

CLAGGETT & SYKES LAW FIRM

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Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

RUTH L. COHEN, AN INDIVIDUAL,

Appellant,

vs.

PAUL S. PADDA, AN INDIVIDUAL;
AND PAUL PADDA LAW, PLLC, A
NEVADA PROFESSIONAL LIMITED
LIABILITY COMPANY,

Respondents.

Case No. 81018

(Consolidated with Case No. 81172)

REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF OF CLAGGETT & SYKES LAW FIRM

Claggett & Sykes Law Firm, a proposed *amicus curiae*, is a law firm in Las Vegas, Nevada. Claggett & Sykes Law Firm is represented in this matter by Sean K. Claggett, Esq.; William T. Sykes, Esq.; Matthew S. Granda, Esq.; and Micah S. Echols, Esq., and hereby files this reply in support of its motion for leave to file amicus curiae brief of Claggett & Sykes Law Firm and the proposed amicus brief.

In its motion, Claggett & Sykes asked this Court for an order granting leave to file its proposed amicus curiae brief. The essential point of Claggett & Sykes' motion outlines that its amicus brief identifies and analyzes new authorities not in the existing briefing already on file. *See Miller-Wohl Co. v. Comm'n of Labor & Indus.*, 694 F.2d 203, 204 (9th Cir. 1982) (indicating that the classic role of an amicus curiae is to assist in cases of general public interest and to supplement the efforts of counsel by drawing the court's attention to law that may have escaped consideration). A simple comparison of the tables of authorities from the three briefs in Case No. 81018 demonstrates that the following authorities are unique to the Claggett & Sykes amicus brief:

- *Bergstrom v. Estate of Devoe*, 109 Nev. 575, 854 P.2d 860 (1993).
- *Bisch v. Las Vegas Metro. Police Dep't*, 129 Nev. 328, 302 P.3d 1108 (2013).
- *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224 P.3d 670 (2008).
- *Coury v. Robison*, 115 Nev. 84, 976 P.2d 518 (1999).

- *Farmers Ins. Exchange v. Superior Court*, 218 Cal. App. 4th 96, 159 Cal. Rptr. 3d 580 (2013).
- *Golightly & Vannah, PLLC v. TJ Allen, LLC*, 132 Nev. 416, 373 P.3d 103 (2016).
- *Great Am. Ins. Co. v. General Builders, Inc.*, 113 Nev. 346, 934 P.2d 257 (1997).
- *Great Basin Water Network v. Taylor*, 126 Nev. 187, 234 P.3d 912 (2010).
- *Hotel Riviera, Inc. v. Torres*, 97 Nev. 399, 632 P.2d 1155 (1981).
- *Iliescu v. Steppan*, 133 Nev. 182, 394 P.3d 930 (2017).
- *In re Estate of Black*, 132 Nev. 73, 367 P.3d 416 (2016).
- *In re Estate of W.R. Prestie*, 122 Nev. 807, 138 P.3d 520 (2006).
- *Miller-Wohl Co. v. Comm'r of Labor & Indus.*, 694 F.2d 203 (9th Cir. 1982).
- *Ryan v. Commodity Futures Trading Comm'n*, 125 F.3d 1062 (7th Cir. 1997).
- *Schuck v. Signature Flight Support of Nevada, Inc.*, 126 Nev. 434, 245 P.3d 542 (2010).
- *Simmons v. Briones*, 133 Nev. 59, 390 P.3d 641 (2017).
- *Trotter v. Nelson*, 684 N.E.2d 1150 (Ind. 1997).
- *Weddell v. Stewart*, 127 Nev. 645, 261 P.3d 1080 (2011).
- *Zhang v. Dist. Ct.*, 120 Nev. 1037, 103 P.3d 20 (2004).
- NRS 0.025(1)(f).
- SCR 98.

- BLACK’S LAW DICTIONARY (11th ed. 2019).
- RPC 1.0A.
- Formal Opinion No. 18 from the State Bar of Nevada Standing Committee on Ethics and Professional Responsibility (Apr. 29, 1994) (not in Table of Authorities).

Thus, Cohen’s assertion that Claggett & Sykes’ amicus brief simply duplicates the existing briefing is belied by the briefing itself. Therefore, the Court should order the filing of Claggett & Sykes’ amicus brief and require Cohen to respond to these new authorities.

Cohen’s opposition attempts to impugn Claggett & Sykes Law Firm with her counsel’s own personal animus toward this law firm. But, Claggett & Sykes does not need the validation of Cohen’s counsel to demonstrate its interest in this litigation. *See Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1063 (7th Cir. 1997) (“[T]he amicus has unique information or perspective that can help the Court beyond the help that the lawyers for the parties are able to provide.”). Importantly, personal animus is not a basis for this Court to reject Claggett & Sykes’ amicus brief. Importantly, NRAP 29(d) allows amicus parties to support one of the litigants in this Court: “[T]he cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal.” Thus, Cohen’s

arguments that Claggett & Sykes must remain neutral are contrary to Nevada law.

Finally, Cohen's counsel asserts that Micah Echols, Esq. was previously Cohen's attorney and cannot now join in an amicus brief that provides additional authorities for this Court's consideration in resolving the issues before the Court. For this wild assertion, Cohen's attorney offers only her own uncorroborated declaration, which is not evidence. *See Jain v. McFarland*, 109 Nev. 465, 475–476, 851 P.2d 450, 457 (1993) (“Arguments of counsel are not evidence and do not establish the facts of the case.”). Notably missing from Cohen's argument regarding disqualification is any assertion (even if bare) that Cohen has ever met Mr. Echols, spoken with him on the phone, or communicated with him in any manner. Instead, Cohen's counsel claims that Mr. Echols was privy to confidential information sometime over the course of 48 partnership meetings during 2019. Again, noticeably missing from Cohen's opposition is any meeting agenda where Cohen's case was allegedly discussed, or that Mr. Echols was allegedly present during any such meeting. Indeed, Cohen's counsel cannot even identify a specific date when she claims that Mr. Echols was present and confidential information was shared. *See Brown v. Eighth Judicial Dist. Court*, 116 Nev. 1200, 1206, 14 P.3d 1266, 1270 (2000) (“We conclude that requiring proof of a reasonable probability that counsel actually acquired privileged, confidential information strikes the appropriate balance

in disqualification cases such as this.”). As such, the bare assertion from Cohen’s counsel that Mr. Echols obtained confidential information about Cohen’s case is simply untrue, uncorroborated, and does not serve to carry her burden to demonstrate disqualification of either Mr. Echols or Claggett & Sykes. *See Nev. Yellow Cab Corp. v. Eighth Judicial Dist. Court of Nev.*, 123 Nev. 44, 50, 152 P.3d 737, 741 (2007) (“[F]or a potentially disqualifying conflict to exist, the party seeking disqualification must establish three elements: (1) that it had an attorney-client relationship with the lawyer, (2) that the former matter and the current matter are substantially related, and (3) that the current representation is adverse to the party seeking disqualification.”).

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While at Marquis Aurbach Coffing, Mr. Echols never worked on this case and did not gain access to any confidential information. *See* State Bar of Nevada Standing Committee on Ethics and Professional Responsibility, Formal Opinion No. 39 (Apr. 24, 2008). Cohen has simply failed to come forward with any evidence to support her assertions. Thus, there is no legal basis to disqualify Mr. Echols or Claggett & Sykes. Therefore, the Court should grant Claggett & Sykes' motion for leave and accept its amicus brief for filing.

DATED this 14th day of May 2021.

CLAGGETT & SYKES LAW FIRM

/s/ Micah S. Echols

Sean K. Claggett, Esq.

William T. Sykes, Esq.

Matthew S. Granda, Esq.

Micah S. Echols, Esq.

Attorneys for Amicus Curiae

Claggett & Sykes Law Firm

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF CLAGGETT & SYKES LAW FIRM** was filed electronically with the Supreme Court of Nevada on the 14th day of May 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Respondents – Paul Padda Law, PLLC and Paul S. Padda

Nikki L. Baker (Peterson Baker, PLLC)
Joel D. Henriod (Lewis Roca Rothgerber Christie LLP/Las Vegas)
Paul S. Padda (Paul Padda Law, PLLC)
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Appellant – Ruth L. Cohen

Donald J. Campbell (Campbell & Williams)
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Samuel R. Mirkovich (Campbell & Williams)
Liane K. Wakayama (Hayes Wakayama)

**Amicus Curiae—Jay Bloom, South Asia Bar Association of Las Vegas,
Veterans in Politics International, Inc.**

Milan Chatterjee

/s/ Anna Gresl

An employee of Claggett & Sykes Law Firm