

IN THE SUPREME COURT OF THE STATE OF NEVADA

FLOR MORENCY; KEYSHA
NEWELL; BONNIE YBARRA; AAA
SCHOLARSHIP FOUNDATION,
INC.; SKLAR WILLIAMS PLLC;
ENVIRONMENTAL DESIGN
GROUP, LLC,

Plaintiffs-Appellants,

vs.

STATE OF NEVADA *ex rel.* the
DEPARTMENT OF EDUCATION;
JHONE EBERT, in her official
capacity as executive head of the
Department of Education; the
DEPARTMENT OF TAXATION;
JAMES DEVOLLD, in his official
capacity as a member of the Nevada
Tax Commission; SHARON RIGBY,
in her official capacity as a member
of the Nevada Tax Commission;
CRAIG WITT, in his official capacity
as a member of the Nevada Tax
Commission; GEORGE KELESIS, in
his official capacity as a member of
the Nevada Tax Commission; ANN
BERSI, in her official capacity as a
member of the Nevada Tax
Commission; RANDY BROWN, in
his official capacity as a member of
the Nevada Tax Commission;
FRANCINE LIPMAN, in her official
capacity as a member of the Nevada
Tax Commission; ANTHONY
WREN, in his official capacity as a
member of the Nevada Tax

Case No. 81281 Electronically Filed
Jun 11 2020 12:07 p.m.
Elizabeth A. Brown
District Court Case No. A-19
800267-C Clerk of Supreme Court
Dept. No. 32

**APPELLANTS' CASE APPEAL
STATEMENT**

Commission; MELANIE YOUNG, in
her official capacity as the Executive
Director and Chief Administrative
Officer of the Department of
Taxation,

Defendants-Appellees,

and

The LEGISLATURE OF THE
STATE OF NEVADA,

Intervenor-Defendants-
Appellees.

APPELLANTS' CASE APPEAL STATEMENT

Pursuant to NRAP 3(f)(1), Appellants Flor Morency; Keysha Newell; Bonnie Ybarra; AAA Scholarship Foundation, Inc.; Sklar Williams PLLC; and Environmental Design Group, LLC, submit the following case appeal statement.

1. Name of appellants filing this case appeal statement:

Flor Morency; Keysha Newell; Bonnie Ybarra; AAA Scholarship Foundation, Inc.; Sklar Williams PLLC; and Environmental Design Group, LLC

2. Identify the judge issuing the decision, judgment, or order appealed from:

Judge Rob Bare

3. **Identify each appellant and the name and address of counsel for each appellant:**

Appellants: Flor Morency, Keysha Newell, Bonnie Ybarra, AAA

Scholarship Foundation, Inc., Sklar Williams PLLC, and

Environmental Design Group, LLC

Counsel:

Joshua A. House
Nevada Bar No. 12979
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Matthew T. Dushoff, Esq.
Saltzman Mugan Dushoff
Nevada Bar No. 004975
1835 Village Center Drive

4. **Identify each respondent and the name and address of appellate counsel, if known, for each respondent:**

Respondents:

State of Nevada ex rel. the Department of Education, Jhone Ebert,
the Department of Taxation, James Devolld, Sharon Rigby, Craig
Witt, George Kelesis, Ann Bersi, Randy Brown, Francine Lipman,
Anthony Wren, Melanie Young

Counsel:

Craig A. Newby
Deputy Solicitor General
Nevada Bar No. 8591
Office of the Attorney General
100 N. Carson St.
Carson City, NV 89701

Respondent-Intervenor:

Legislature of the State of Nevada

Counsel:

Kevin C. Powers
Chief Litigation Counsel
Nevada Bar No. 6781
Legislative Counsel Bureau, Legal Division
401 S. Carson St.
Carson City, NV 89701

- 5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42:**

Timothy D. Keller was granted permission to appear under SCR 42.

- 6. Indicate whether appellant was represented by appointed or retained counsel in the district court:**

Appellants were represented by retained counsel in the district court.

- 7. Indicate whether appellant is represented by appointed or retained counsel on appeal:**

Appellants are represented by retained counsel on appeal.

- 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:**

Appellants were not granted leave to proceed in forma pauperis.

- 9. Indicate the date the proceedings commenced in the district court:**

The complaint in the district court was filed on August 15, 2019.

- 10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment**

or order being appealed and the relief granted by the district court:

This case is a constitutional challenge, under Article 4, Section 18(2) of the Nevada Constitution, to the recently enacted Assembly Bill 458 (2019). Plaintiffs-Appellants sought an injunction against the enforcement of A.B. 458 because it did not receive the requisite two-thirds supermajority vote in the Nevada Senate.

Below, the parties cross-moved for summary judgment. On May 20, 2020, the Eighth Judicial District Court granted Defendants-Respondents' motions for summary judgment, denied Plaintiffs' motion for summary judgment, and entered final judgment in favor of Defendants-Respondents. Plaintiffs-Appellants now appeal that May 20, 2020 order.

- 11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:**

The case has not previously been the subject of an appeal to or original writ proceeding in the Supreme Court.

12. Indicate whether this appeal involves child custody or visitation:

This appeal does not involve child custody or visitation.

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

This appeal does not involve the possibility of settlement because it presents only constitutional issues and seeks only declaratory and injunctive relief.

Dated this 11th day of June, 2020.

By /s/ Joshua A. House

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Attorneys for Appellants

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Institute for Justice.
And that on the 11th day of June, 2020, I caused to be served, via the
Court's electronic filing service and via electronic mail, a true and
correct copy of foregoing **APPELLANTS' CASE APPEAL**
STATEMENT to the following parties:

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/s/ Claire Purple
An Employee of INSTITUTE FOR
JUSTICE