the Supreme Court specifying each proceeding for which a transcript is requested and a statement explaining why each transcript is necessary for the court’s review on appeal. The court may order that the transcripts be prepared at the expense of the county in which the proceeding occurred, but at a reduced rate established by the county in accordance with [NRS 12.015\(3\)](#).

Rule 9(a)(6)—based on the wording of “[t]he court may order”—gives the Supreme Court discretion to refuse the request, but does not do the same with respect to the District Court.

Arguably, Appellant does not have to justify a request to the District Court; however, in good faith and given the respect Appellant accords to the District Court, when the District Court issued the Clarification Order on May 26, 2020, Appellant expeditiously and thoroughly complied, going through the entire (and lengthy) record to specifically highlight the applicable portions to be transcribed and filing the Notice of Clarification on June 3, 2020.

The Clarification Order explicitly made the District Court the gatekeeper: “In order for the Court to be able to make the determination set forth in NRS 12.015, as to what should be transcribed ... Plaintiff needs to provide the [District] Court with written information as to what he needs for the Appeal including clarifying which portions/time periods he is requesting of the hearings and/or trial days...”. The Clarification Order goes on to say that pursuant to NRS 12.015, the District Court would “make the determination” what transcripts should be prepared. Appellant, who lived with a broken neck (that was the basis of the underlying action) and had mobility restrictions, dutifully complied—just as Appellant dutifully complied with the additional steps the District Court imposed prior to approving Appellant’s IFP

Motion.² The District Court has failed to make the determination it said justified its demand for clarification, and indeed has done nothing at all since that clarification was provided. Accordingly, Appellant respectfully requests that this Court order the District Court to ensure the highlighted portions of the record be transcribed, and further requests that the briefing schedule be suspended pending production of the transcripts.

Alternatively, to the extent this Court determines that Appellant acted incorrectly by following the District Court's Clarification Order and that Appellant should have filed a motion under NRAP 9(c)(6), Appellant respectfully moves under such sub-section and seeks the same relief of an order for transcript production and suspension of the briefing schedule, and respectfully submits the Notice of Clarification as satisfying Rule 9(c)(6)'s requirement of "specifying each proceeding for which a transcript is requested and a statement explaining why each transcript is necessary for the court's review on appeal." To the extent this Court concludes this alternative request is untimely, Appellant respectfully submits the factors of excusable neglect are met. While the preeminent Nevada Supreme Court case on excusable neglect, Yochum v. Davis, 98 Nev. 484, 486 (1982), addressed the principle in the context of NRCR Rule 60 relief, the factors set forth therein and

² Appellant filed a supplemental IFP Motion after filing a motion for the same relief with this Court, which resulted in this Court's April 8, 2020 procedural order directing the District Court to, essentially, approve or deny Appellant's IFP Motion.

subsequently referenced in following precedent by this Court are instructive here: “(1) prompt application to remove the judgment; (2) the absence of an intent to delay the proceedings; (3) a lack of knowledge of procedural requirements; and (4) good faith.” Rodriguez v. Fiesta Palms, LLC, 428 P.3d. 255, 257 (2018) (internal citations omitted).

As discussed below, factors 2, 3, and 4 all strongly favor Appellant here. The weakest factor in Appellant’s favor is, admittedly, factor 1. Here, it should be noted that Appellant has met every single explicit deadline set forth in the NRAP, and that NRAP Rule 9(a)(6) has no such explicit deadline. Appellant acted diligently in response to the District Court’s Clarification Order and filed the Notice of Clarification eight (8) days later, and acted diligently to pursue in forma pauperis status. Although Appellant could arguably have moved earlier with respect to the present motion, multiple factors impacted the timing, including the extended delays due to Joe Brown’s illness and subsequent passing, and undersigned counsel’s own personal hardships abroad for five consecutive months during the height of the COVID crisis. Iqbal Decl. at ¶ 2.

With respect to the remaining factors, Appellant’s diligence before the District Court and in prior filings to this Court demonstrate factor 4, Appellant’s good faith. Appellant’s conduct before the District Court and this Court, and willingness to forge ahead with the preparation of the opening brief, in addition to the fact that there

has only been one requested extension from Appellant regarding the opening brief, also demonstrate the absence of an intent to delay the proceedings. Most profoundly, factor 3, regarding the lack of knowledge of procedural requirements, resonates here. The interplay between NRAP Rule 9(a)(3) and (a)(6), and the District Court's assumption of the role of gatekeeper created confusion that can only be resolved by this Court. Granting Appellant's motion would also be in line with this state's "underlying basic policy of deciding a case on the merits whenever possible." Fiesta, 428 P.3d at 257 (citing Stoecklein v. Johnson Elec., Inc., 849 P.2d 305, 307 (1993)).

Finally, there would be no prejudice here in granting such relief, as, again, Appellant has only requested one extension. There has been no briefing or argument in this matter, and this Court—in addition to the parties—would greatly benefit from the applicable transcripts to be able to adjudicate this matter on the merits.

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IV. CONCLUSION

For all the reasons set forth above, Appellant respectfully requests that this Court order the District Court pursuant to NRAP Rule 9(a)(3) to order the transcripts specified in Appellant's June 3, 2020 Notice of Clarification or, alternatively, pursuant to NRAP Rule 9(a)(6), order the transcripts directly based on Appellant's June 3, 2020 Notice of Clarification, and suspend the briefing schedule until such transcripts are prepared and served.

Dated August 19, 2021

Respectfully Submitted,

IQBAL LAW PLLC



MOHAMED A. IQBAL, JR.

Nevada Bar No. 10623

101 Convention Center Drive, Suite 1175

Las Vegas, Nevada 89109

Attorneys for Appellant

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CERTIFICATE OF SERVICE

I certify that I am an employee of IQBAL LAW PLLC and that on August 19, 2021, I caused a true and correct copy of the **Motion for An Order Directing the District Court to Order Transcripts pursuant to NRAP Rule 9(a)(3) or, in the Alternative, Rule 9(a)(6)** to be served as follows:

___ By placing the same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

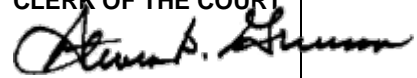
___ Pursuant to NEFCR 9, to be sent via facsimile; and/or

X Pursuant to NEFCR 9, by transmitting via the Court's electronic filing services by the document(s) listed above to the Counsel set forth on the service list.

/s/ Marie-Claire Alsanjakli
An Employee of **IQBAL LAW PLLC**

EXHIBIT 1

EXHIBIT 1



1 **ORDR**

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5 JOE N. BROWN, an individual,
6 Plaintiff,

Case No.: A-16-739887-C

Dept. No.: XXXI

7 vs.

8
9 GNL, CORP., a Nevada corporation and
10 THYSSENKRUPP ELEVATOR CORP., a
11 foreign corporation,

**ORDER REGARDING
CLARIFICATION FOR REQUESTS
FOR TRANSCRIPTS PURSUANT TO
PLAINTIFF'S MOTION FOR LEAVE
TO PROCEED IN FORMA
PAUPERIS ON APPEAL**

12 Defendants.

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14 As the parties are aware, on May 6, 2020, the Court granted Plaintiff's
15 Motion for Leave to Proceed on Appeal In Forma Pauperis pursuant to NRAP
16 24(a)(1) and NRS 12.015. Unfortunately, the Court was not provided an
17 analysis, either in the pleadings or at the hearing(s), of what transcripts would be
18 "helpful for appellate review of the case".

19 Instead, a review of the Odyssey Record shows that on February 27,
20 2020, Plaintiff filed-but did not provide-courtesy copies to the Court of the
21 documents titled "Request for Transcript of Proceeding", wherein he listed
22 approximately 18 different dates, including which appears to include the entire
23 trial as well as other hearings. The document, however, did not provide any
24 breakdown or analysis of whether only portions of the hearings and/or trial days
25 were needed, whether there was specific witness testimony needed, or other
26 information to provide the Court with a basis to determine whether there is a

1 portion of the day/hearing that "would be helpful to the adjudication or appellate
2 review of the case" or whether the entirety of each and every day was needed as
3 required by NRS 12.015(3). NRS 12.015 (3) provides that:
4

5 If the person is required to have proceedings reported or recorded,
6 or if the court determines that the reporting, recording or
7 transcription of proceedings would be helpful to the adjudication or
8 appellate review of the case, the court shall order that the reporting,
9 recording or transcription be performed at the expense of the
10 county in which the action is pending but at a reduced rate as set
11 by the county.

12 In order for the Court to be able to make the determination set forth in
13 NRS 12.015, as to what should be transcribed as part of its granting Plaintiff's
14 Forma Pauperis request, it must have some information to evaluate. Therefore,
15 in order for the Court to make its determination, Plaintiff needs to provide the
16 Court with written information as to what he needs for the Appeal including
17 clarifying which portions/time periods he is requesting of the hearings and/or trial
18 days by June 3, 2020.

19 **IT IS SO ORDERED.**

20 DATED this 27th day of May, 2020.

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23 _____
24 HON. JOANNA S. KISHNER
25 DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

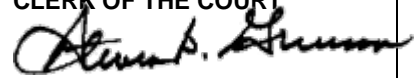
I hereby certify that on or about the date filed, a copy of this Order was served via Electronic Service to all counsel/registered parties, pursuant to the Nevada Electronic Filing Rules, and/or served via in one or more of the following manners: fax, U.S. mail, or a copy of this Order was placed in the attorney's file located at the Regional Justice Center:

ALL COUNSEL and/or PARTIES SERVED VIA E-SERVICE

/s/ Tracy L. Cordoba
TRACY L. CORDOBA-WHEELER
Judicial Executive Assistant

EXHIBIT 2

EXHIBIT 2



1 **NOTC**
2 IQBAL LAW PLLC
3 Mohamed A. Iqbal, Jr. (NSB #10623)
4 101 Convention Center Dr., Suite 1175
5 Las Vegas, Nevada 89109
6 1-(702) 750-2950 (Tel); 1-(702) 825-2841 (V-Fax)
7 info@ilawlv.com; mai@ilawlv.com
8 *Attorneys for Plaintiff Joe N. Brown*

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

| | |
|---|---|
| 8 JOE N. BROWN, an individual, 9 Plaintiff, 10 vs. 11 GNL, CORP., a Nevada corporation and 12 THYSSENKRUPP ELEVATOR CORP., a foreign corporation, Defendants. | Case No.: A-16-739887-C Dept. No.: XXXI PLAINTIFF'S NOTICE OF CLARIFICATION REGARDING TRANSCRIPTS FOR APPELLATE REVIEW |
|---|---|

13 Plaintiff Joe N. Brown respectfully submits to this Honorable Court, pursuant to that
14 certain Order dated May 27, 2020, the following clarification, identifying the relevant pre-trial
15 and trial dates¹ and representative portions of such dates, additional context, and linkages to
16 specific issues on appeal. Plaintiff respectfully incorporates by reference, as if fully set forth
17 herein, Plaintiff's February 27, 2020 Request for Transcript of Proceeding to Court Reporter
18 Sandra Harrell for all of the relevant dates save one, and separate February 27, 2020 Request for
19 Transcript of Proceeding to Court Reporter Maria Garibay for the December 13, 2019 trial day.

| Dates / Representative Timeframes | Clarification, Context, Witnesses, and/or Appellate Issues |
|---|--|
| 3/28/19 10:18:34am to 10:31:04am 10:40:18am to 11:21:08am | Error in granting Defendants' Motion for Summary Judgment on Liability and Punitive Damages |

24
25 ¹ Plaintiff anticipates consolidation of the appeal of this main matter, with the appeal of
26 the Court's order on Defendants' motions for attorneys' fees and costs, based on
27 Plaintiff/Appellant's motion to consolidate filed in NVSC cases 80581 and 81151, and
28 Defendants/Respondents' separate notices of non-opposition thereto. At that point, and
providing full notice here, Plaintiff would respectfully request that the transcript of the associated
hearing, on March 3, 2020, from 1:23:58 p.m. to 2:59:28 p.m.

**PLAINTIFF'S NOTICE OF CLARIFICATION REGARDING TRANSCRIPTS FOR
APPELLATE REVIEW**

| | | |
|---|--|---|
| 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 | <p>4/3/19 11:25:55am to 11:38:38am 11:47:52am to 11:54:40am</p> <p><i>(And also 12/16/19 8:58:52am to 9:15:10am)</i></p> <p>6/4/19 11:06:55am to 11:17:22am</p> <p>6/4/19 11:34:44am to 11:45:15am 11:47:38am to 11:55:53am</p> <p>7/10/19 1:09:27pm to 1:27:52pm 1:41:51pm to 1:49:51pm 1:52:06pm to 1:59:13pm 3:40:37pm to 3:45:30pm 3:48:17pm to 4:00:44pm 4:07:41pm to 4:15:00pm</p> <p><i>(And also 10/7/19 4:48:26pm to 4:51:46pm 5:01:30pm to 5:24:45pm and 12/4/19 3:33:16pm to 4:12:27pm 4:16:10pm to 4:48:15pm)</i></p> <p>7/10/19 2:14:18pm to 3:05:20pm</p> <p>7/10/19 3:07:29pm to 3:11:39pm 3:13:38pm to 3:19:40pm</p> <p><i>(And also 11/21/19 3:26:10pm to 4:11:28pm 4:15:52pm to 5:03:55pm)</i></p> <p>8/27/19 10:24:43am to 10:38:08am 10:44:24am to 10:46:02am 10:47:05am to 10:47:50am 10:52:42am to 10:55:16am</p> <p>10/7/19 4:48:26pm to 4:51:46pm 5:01:30pm to 5:24:45pm</p> <p>11/21/19 3:26:10pm to 4:11:28pm 4:15:52pm to 5:03:55pm</p> <p>11/22/19</p> | <p>The denial of Plaintiff's motion to extend discovery, and motion <i>in limine</i> exclude Defendants' escalator expert; Plaintiff's MiL #1; witness Davis Turner</p> <p>Error in granting of TKE MiL #1, computation of damages</p> <p>Error in granting of TKE MiL #6, which resulted in the pre-trial exclusion of several prior accidents and at least two subsequent accidents</p> <p>Errors in excluding two of Plaintiff's expert witnesses; *GN MiL #1; witness Dr. Nalamachu *TKE MiL #8; witness Sheila Swett *Sheila Swett's Voir Dire *Dr. Nalamachu Voir Dire</p> <p>Error in excluding evidence of the subject escalator's mechanical and operational problems; *GN MiL #2</p> <p>Errors in excluding evidence of Defendants' willful and negligent spoliation and other discovery abuses; *GN MiL #3; *TKE MiL #7; *Demo Exhibits (Pre-Trial Conf)</p> <p>Error in granting Defendants' Motion for Summary Judgment on Liability and Punitive Damages</p> <p>Sheila Swett's Voir Dire; Error in excluding Ms. Swett's testimony</p> <p>Errors in excluding evidence of Defendants' willful and negligent spoliation and other discovery abuses; *GN MiL #3; *TKE MiL #7; *Demo Exhibits (Pre-Trial Conf)</p> <p>Errors in excluding certain deposition transcript excerpts</p> |
|---|--|---|

**PLAINTIFF'S NOTICE OF CLARIFICATION REGARDING TRANSCRIPTS FOR
APPELLATE REVIEW**

| | | |
|---|---|---|
| 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 | <p>10:27:10am to 10:28:19am 10:36:15am to 10:48:23am 10:49:12am to 10:57:45am 10:59:00am to 11:43:33am</p> <p><i>(And also 12/5/19 2:28:25pm to 3:48:44pm 3:50:42pm to 3:58:40pm 4:04:58pm to 4:25:41pm 4:32:30pm to 5:03:18pm and 12/12/19 9:46:12am to 9:48:07am 10:15:43am to 10:44:32am 10:45:56am to 10:59:10am 11:03:06am to 11:28:48am 11:32:04am to 11:40:20am 11:44:44am to 11:53:13am 11:57:48am to 12:08:04pm and 12/13/19 9:08:22am to 9:29:06pm 9:30:13am to 9:42:13am 9:42:52am to 9:53:37am 9:57:20am to 10:05:00am 10:10:24am to 10:14:38am 10:16:45am to 10:30:25am 10:31:51am to 10:40:51am 10:44:03am to 10:46:36am 11:07:04am to 11:14:11am and 12/16/19 1:38:00pm to 1:39:58pm 1:46:49pm to 1:48:30pm)</i></p> | <p>from TKE' s Christopher Dutcher and Defendants' officers, including, e.g., GNL's Don Hartmann</p> |
| 16 17 | <p>12/4/19 3:33:16pm to 4:12:27pm 4:16:10pm to 4:48:15pm</p> | <p>Dr. Nalamachu's Voir Dire; Error in excluding Dr. Nalamachu's testimony</p> |
| 18 19 20 21 | <p>12/5/19 2:28:25pm to 3:48:44pm 3:50:42pm to 3:58:40pm 4:04:58pm to 4:25:41pm 4:32:30pm to 5:03:18pm</p> | <p>Errors in excluding certain deposition transcript excerpts from TKE' s Christopher Dutcher and Defendants' officers, including, e.g., GNL's Don Hartmann</p> |
| 22 23 24 25 26 27 | <p>12/6/19 3:57:22pm to 3:57:40pm 3:59:12pm to 4:07:32pm 4:09:17pm to 4:24:37pm</p> <p><i>(And also 12/9/19 10:55:46am to 10:56:43am 11:02:18am to 11:02:56am 11:07:53am to 11:08:54am and 12/10/19 3:41:01pm to 3:43:09pm)</i></p> | <p>Errors in excluding evidence of the empty maintenance logs reflecting gross negligence and negligence <i>per se</i>; Witness William Schaeffer and Christopher Dutcher Depo Excerpts</p> |

**PLAINTIFF'S NOTICE OF CLARIFICATION REGARDING TRANSCRIPTS FOR
APPELLATE REVIEW**

| | | |
|----|--|---|
| 1 | and 12/17/19 11:41:39am to 11:42:48am) | |
| 2 | 12/9/19 9:14:02am to 9:30:59am | Errors in excluding evidence of the escalator's repairs, proposed and actual; includes witness Larry Panaro |
| 3 | (And also 12/10/19 2:06:06pm to 2:06:57pm 2:20:40pm to 2:21:08pm 2:26:54pm to 2:27:42pm 2:37:43pm to 2:39:10pm and 12/17/19 11:38:30am to 11:40:10am) | |
| 7 | 12/9/19 9:37:34am to 10:01:52am 11:42:09am to 12:04:56pm | Errors in expanding the scope of the MiL rulings; outside the presence of the jury discussions involving witness William Schaeffer; admonishment of counsel |
| 9 | (And also 12/10/19 4:25:18pm to 4:43:02pm) | |
| 10 | 12/9/19 1:18:02pm to 1:25:26pm | Errors in excluding evidence of the escalator's condition in 2013 and 2014 during certain inspections with the concurrent exclusion of evidence of its condition days before Plaintiff's accident; involves the notices of violations |
| 11 | (And also 12/10/19 11:35:56am to 11:45:38am) | |
| 13 | 12/9/19 10:55:46am to 10:56:43am 11:02:18am to 11:02:56am 11:07:53am to 11:08:54am | Errors in excluding evidence of the empty maintenance logs reflecting gross negligence and negligence <i>per se</i> ; Witness William Schaeffer and Christopher Dutcher Depo Excerpts |
| 14 | (And also 12/6/19 3:57:22pm to 3:57:40pm 3:59:12pm to 4:07:32pm 4:09:17pm to 4:24:37pm and 12/10/19 3:41:01pm to 3:43:09pm And 12/17/19 11:41:39am to 11:42:48am) | |
| 20 | 12/10/19 11:35:56am to 11:45:38am | Errors in excluding evidence of the escalator's condition in 2013 and 2014 during certain inspections with the concurrent exclusion of evidence of its condition days before Plaintiff's accident; involves the notices of violations |
| 21 | (And also 12/9/19 1:18:02pm to 1:25:26pm) | |
| 24 | 12/10/19 1:22:45pm to 1:53:16pm 3:50:44pm to 3:51:03pm 3:52:47pm to 3:53:13pm 3:57:23pm to 3:58:37pm | Errors in exclusion of evidence outside a narrow band of time, roughly January 1, 2015 to May 24, 2015 |
| 27 | 12/10/19 2:06:06pm to 2:06:57pm | Errors in excluding evidence of the escalator's repairs, proposed and actual; includes witness Larry Panaro |

**PLAINTIFF'S NOTICE OF CLARIFICATION REGARDING TRANSCRIPTS FOR
APPELLATE REVIEW**

| | | |
|---|--|--|
| 1 2 3 4 | 2:20:40pm to 2:21:08pm 2:26:54pm to 2:27:42pm 2:37:43pm to 2:39:10pm (And also 12/9/19 9:14:02am to 9:30:59am) | |
| 5 6 7 | 12/10/19 2:35:03pm to 2:35:40pm (And also 12/16/19 3:41:08pm to 4:36:00pm) | Errors in the exclusion of evidence (the Acciunt History); Witness Larry Panaro |
| 8 | 12/10/19 2:54:31pm to 3:29:58pm | Errors in the exclusion of evidence associated with the escalator's problems on May 7, 2015, and following Plaintiff's accident on May 12, 2015 |
| 9 10 11 12 13 14 15 16 | 12/10/10 4:14:28pm to 4:19:18pm 12/13/19 4:23:23pm to 4:24:05pm 4:27:36pm to 4:37:00pm 4:42:49pm to 4:44:20pm 4:48:58pm to 5:06:46pm 12/16/19 9:43:28am to 9:44:47am 10:05:30am to 10:48:56am | Errors in excluding evidence from Shalonda Brown regarding Plaintiff's damages |
| 17 | 12/10/19 4:25:18pm to 4:43:02pm | Errors in expanding the scope of the MiL rullings; outside the presence of the jury discussions involving witness William Schaeffer; admonishment of counsel |
| 18 19 20 21 22 23 | 12/11/19 9:04:39am to 9:16:38am; 10:46:15am to 10:53:22am; 11:57:19am to 12:06:49pm; 4:03:30pm to 4:06:00pm 12/12/19 1:34:30pm to 1:37:07pm 12/13/19 2:55:10pm to 3:00:54pm | Errors in various rulings, including with the admonision of William LaCost; excluding evidence of prior expert work by Dr. Bassewitz |
| 24 25 26 27 | 12/17/19 3:55:19pm to 4:14:24pm; 4:24:48pm to 4:29:09pm; 4:34:20pm to 4:40:35pm; 4:44:14pm to 4:46:03pm | Errors in certain rulings on the parties' proposed jury instructions, including, without limitation, the denial of Plaintiff's requests for the 2018 Nevada Jury Instructions: (i) on Premises Liability; (ii) regarding Defendants' willful and negligent spoliation and other discovery abuses; and (iii) on negligence <i>per se</i> |

**PLAINTIFF'S NOTICE OF CLARIFICATION REGARDING TRANSCRIPTS FOR
APPELLATE REVIEW**

12/18/19

Errors in rulings associated with the closings

Dated June 3, 2020.

Respectfully Submitted,

IQBAL LAW PLLC

By: /s/ Mohamed A. Iqbal, Jr.

Mohamed A. Iqbal, Jr. (NSB #10623)

101 Convention Center Dr., Suite 1175

Las Vegas, Nevada 89109

1-(702) 750-2950 (Tel)

CERTIFICATE OF SERVICE

I certify that I served the foregoing **PLAINTIFF'S NOTICE OF CLARIFICATION REGARDING TRANSCRIPTS FOR APPELLATE REVIEW** on all counsel of record in this matter using the Court's e-file/e-service system on June 3, 2020.

By: /s/ Marie-Claire Alsanjakli

An employee of IQBAL LAW PLLC

I LAW LV

**PLAINTIFF'S NOTICE OF CLARIFICATION REGARDING TRANSCRIPTS FOR
APPELLATE REVIEW**

EXHIBIT 3

EXHIBIT 3

IN THE SUPREME COURT OF THE STATE OF NEVADA

SPECIAL ADMINISTRATOR
SHALONDA MOLLETTE, AN
INDIVIDUAL, IN PLACE AND STEAD
OF JOE N. BROWN,

Appellant,

vs.

GNL, CORP., A NEVADA
CORPORATION, AND
THYSSENKRUPP ELEVATOR
CORP.,
A FOREIGN CORPORATION,

Respondents.

No. 80581

SPECIAL ADMINISTRATOR
SHALONDA MOLLETTE, AN
INDIVIDUAL, IN PLACE AND STEAD
OF JOE N. BROWN,

Appellant,

vs.

GNL, CORP., A NEVADA
CORPORATION, AND
THYSSENKRUPP ELEVATOR
CORP.,
A FOREIGN CORPORATION,

Respondents.

No. 81151

**DECLARATION IN SUPPORT OF MOTION FOR AN ORDER DIRECTING THE
DISTRICT COURT TO ORDER TRANSCRIPTS PURSUANT TO NRAP RULE 9(a)(3)
OR, IN THE ALTERNATIVE, RULE 9(a)(6)**

I, MOHAMED A. IQBAL, JR., ESQ., do hereby declare as follows:

1. I am licensed to practice law in the State of Nevada, attorney of record for
Appellant in Case nos. 80581 and 81151, and make this declaration in support

of Appellant's Motion for an Order Directing the District Court to Order Transcripts pursuant to NRAP Rule 9(a)(3) or, in the alternative, Rule 9(a)(6). I am over the age of 18 and competent to testify if called to do so.

2. For five months, between November 2020 and April 2021, I was in India, dealing with my father's health issues and then, subsequently, his passing. Following his death, there was an enormous amount of work associated with administering his estate and personal effects, including a non-profit K-12 school he founded and ran with approximately 1600 students. During this time, the COVID crisis complicated matters greatly. In this case, my original client and friend, Joe Brown, died in mid-January 2021. In addition to the personal loss, this triggered administrative work, including discussions with Joe's family about the appeal and, ultimately, the decision to go forward and to request from the Supreme Court that his daughter Shalonda Mollette be substituted in as the Personal Representative, which move was approved by the Supreme Court.
3. I have diligently pursued this appeal and, among other things, filed a supplemental *in forma pauperis* motion with the District Court and submitted a detailed notice of clarification regarding the specific portions of the record to be transcribed, in April and June of 2020, respectively. On August 4, 2021, I called the JEA for Department XXXI of the District Court and left a

voicemail regarding the transcripts, given that the District Court had yet to order their production. I have not received a response.

4. I have personal knowledge of every statement in this declaration and make them under penalty of perjury under the laws of the State of Nevada.

Dated August 19, 2021.

By: 
Executed in Potomac, Maryland