

1 \$2515
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3 Carolyn K. Renner, Esq., SBN 9164
4 Brett W. Maupin, Esq., SBN 12443
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14 *Attorneys Defendant John Iliescu, Jr. and*
15 *Sonnia Iliescu*

Electronically Filed
Sep 09 2020 10:24 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

16 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

17 IN AND FOR THE COUNTY OF WASHOE

18 THE REGIONAL TRANSPORTATION
19 COMMISSION OF WASHOE COUNTY, a
20 special purpose unit of the government,

21 Plaintiff,

22 vs.

23 JOHN ILIESCU, JR. and SONNIA ILIESCU,
24 Trustees of The John Iliescu, Jr. and Sonnia
25 Iliescu 1992 Family Trust Agreement, dated
26 January 24, 1992 The City of Reno, a political
27 subdivision of the State of Nevada; and DOES
28 1 – 20, inclusive,

Defendants.

Case No. CV19-00753

Dept. No. 1

NOTICE OF APPEAL

Please take notice that Defendants, JOHN ILIESCU, JR. and SONNIA ILESCU, Trustees
of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust Agreement (“Defendants”), by and

1 through their counsel of record, Donald A. Lattin, Esq., Carolyn K. Renner, Esq., and Brett W.
2 Maupin, Esq., of the law firm of Maupin, Cox & LeGoy, hereby appeal to the Supreme Court of
3 the State of Nevada from the following orders of the District Court: (1) *Order Granting Motion*
4 *for Summary Judgment* filed on August 3, 2020; (2) *Order Granting in Part and Denying in Part*
5 *Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285, and 50.305*, filed on May
6 14, 2020; (3) *Order Granting Motion in Limine to Preclude Defendants From Calling Witnesses*
7 *and Presenting Documentary Evidence*, filed on June 4, 2020; and (4) *Order Granting Plaintiff's*
8 *Motion in Limine to Preclude Evidence or Argument Regarding Unasserted Claims*, filed on June
9 26, 2020.
10
11

12 **NRS 239B.030 AFFIRMATION**

13 The undersigned does hereby affirm that the preceding document does not contain
14 the social security number of any person.

15 Dated this 3rd day of September, 2020.
16

17 MAUPIN, COX & LeGOY

18
19 By: 
20 Donald A. Lattin, Esq., SBN 693
21 Carolyn K. Renner, Esq., SBN 9614
22 Brett W. Maupin, Esq., SBN 12443
23 4785 Caughlin Parkway
24 Reno, NV 89519
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Via the E-Flex Electronic Filing System:

DATED this 3rd day of September, 2020.

Jennifer Salisbury
EMPLOYEE

1 CODE: 1310
2 Donald A. Lattin, Esq., SBN 693
3 Carolyn K. Renner, Esq., SBN 9164
4 Brett W. Maupin, Esq., SBN 12443
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13 bmaupin@mcllawfirm.com
14 *Attorneys Defendant John Iliescu, Jr. and*
15 *Sonnia Iliescu*

16 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

17 IN AND FOR THE COUNTY OF WASHOE

18 THE REGIONAL TRANSPORTATION
19 COMMISSION OF WASHOE COUNTY, a
20 special purpose unit of the government,

21 Plaintiff,

22 vs.

23 JOHN ILIESCU, JR. and SONNIA ILIESCU,
24 Trustees of The John Iliescu, Jr. and Sonnia
25 Iliescu 1992 Family Trust Agreement, dated
26 January 24, 1992 The City of Reno, a political
27 subdivision of the State of Nevada; and DOES
28 1 – 20, inclusive,

Defendants.

Case No. CV19-00753

Dept. No. 1

CASE APPEAL STATEMENT

Pursuant to NRAP 3(f)(1), Defendants, JOHN ILIESCU, JR. and SONNIA ILIESCU,
Trustees of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust Agreement (“Defendants”),

1 by and through their counsel of record, Donald A. Lattin, Esq., Carolyn K. Renner, Esq., and Brett
2 W. Maupin, Esq., of the law firm of Maupin, Cox & LeGoy, submit the following Case Appeal
3 Statement:

4 1. The District Court case number and the names of all parties to the proceedings
5 below:

6 Case No. CV19-00753; The Regional Transportation Commission of Washoe
7 County, a special purpose unit of the government; John Iliescu, Jr., and Sonnia Iliescu, Trustees
8 of The John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust Agreement, dated January 21, 1992;
9 and The City of Reno, a political subdivision of the State of Nevada.

10 2. The name of the judge who entered the order or judgment being appealed:

11 The Honorable Kathleen M. Drakulich, District Judge, State of Nevada.

12 3. The name of each appellant and the name and address of counsel for each
13 appellant:

14 John Iliescu, Jr., and Sonnia Iliescu, Trustees of The John Iliescu, Jr. and Sonnia
15 Iliescu 1992 Family Trust Agreement, dated January 21, 1992, represented by Donald A. Lattin,
16 Esq., Carolyn K. Renner, Esq., and Brett W. Maupin, Esq., of the law firm of Maupin, Cox &
17 LeGoy, with the street address of 4785 Caughlin Parkway, Reno, Nevada, 89519, and mailing
18 address of P.O. Box 30000, Reno, Nevada, 89520, telephone (775) 827-2000.

19 4. The name of each respondent and the name and address of appellate counsel, if
20 known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate
21 as much and provide the name and address of that respondent's trial counsel):

22 The Respondent is: The Regional Transportation Commission of Washoe County
23 ("RTC"), a special purpose unit of the government. Trial counsel was Gordon H. DePaoli, Esq.,
24 Dane W. Anderson, Esq., and Bronagh M. Kelly, Esq., of the law firm of Woodburn and Wedge,
25 6100 Neil Road, Suite 500, Reno, Nevada 89511. It is unknown whether the law firm of
26 Woodburn and Wedge will be appellate counsel.
27
28

1 5. Indicate whether any attorney identified above in response to question 3 or 4 is not
2 licensed to practice law in Nevada and, if so, whether the district court granted that attorney
3 permission to appear under SCR 42 (attach a copy of any district court order granting such
4 permissions):

5 N/A.

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

9 Retained counsel.

10 7. Indicate whether appellant is represented by appointed or retained counsel on
11 appeal:

12 Retained counsel.

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

15 N/A.

16 9. Indicate the date the proceedings commenced in the district court (e.g., date
17 complaint, indictment, information, or petition was filed):

18 On April 3, 2019, the RTC filed its Verified Complaint in Eminent Domain.

19 10. Provide a brief description of the nature of the action and result in the district court,
20 including the type of judgment or order being appealed and the relief granted by the district court:

21 This is a condemnation action in which the RTC sought to acquire certain easements on
22 and over two (2) adjacent, but totally separate and distinct parcels owned by Defendants in the
23 City of Reno, known as Washoe County Assessor Parcel Numbers ("APN") 014-063-11 and 014-
24 063-07. The district court entered an order on July 15, 2019 finding that the use for which the
25 property was being condemned was a public use authorized by law and that the RTC's taking of
26 that property was necessary to that public use. As such, the sole remaining issue in the case was
27 the amount of just compensation due to Defendants for the taking of the property.
28

1 The RTC filed a Motion for Summary Judgment on the sole remaining issue of just
2 compensation, which was granted by the district court. The district court's Order Granting
3 Summary Judgment provided that the amount of just compensation due to Defendants is \$15,955.
4 As such, the district court's order granting summary judgment provided a final disposition of the
5 case as to all issues and all parties. Defendants now appeal the following orders of the district
6 court: (1) *Order Granting Motion for Summary Judgment* filed on August 3, 2020; (2) *Order*
7 *Granting in Part and Denying in Part Motion in Limine to Exclude Evidence Pursuant to NRS*
8 *50.275, 50.285, and 50.305*, filed on May 14, 2020; (3) *Order Granting Motion in Limine to*
9 *Preclude Defendants From Calling Witnesses and Presenting Documentary Evidence*, filed on
10 June 4, 2020; and (4) *Order Granting Plaintiff's Motion in Limine to Preclude Evidence or*
11 *Argument Regarding Unasserted Claims*, filed on June 26, 2020.

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

15 N/A.

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

17 No.

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

20 Yes.

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NRS 239B.030 AFFIRMATION

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 3rd day of September, 2020.

MAUPIN, COX & LeGOY

By: 

Donald A. Lattin, Esq., SBN 693
Carolyn K. Renner, Esq., SBN 9614
Brett W. Maupin, Esq., SBN 12443
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Via the E-Flex Electronic Filing System:

DATED this 3rd day of September, 2020.

Jennifer Salisbury
EMPLOYEE

**SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA
COUNTY OF WASHOE**

Case History - CV19-00753

Case Description: RTC OF WASHOE CO. VS JOHN ILIESCU JR ETAL (D1)

Case Number: CV19-00753 Case Type: CONDEMNATION/EMINENT DOMAIN - Initially Filed On: 4/3/2019

Parties

<u>Party Type & Name</u>	<u>Party Status</u>
JUDG - KATHLEEN DRAKULICH - D1	Active
PLTF - THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY - @1288539	Active
DEFT - JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES - @1310994	Active
DEFT - CITY OF RENO - RENO	Active
ATTY - Bronagh Mary Kelly, Esq. - 14555	Active
ATTY - Brett W. Maupin, Esq. - 12443	Active
ATTY - Gordon H. DePaoli, Esq. - 195	Active
ATTY - Michael James Morrison, Esq. - 1665	Active
ATTY - Dane W. Anderson, Esq. - 6883	Active
CA - Susan Diane Rothe, Esq. - 1452	Active

Disposed Hearings

-
- 1 Department: D1 -- Event: Request for Submission -- Scheduled Date & Time: 5/14/2019 at 14:32:00
Extra Event Text: RTC'S MOTION FOR IMMEDIATE OCCUPANCY PENDING FINAL JUDGMENT FILED 4-3-19
Event Disposition: S200 - 7/15/2019
 - 2 Department: D1 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 2/19/2020 at 13:00:00
Extra Event Text: PRETRIAL CONFERENCE
Event Disposition: D845 - 11/5/2019
 - 3 Department: D1 -- Event: Request for Submission -- Scheduled Date & Time: 3/16/2020 at 14:30:00
Extra Event Text: MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305 FILED 2-11-2020
Event Disposition: S200 - 5/14/2020
 - 4 Department: D1 -- Event: Request for Submission -- Scheduled Date & Time: 5/28/2020 at 09:14:00
Extra Event Text: MOTION FOR SUMMARY JUDGMENT FILED 3-31-2020
Event Disposition: S200 - 8/3/2020
 - 5 Department: D1 -- Event: Request for Submission -- Scheduled Date & Time: 6/1/2020 at 16:02:00
Extra Event Text: MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM CALLING WITNESSES AND PRESENTING DOCUMENTARY EVIDENCE, FILED 5-
Event Disposition: S200 - 6/4/2020
 - 6 Department: D1 -- Event: Request for Submission -- Scheduled Date & Time: 6/16/2020 at 12:34:00
Extra Event Text: MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM PRESENTING REBUTTAL EXPERT WITNESS
Event Disposition: S200 - 8/3/2020
 - 7 Department: D1 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 6/17/2020 at 13:30:00
Extra Event Text: FINAL PRETRIAL CONFERENCE
Event Disposition: D845 - 6/15/2020
 - 8 Department: D1 -- Event: Request for Submission -- Scheduled Date & Time: 6/22/2020 at 13:42:00
Extra Event Text: MOTION IN LIMINE TO PRECLUDE EVIDENCE OR ARGUMENT REGARDING UNASSERTED CLAIMS FILED 6-4-2020
Event Disposition: S200 - 6/26/2020

Report Does Not Contain Sealed Cases or Confidential Information

9 Department: D1 -- Event: TRIAL - JURY -- Scheduled Date & Time: 7/20/2020 at 09:30:00
Extra Event Text: 7-DAY JURY TRIAL (#1)
Event Disposition: D845 - 6/15/2020

Actions

- | | <u>Filing Date</u> | <u>-</u> | <u>Docket Code & Description</u> |
|----|--------------------|----------|---|
| 1 | 4/3/2019 | - | \$1425 - \$Complaint - Civil
Additional Text: VERIFIED COMPLAINT IN EMINENT DOMAIN - Transaction 7199945 - Approved By: YVILORIA : 04-03-2019:14:34:17 |
| 2 | 4/3/2019 | - | PAYRC - **Payment Receipted
Additional Text: A Payment of \$260.00 was made on receipt DCDC634776. |
| 3 | 4/3/2019 | - | 2490 - Motion ...
Additional Text: MOTION FOR IMMEDIATE OCCUPANCY PENDING FINAL JUDGMENT - Transaction 7200393 - Approved By: YVILORIA : 04-03-2019:16:19:12 |
| 4 | 4/3/2019 | - | 1520 - Declaration
Additional Text: DECLARATION OF BRIAN STEWART IN SUPPORT OF MOTION FOR IMMEDIATE OCCUPANCY PENDING FINAL JUDGMENT - Transaction 7200393 - Approved By: YVILORIA : 04-03-2019:16:19:12 |
| 5 | 4/3/2019 | - | NEF - Proof of Electronic Service
Additional Text: Transaction 7200518 - Approved By: NOREVIEW : 04-03-2019:16:21:01 |
| 6 | 4/4/2019 | - | 4090 - ** Summons Issued
Additional Text: X2 |
| 7 | 4/4/2019 | - | 1935 - Lis Pendens
Additional Text: NOTICE OF PENDENCY OF ACTION FOR A PERMANENT AND TEMPORARY CONSTRUCTION EASEMENT - Transaction 7202901 - Approved By: YVILORIA : 04-04-2019:16:52:12 |
| 8 | 4/4/2019 | - | NEF - Proof of Electronic Service
Additional Text: Transaction 7202997 - Approved By: NOREVIEW : 04-04-2019:16:53:15 |
| 9 | 4/9/2019 | - | 4085 - Summons Filed
Additional Text: JOHN ILIESCU JR & SONNIA ILIESCU 04/08/2019 - Transaction 7209378 - Approved By: SACORDAG : 04-09-2019:14:38:00 |
| 10 | 4/9/2019 | - | NEF - Proof of Electronic Service
Additional Text: Transaction 7209479 - Approved By: NOREVIEW : 04-09-2019:14:41:55 |
| 11 | 4/11/2019 | - | 1615 - Disclaimer
Additional Text: DISCLAIMER OF INTEREST - Transaction 7213404 - Approved By: YVILORIA : 04-11-2019:10:39:43 |
| 12 | 4/11/2019 | - | 2501 - Non-Opposition ...
Additional Text: CITY OF RENO'S NON-OPPOSITION TO RTC OF WASHOE COUNTY'S MOTION FOR IMMEDIATE OCCUPANCY PENDING FINAL JUDGMENT - Transaction 7213418 - Approved By: SACORDAG : 04-11-2019:10:34:43 |
| 13 | 4/11/2019 | - | NEF - Proof of Electronic Service
Additional Text: Transaction 7213460 - Approved By: NOREVIEW : 04-11-2019:10:35:44 |
| 14 | 4/11/2019 | - | NEF - Proof of Electronic Service
Additional Text: Transaction 7213483 - Approved By: NOREVIEW : 04-11-2019:10:42:54 |
| 15 | 4/11/2019 | - | 4085 - Summons Filed
Additional Text: SUMMONS - KIM CUARA, RECEP. OBO THE CITY OF RENO - 4-9-19 - Transaction 7213651 - Approved By: YVILORIA : 04-11-2019:12:34:13 |

- 16 4/11/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7213847 - Approved By: NOREVIEW : 04-11-2019:12:35:07
- 17 5/2/2019 - 1130 - Answer ...
Additional Text: DEFENDANT LANDOWNERS' ANSWER TO PLAINTIFF'S VERIFIED COMPLAINT IN EMINENT DOMAIN - Transaction 7249592 - Approved By: CVERA : 05-02-2019:11:28:21
- 18 5/2/2019 - \$1560 - \$Def 1st Appearance - CV
Additional Text: SONNIA SANTEE ILIESCU - Transaction 7249592 - Approved By: CVERA : 05-02-2019:11:28:21
- 19 5/2/2019 - \$DEFT - \$Addl Def/Answer - Prty/Appear
Additional Text: JOHN ILIESCU, JR. - Transaction 7249592 - Approved By: CVERA : 05-02-2019:11:28:21
- 20 5/2/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7249615 - Approved By: NOREVIEW : 05-02-2019:11:31:06
- 21 5/2/2019 - PAYRC - **Payment Receipted
Additional Text: A Payment of -\$243.00 was made on receipt DCDC636902.
- 22 5/14/2019 - 3880 - Response...
Additional Text: DEFENDANT LANDOWNERS' RESPONSE TO PLAINTIFF'S MOTION FOR IMMEDIATE OCCUPANCY - Transaction 7268535 - Approved By: CVERA : 05-14-2019:11:42:11
- 23 5/14/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7268541 - Approved By: NOREVIEW : 05-14-2019:11:44:51
- 24 5/14/2019 - 3860 - Request for Submission
Additional Text: REQUEST FOR SUBMISSION - Transaction 7268711 - Approved By: YVILORIA : 05-14-2019:14:26:07
DOCUMENT TITLE: RTC'S MOTION FOR IMMEDIATE OCCUPANCY PENDING FINAL JUDGMENT FILED 4-3-19
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 5-14-19
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 25 5/14/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7269096 - Approved By: NOREVIEW : 05-14-2019:14:27:33
- 26 5/17/2019 - 3840 - Request Exemption Arbitration
Additional Text: Transaction 7276035 - Approved By: NMASON : 05-17-2019:11:43:45
- 27 5/17/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7276058 - Approved By: NOREVIEW : 05-17-2019:11:44:43
- 28 5/24/2019 - 2529 - Notice of Early Case Conferenc
Additional Text: Transaction 7289125 - Approved By: NOREVIEW : 05-24-2019:16:32:17
- 29 5/24/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7289127 - Approved By: NOREVIEW : 05-24-2019:16:33:07
- 30 5/31/2019 - A120 - Exemption from Arbitration
Additional Text: Transaction 7298947 - Approved By: NOREVIEW : 05-31-2019:16:52:30
- 31 5/31/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7298950 - Approved By: NOREVIEW : 05-31-2019:16:53:27
- 32 6/6/2019 - 1520 - Declaration
Additional Text: Declaration of Scott Griffin in Support of Motion for Immediate Occupancy Pending Final Judgment - Transaction 7307059 - Approved By: SACORDAG : 06-06-2019:10:13:06

- 33 6/6/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7307063 - Approved By: NOREVIEW : 06-06-2019:10:14:09
- 34 6/10/2019 - 3696 - Pre-Trial Order
Additional Text: Transaction 7311933 - Approved By: NOREVIEW : 06-10-2019:10:55:19
- 35 6/10/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7311941 - Approved By: NOREVIEW : 06-10-2019:10:56:57
- 36 6/11/2019 - 1356 - Certificate of Mailing
Additional Text: Transaction 7315139 - Approved By: CSULEZIC : 06-11-2019:15:19:32
- 37 6/11/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7315365 - Approved By: NOREVIEW : 06-11-2019:15:20:46
- 38 6/27/2019 - 2605 - Notice to Set
Additional Text: NOTICE TO SET FOR TRIAL: JULY 1, 2019, 10:15 AM - Transaction 7345958 - Approved By: YVILORIA : 06-27-2019:16:57:41
- 39 6/27/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7345968 - Approved By: NOREVIEW : 06-27-2019:16:58:41
- 40 7/1/2019 - 2520 - Notice of Appearance
Additional Text: MICHAEL MORRISON ESQ - Transaction 7350714 - Approved By: CSULEZIC : 07-02-2019:08:36:09
- 41 7/2/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7351046 - Approved By: NOREVIEW : 07-02-2019:08:37:14
- 42 7/10/2019 - JF - **First Day Jury Fees Deposit
Additional Text: Transaction 7366293 - Approved By: YVILORIA : 07-10-2019:16:05:04
- 43 7/10/2019 - 1580 - Demand for Jury
Additional Text: DEMAND FOR JURY TRIAL: DEFTS JOHN ILIESCU JR, SONNIA ILIESCU, TRUSTEES - Transaction 7366293 - Approved By: YVILORIA : 07-10-2019:16:05:04
- 44 7/10/2019 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$320.00 was made on receipt DCDC641342.
- 45 7/10/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7366328 - Approved By: NOREVIEW : 07-10-2019:16:06:40
- 46 7/11/2019 - 1250E - Application for Setting eFile
Additional Text: PTC: 2/19/20; FPTC: 6/17/20; 7-DAY JURY TRIAL: 7/20/20 (#1) - Transaction 7366912 - Approved By: NOREVIEW : 07-11-2019:08:31:22
- 47 7/11/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7366918 - Approved By: NOREVIEW : 07-11-2019:08:32:25
- 48 7/15/2019 - 3060 - Ord Granting Mtn ...
Additional Text: FOR IMMEDIATE OCCUPANCY PENDING FINAL JUDGMENT - Transaction 7371793 - Approved By: NOREVIEW : 07-15-2019:09:04:08
- 49 7/15/2019 - S200 - Request for Submission Complet
Additional Text: RTC'S MOTION FOR IMMEDIATE OCCUPANCY PENDING FINAL JUDGMENT FILED 4-3-19 (SEE ORDER FILED 7/15/19)
- 50 7/15/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7371798 - Approved By: NOREVIEW : 07-15-2019:09:05:10

- 51 7/22/2019 - CO - **Court Ordered Deposit
Additional Text: Bond ID: CODEP-19-00030; Total Bond Amount: \$15,955.00.

Bond Code, CO, Receipted for: SITE DEFINED TRUST DEPOSIT, on 22-JUL-2019 in the amount of \$15,955.00 on case ID CV19-00753.
- 52 7/22/2019 - 3735 - Receipt
Additional Text: Transaction 7386757 - Approved By: NOREVIEW : 07-22-2019:16:19:50
- 53 7/22/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7386779 - Approved By: NOREVIEW : 07-22-2019:16:22:16
- 54 7/23/2019 - 1835 - Joint Case Conference Report
Additional Text: JOINT CASE CONFERENCE REPORT - Transaction 7387565 - Approved By: NOREVIEW : 07-23-2019:10:01:28
- 55 7/23/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7387568 - Approved By: NOREVIEW : 07-23-2019:10:02:25
- 56 7/25/2019 - 3915 - Scheduling Order
Additional Text: Transaction 7394780 - Approved By: NOREVIEW : 07-25-2019:14:55:13
- 57 7/25/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7394797 - Approved By: NOREVIEW : 07-25-2019:14:57:00
- 58 11/5/2019 - 3366 - Ord Vacating
Additional Text: 2/19/20 PTC - Transaction 7573781 - Approved By: NOREVIEW : 11-05-2019:15:08:04
- 59 11/5/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7573791 - Approved By: NOREVIEW : 11-05-2019:15:09:55
- 60 2/11/2020 - 2245 - Mtn in Limine
Additional Text: MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305 - Transaction 7733419 - Approved By: NOREVIEW : 02-11-2020:10:45:47
- 61 2/11/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7733426 - Approved By: NOREVIEW : 02-11-2020:10:46:48
- 62 2/25/2020 - 2520 - Notice of Appearance
Additional Text: NOTICE OF APPEARANCE: BRETT MAUPIN ESQ / DEFTS JOHN ILIESCU JR AND SONNIA ILIESCU - Transaction 7759639 - Approved By: YVILORIA : 02-25-2020:16:47:07
- 63 2/25/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7759660 - Approved By: NOREVIEW : 02-25-2020:16:48:27
- 64 2/25/2020 - 2645 - Opposition to Mtn ...
Additional Text: DEFENDANTS' OPPOSITION TO MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305; MOTION FOR EXTENSION OF TIME TO DISCLOSE EXPERT - Transaction 7759734 - Approved By: YVILORIA : 02-26-2020:08:01:58
- 65 2/26/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7759839 - Approved By: NOREVIEW : 02-26-2020:08:04:45
- 66 3/2/2020 - 2645 - Opposition to Mtn ...
Additional Text: DEFENDANTS' OPPOSITION TO MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305; MOTION FOR EXTENSION OF TIME TO DISCLOSE EXPERT - Transaction 7768300 - Approved By: YVILORIA : 03-02-2020:10:35:58
- 67 3/2/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7768329 - Approved By: NOREVIEW : 03-02-2020:10:38:46

- 68 3/16/2020 - 3795 - Reply...
Additional Text: REPLY IN SUPPORT OF MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305 - Transaction 7794165 - Approved By: YVILORIA : 03-16-2020:13:49:24
- 69 3/16/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7794185 - Approved By: NOREVIEW : 03-16-2020:13:50:18
- 70 3/16/2020 - 3860 - Request for Submission
Additional Text: Transaction 7794277 - Approved By: NOREVIEW : 03-16-2020:14:20:57
DOCUMENT TITLE: MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305 FILED 2-11-2020
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 3-16-2020
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 71 3/16/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7794287 - Approved By: NOREVIEW : 03-16-2020:14:22:21
- 72 3/27/2020 - 4105 - Supplemental ...
Additional Text: Reply In Support of Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285 and 50.305 - Transaction 7812337 - Approved By: NOREVIEW : 03-27-2020:09:44:22
- 73 3/27/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7812346 - Approved By: NOREVIEW : 03-27-2020:09:45:41
- 74 3/31/2020 - 1520 - Declaration
Additional Text: DECLARATION OF SCOTT Q. GRIFFIN IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT - Transaction 7816023 - Approved By: BBLOUGH : 03-31-2020:10:40:17
- 75 3/31/2020 - \$2200 - \$Mtn for Summary Judgment
Additional Text: Transaction 7816023 - Approved By: BBLOUGH : 03-31-2020:10:40:17
- 76 3/31/2020 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$200.00 was made on receipt DCDC657631.
- 77 3/31/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7816034 - Approved By: NOREVIEW : 03-31-2020:10:41:31
- 78 5/14/2020 - 3025 - Ord Granting/Denying in Part
Additional Text: MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305 - Transaction 7876509 - Approved By: NOREVIEW : 05-14-2020:09:20:00
- 79 5/14/2020 - S200 - Request for Submission Complet
Additional Text: MOTION IN LIMINE TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305 FILED 2-11-2020 (SEE ORDER FILED 5/14/2020)
- 80 5/14/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7876513 - Approved By: NOREVIEW : 05-14-2020:09:21:02
- 81 5/15/2020 - 2245 - Mtn in Limine
Additional Text: MOTION IN LIMINE TO PRECLUDE DEFEDENANTS FROM CALLING WITNESSES AND PRESENTING DOCUMENTARY EVIDENCE Transaction 7878660 - Approved By: NOREVIEW : 05-15-2020:09:29:14
- 82 5/15/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7878666 - Approved By: NOREVIEW : 05-15-2020:09:30:14
- 83 5/22/2020 - 2645 - Opposition to Mtn ...
Additional Text: DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT - Transaction 7889645 - Approved By: YVILORIA : 05-22-2020:10:28:53
- 84 5/22/2020 - 2645 - Opposition to Mtn ...
Additional Text: DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT - Transaction 7889662 - Approved By: YVILORIA : 05-22-2020:10:34:19

- 85 5/22/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7889663 - Approved By: NOREVIEW : 05-22-2020:10:29:48
- 86 5/22/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7889679 - Approved By: NOREVIEW : 05-22-2020:10:35:19
- 87 5/22/2020 - 2610 - Notice ...
Additional Text: NOTICE - Transaction 7890669 - Approved By: YVILORIA : 05-22-2020:15:46:54
- 88 5/22/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7890684 - Approved By: NOREVIEW : 05-22-2020:15:47:56
- 89 5/28/2020 - 3795 - Reply...
Additional Text: REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT - Transaction 7896300 - Approved By: YVILORIA : 05-28-2020:09:20:47
- 90 5/28/2020 - 3860 - Request for Submission
Additional Text: Transaction 7896300 - Approved By: YVILORIA : 05-28-2020:09:20:47
DOCUMENT TITLE: MOTION FOR SUMMARY JUDGMENT FILED 3-31-2020
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 5-28-2020
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 91 5/28/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7896316 - Approved By: NOREVIEW : 05-28-2020:09:21:33
- 92 6/1/2020 - 3860 - Request for Submission
Additional Text: Transaction 7902648 - Approved By: NOREVIEW : 06-01-2020:16:03:17
DOCUMENT TITLE: MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM CALLING WITNESSES AND PRESENTING DOCUMENTARY EVIDENCE, FILED 5-15-2020
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 6-1-2020
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 93 6/1/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7902651 - Approved By: NOREVIEW : 06-01-2020:16:04:16
- 94 6/1/2020 - 2245 - Mtn in Limine
Additional Text: MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM PRESENTING A REBUTTAL EXPERT WITNESS - Transaction 7902878 - Approved By: NOREVIEW : 06-01-2020:16:58:45
- 95 6/1/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7902881 - Approved By: NOREVIEW : 06-01-2020:16:59:34
- 96 6/4/2020 - 2245 - Mtn in Limine
Additional Text: MOTION IN LIMINE TO PRECLUDE EVIDENCE OR ARGUMENT REGARDING UNASSERTED CLAIMS Transaction 7909069 - Approved By: NOREVIEW : 06-04-2020:11:41:22
- 97 6/4/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7909074 - Approved By: NOREVIEW : 06-04-2020:11:42:20
- 98 6/4/2020 - 3060 - Ord Granting Mtn ...
Additional Text: IN LIMINE TO PRECLUDE DEFENDANTS FROM CALLING WITNESSES AND PRESENTING DOCUMENTARY EVIDENCE - Transaction 7909216 - Approved By: NOREVIEW : 06-04-2020:12:37:30
- 99 6/4/2020 - S200 - Request for Submission Complet
Additional Text: MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM CALLING WITNESSES AND PRESENTING DOCUMENTARY EVIDENCE, FILED 5-15-2020 (SEE ORDER FILED 6/4/2020)
- 100 6/4/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7909219 - Approved By: NOREVIEW : 06-04-2020:12:38:32

- 101 6/4/2020 - 2610 - Notice ...
Additional Text: NOTICE OF AUDIO/VISUAL CONFERENCE 6/17/2020 @1:30 - Transaction 7909351 - Approved By: CSULEZIC : 06-04-2020:13:27:34
- 102 6/4/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7909358 - Approved By: NOREVIEW : 06-04-2020:13:28:43
- 103 6/15/2020 - 3366 - Ord Vacating
Additional Text: FINAL PRETRIAL CONFERENCE AND TRIAL - Transaction 7925091 - Approved By: NOREVIEW : 06-15-2020:13:18:27
- 104 6/15/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7925094 - Approved By: NOREVIEW : 06-15-2020:13:19:22
- 105 6/16/2020 - 3860 - Request for Submission
Additional Text: Transaction 7926657 - Approved By: NOREVIEW : 06-16-2020:09:57:07
DOCUMENT TITLE: MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM PRESENTING REBUTTAL EXPERT WITNESS
PARTY SUBMITTING: DANE ANDERSON
DATE SUBMITTED: 06-16-2020
SUBMITTED BY: MP
DATE RECEIVED JUDGE OFFICE:
- 106 6/16/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7926660 - Approved By: NOREVIEW : 06-16-2020:09:59:39
- 107 6/18/2020 - 2645 - Opposition to Mtn ...
Additional Text: DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION IN LIMINE - Transaction 7931655 - Approved By: MPURDY : 06-18-2020:12:17:47
- 108 6/18/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7932102 - Approved By: NOREVIEW : 06-18-2020:12:18:40
- 109 6/22/2020 - 3860 - Request for Submission
Additional Text: Transaction 7936698 - Approved By: NOREVIEW : 06-22-2020:13:43:52
DOCUMENT TITLE: MOTION IN LIMINE TO PRECLUDE EVIDENCE OR ARGUMENT REGARDING UNASSERTED CLAIMS FILED 6-4-2020
PARTY SUBMITTING: DANE ANDERSON ESQ
DATE SUBMITTED: 6-22-2020
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 110 6/22/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7936703 - Approved By: NOREVIEW : 06-22-2020:13:44:51
- 111 6/22/2020 - 2605 - Notice to Set
Additional Text: Transaction 7937463 - Approved By: NOREVIEW : 06-22-2020:16:42:09
- 112 6/22/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7937468 - Approved By: NOREVIEW : 06-22-2020:16:43:09
- 113 6/24/2020 - 3795 - Reply...
Additional Text: RTC'S REPLY TO DEFENDANTS' UNTIMELY OPPOSITION TO MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM PRESENTING A REBUTTAL EXPERT WITNESS - Transaction 7941946 - Approved By: YVILORIA : 06-24-2020:16:29:20
- 114 6/24/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7941967 - Approved By: NOREVIEW : 06-24-2020:16:30:21
- 115 6/25/2020 - 2520 - Notice of Appearance
Additional Text: NOTICE OF APPEARANCE: BRONAGH KELLY ESQ / PLTF - Transaction 7943621 - Approved By: YVILORIA : 06-25-2020:15:26:24
- 116 6/25/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7943638 - Approved By: NOREVIEW : 06-25-2020:15:27:12

- 117 6/26/2020 - 3060 - Ord Granting Mtn ...
Additional Text: PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE EVIDENCE OR ARGUMENT REGARDING UNASSERTED CLAIMS
- Transaction 7944268 - Approved By: NOREVIEW : 06-26-2020:08:57:45
- 118 6/26/2020 - S200 - Request for Submission Complet
Additional Text: MOTION IN LIMINE TO PRECLUDE EVIDENCE OR ARGUMENT REGARDING UNASSERTED CLAIMS FILED
6-4-2020 (SEE ORDER FILED 6/26/2020)
- 119 6/26/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7944271 - Approved By: NOREVIEW : 06-26-2020:08:58:41
- 120 7/8/2020 - 1250 - Application for Setting
Additional Text: FPTC: 3/17/21; 5-DAY JURY TRIAL: 4/19/21 (#2) - Transaction 7960373 - Approved By: NOREVIEW :
07-08-2020:11:19:55
- 121 7/8/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7960380 - Approved By: NOREVIEW : 07-08-2020:11:20:54
- 122 8/3/2020 - 3095 - Ord Grant Summary Judgment
Additional Text: Transaction 8000505 - Approved By: NOREVIEW : 08-03-2020:14:28:08
- 123 8/3/2020 - S200 - Request for Submission Complet
Additional Text: MOTION FOR SUMMARY JUDGMENT (SEE ORDER FILED 8/3/2020)
- 124 8/3/2020 - S200 - Request for Submission Complet
Additional Text: MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM PRESENTING REBUTTAL EXPERT WITNESS (SEE
ORDER FILED 8/3/2020)
- 125 8/3/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 8000510 - Approved By: NOREVIEW : 08-03-2020:14:29:09
- 126 8/3/2020 - F140 - Adj Summary Judgment
No additional text exists for this entry.
- 127 8/4/2020 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 8002211 - Approved By: NOREVIEW : 08-04-2020:11:16:30
- 128 8/4/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 8002217 - Approved By: NOREVIEW : 08-04-2020:11:17:32
- 129 9/3/2020 - 1310 - Case Appeal Statement
Additional Text: CASE APPEAL STATMENT - Transaction 8052976 - Approved By: YVILORIA : 09-03-2020:16:24:27
- 130 9/3/2020 - \$2515 - \$Notice/Appeal Supreme Court
Additional Text: NOTICE OF APPEAL - Transaction 8052976 - Approved By: YVILORIA : 09-03-2020:16:24:27
- 131 9/3/2020 - SAB - **Supreme Court Appeal Bond
Additional Text: Transaction 8052990 - Approved By: YVILORIA : 09-03-2020:16:26:46
- 132 9/3/2020 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$24.00 was made on receipt DCDC663228.
- 133 9/3/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 8052994 - Approved By: NOREVIEW : 09-03-2020:16:25:32
- 134 9/3/2020 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$500.00 was made on receipt DCDC663229.

135 9/3/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 8053001 - Approved By: NOREVIEW : 09-03-2020:16:28:55

136 9/4/2020 - 1350 - Certificate of Clerk

Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 8053985 - Approved By: NOREVIEW : 09-04-2020:11:36:50

137 9/4/2020 - 4113 - District Ct Deficiency Notice

Additional Text: NOTICE OF APPEAL DEFICIENCY - SUPREME COURT FILING FEES (DUE TO PUBLIC CLOSURE OF COURTHOUSE AND APPEALS CLERK UNABLE TO RECEIVE FEE) SUPREME COURT WILL SEND A NOTICE TO PAY ONCE APPEAL IS RECEIVED - Transaction 8053985 - Approved By: NOREVIEW : 09-04-2020:11:36:50

138 9/4/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 8053991 - Approved By: NOREVIEW : 09-04-2020:11:37:43

3025

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY, a
special purpose unit of the government,

Plaintiff,

CASE NO.: CV19-00753

DEPT. NO.: 1

vs.

JOHN ILIESCU, JR. and SONNIA ILIESCU,
Trustees of The John Iliescu, Jr. and Sonnia Iliescu
1992 Family Trust Agreement, dated January 24,
1992; The City of Reno, a political subdivision of
the State of Nevada; and DOES 1 – 20, inclusive,

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART MOTION IN LIMINE TO
EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305**

Currently before the Court is the Regional Transportation Commission of Washoe County's ("Plaintiff") *Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285 and 50.305* ("Motion") filed on February 11, 2020. On February 25, 2020 Defendants John Iliescu, Jr. and Sonnia Iliescu, Trustees of John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust ("Defendants"), filed *Defendants' Opposition to Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285 and 50.305; Motion for Extension of Time to Disclose Expert*. On March 2, 2020 Defendants filed *Defendants' Opposition to Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285 and 50.305; Motion for Extension of Time to Disclose Expert* that appears to be identical to

1 the Opposition filed on February 25, 2020. On March 16, 2020 Plaintiff filed a *Reply in Support of*
2 *Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285 and 50.305*. On March 27,
3 2020 Plaintiff filed a *Supplemental Reply in Support of Motion in Limine to Exclude Evidence*
4 *Pursuant to NRS 50.275, 50.285 and 50.305*.

5 **I. Background**

6 This is condemnation action in which Plaintiff seeks to acquire certain easements on property
7 owned by Defendants. Mot. at 2:4–8. Plaintiff seeks a permanent easement and a temporary
8 easement located upon APN 014-063-11 and a temporary construction easement located upon APN
9 014-063-07. *Id.* at 2:8–11. On July 15, 2019, this Court entered its *Order Granting Motion for*
10 *Immediate Occupancy Pending Final Judgment* finding the use and taking of the property is proper,
11 but leaving for decision the amount of compensation due to Defendants as a result of Plaintiff’s
12 acquisition of the property and any severance damages. *Id.* at 2:12–18.

13 This Court’s *Scheduling Order* dated July 25, 2019 set the deadline to disclose initial expert
14 witnesses pursuant to NRCP 16.1(a)(2) as February 7, 2020. Plaintiff timely disclosed its expert
15 who will provide his stated opinion of value. *Id.* at 2:20–21. Defendants failed to timely disclose
16 any experts. *Id.* at 2:21–22. This case is currently set for a seven-day jury trial beginning July 20,
17 2020.

18 **II. Relevant Legal Authority**

19 Motions in limine may be made to serve two different purposes: (1) to procure a definitive
20 ruling on the admissibility of evidence at the outset of trial; and, (2) to prevent opposing counsel
21 from mentioning potentially inadmissible evidence in opening statement, or eliciting such evidence
22 from a witness, before the district court has an opportunity to rule on the evidence’s admissibility.
23 *See, e.g. Born v. Eisenmann*, 114 Nev. 854, 962 P.2d 1227 (1998); *see also* NRS 47.080. The district
24 court has a broad discretionary power to decide a motion in limine. *See State ex rel Dept. of*
25 *Highways v. Nevada Aggregates & Asphalt Co.*, 92 Nev. 370, 376, 551 P.2d 1095 (1976); *see also*
26 *Whistler v. State*, 121 Nev. 401, 406, 116 P.3d 59, 62 (2005) (stating that “[a] district court’s ruling
27 on a motion in limine is reviewed for an abuse of discretion”). Due to their anticipatory nature,
28 rulings on motions in limine are “subject to change when the case unfolds, particularly if the actual

1 testimony [or evidence] differs from what was contained,” in the pretrial motion itself. *Luce v.*
2 *United States*, 469 U.S. 38, 41, 105 S.Ct. 460, 463 (1984).

3 If a party fails to comply with a discovery order or any provision of Rule 16.1, the Court
4 should impose the appropriate sanction which may include “an order prohibiting the use of any
5 witness, document, or tangible thing that should have been disclosed, produced, exhibited, or
6 exchanged under Rule 16.1(a).” NRCP 16.1(e)(3)(B). NRCP 6(b)(1)(B)(ii) provides “the court
7 may, for good cause, extend the time . . . on motion made after the time has expired if the party failed
8 to act because of excusable neglect.”

9 In Nevada, once the issues of public use and necessity are established by the condemning
10 agency, the property owner has the burden of proving, by a preponderance of the evidence, the value
11 of the land taken and any severance damages. *State v. Pinson*, 66 Nev. 227, 236-238, 207 P.2d 1105,
12 1109-10 (1949); *City of Las Vegas v. Bustos*, 119 Nev. 360, 362, 75 P.3d 351, 352 (2003); *Pappas*
13 *v. State*, 104 Nev. 572, 575, 763 P.2d 348, 350 (1988).

14 **III. Analysis**

15 Plaintiff contends that because Defendants bear the burden to show the amount of just
16 compensation to which they are entitled and have failed to timely disclose an expert witness, they
17 should be prohibited from calling any expert witnesses. Mot. at 3:18-21. Plaintiff relies on the
18 mandatory nature of NRCP 16.1(a)(2) that expert witnesses must be timely disclosed. *Id.* at 3:23-
19 24. Plaintiff argues this is a violation of this Court’s *Scheduling Order* and therefore Defendants
20 should be precluded from offering any evidence pursuant to NRS 50.275, NRS 50.285, and 50.385
21 in this case. *Id.* at 3:24-28.

22 Defendants acknowledge that they did not timely disclose an expert witness but argue that
23 was due to a calendaring error in defense counsel’s office that was due to excusable neglect caused
24 by an unforeseen medical event, for which defense counsel accepts responsibility. Opp. at 2:8-14.
25 Defendants request this Court find good cause to extend the expert disclosure deadline to permit the
26 untimely disclosure. *Id.* at 2:17-20. Defendants point out without this, Defendants will be denied
27 their day in Court and the fact finder will lack facts to make a well-informed determination. *Id.* at
28 2:19-23. Defendants then state “The Iliescus’ retained expert in this case has performed many prior

1 appraisals for the Iliescus in RTC ‘taking’ cases and is very familiar with the subject property.” *Id.*
2 at 2:23–25.

3 Defendants argue this Court’s *Scheduling Order* uses the word could as opposed to will or
4 shall when referring to the imposition of sanctions for a failure to comply with its terms. *Id.* at 3:11–
5 14. Defendants state that shortly after Plaintiffs filed this case, defense counsel suffered significant
6 neurological and spinal injuries in an accidental fall for which extensive care, testing, treatment, and
7 rehabilitation are required. *Id.* at 3:22–25. Defense counsel states he has been undergoing treatment
8 at various medical treatment facilities in the Reno area and the injuries and his care have negatively
9 affected his ability to work. *Id.* at 3:25–4:2. Defense counsel also states that his care and injuries
10 are the principal source of the unintended scheduling error, and to that end constitute excusable
11 neglect and good cause to extend the time in which Defendants can disclose their expert witness. *Id.*
12 at 4:2–7. Defendants argue the deadline expired only eighteen days prior to the Motion, that the
13 scheduling error was beyond the Defendants’ control, and that Defendants and their counsel have
14 acted in good faith. *Id.* at 4:12–17. Defendants request a twenty-one day extension of time in which
15 to disclose their expert witness and submit his report in this case. *Id.* at 4:25–27.

16 Plaintiff responds that this case was filed nearly a year ago and at no time during this
17 litigation did defense counsel advise Plaintiff’s counsel that there was a medical issue affecting his
18 ability to represent his clients. *Id.* at 2:7–11. Plaintiff even states that defense counsel had numerous
19 discussions with Plaintiff’s counsel regarding another case pending in Department 15 between the
20 same parties. *Id.* at 2:12–14. Plaintiff states it is sympathetic to defense counsel’s assertions, but
21 points out defense counsel provides no detail about the alleged calendaring error, no detail about his
22 efforts to review the calendar, provides no name for the alleged expert Defendants intend to use, the
23 date they contacted that expert, nor have they served a report despite thirty days since the expiration
24 of the deadline. *Id.* at 2:15–21. Should this Court disagree and permit a continuance, Plaintiff
25 requests fees and costs associated with bringing the Motion. *Id.* at 2:22–25.

26 Plaintiff filed a Supplemental Reply that informed this Court that as of March 27, 2020,
27 Defendants have failed to disclose an expert witness. Suppl. at 1:28–2:10. Plaintiff states even if
28 this Court granted Defendants’ request for a forty-five day extension from the original expert

1 disclosure deadline, that would have passed on March 23, 2020. *Id.* As such, Plaintiff maintains
2 that even if this Court construes the Opposition as a proper motion seeking an extension, the
3 Defendants still have not served a timely expert witness disclosure. *Id.*

4 Having reviewed the pleadings on file and having reviewed the facts and legal support set
5 forth therein, this Court finds good cause to grant the Motion in part and deny it in part. Defense
6 counsel's injuries and care are a sufficient basis for this Court to find that the scheduling error was
7 a result of excusable neglect. This Court finds that the failure to disclose an expert in this case by
8 the February 7, 2020 deadline was the result of excusable neglect on behalf of defense counsel.

9 However, this Court cannot excuse Defendants' continued failure to disclose an expert.
10 Defendants were placed on notice of their failure to designate an expert witness by this Motion.
11 Defendants proceeded to not disclose an expert witness within the forty-five day extension that they
12 proposed in the Opposition. From the representations of defense counsel, the Defendants have
13 already retained an expert in this case, but have nonetheless failed to disclose said expert. Opp. at
14 2:23–25. This Court is unable to find that such a continued and prolonged delay is the result of
15 excusable neglect in this case.

16 Even if this Court were to construe Defendants' Opposition as a Motion for Extension of
17 Time, it specifically requested a forty-five day extension. This Court has reviewed the docket in this
18 case and notes Defendants have not filed anything in this case since March 2, 2020. Based upon the
19 Supplement, Defendants failed to disclose their expert within that forty-five day extension. As such,
20 the request to extend the expert disclosure deadline is denied as moot.

21 Accordingly, Defendants will be barred from disclosing an initial expert in this case. To
22 allow Defendants to untimely disclose an initial expert witness after Plaintiff's expert has already
23 produced his initial report would result in substantial prejudice to Plaintiff. Pursuant to this Court's
24 *Scheduling Order* filed July 25, 2019, the deadline for the close of discovery was May 8, 2020. This
25 Court will extend the discovery deadline and the deadline to make rebuttal expert disclosures
26 pursuant to NRCP 16.1(a)(2) to May 22, 2020. This extension is for the limited purpose of allowing
27 Defendants to disclose a rebuttal expert whose testimony will be limited to rebutting the expert
28

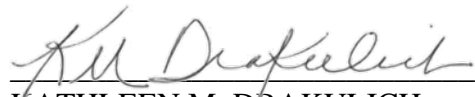
1 testimony filed by Plaintiff. This Court denies Plaintiff's request for costs and fees associated with
2 bringing this Motion.

3 Based upon the foregoing and good cause appearing,

4 IT IS HEREBY ORDERED that the *Motion in Limine to Exclude Evidence Pursuant to NRS*
5 *50.275, 50.285 and 50.305* is GRANTED IN PART and DENIED IN PART consistent with this
6 Order.

7 IT IS SO ORDERED.

8 DATED this 14th day of May, 2020.

9
10 
11 KATHLEEN M. DRAKULICH
District Court Judge

1 **CERTIFICATE OF SERVICE**

2 CASE NO. CV19-00753

3 I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the
4 STATE OF NEVADA, COUNTY OF WASHOE; that on the 14th day of May, 2020, I electronically
5 filed the **ORDER GRANTING IN PART AND DENYING IN PART MOTION IN LIMINE**
6 **TO EXCLUDE EVIDENCE PURSUANT TO NRS 50.275, 50.285 AND 50.305** with the Clerk
7 of the Court by using the ECF system.

8 I further certify that I transmitted a true and correct copy of the foregoing document by the
9 method(s) noted below:

10 **Electronically filed with the Clerk of the Court by using the ECF system which will send a**
11 **notice of electronic filing to the following:**

12 SUSAN ROTHE, ESQ. for CITY OF RENO

13 BRETT MAUPIN, ESQ. for JOHN ILIESCU & SONNIA ILIESCU,
14 TRUSTEES

15 MICHAEL MORRISON, ESQ. for JOHN ILIESCU & SONNIA
16 ILIESCU, TRUSTEES

17 GORDON DEPAOLI, ESQ. for THE REGIONAL TRANSPORTATION
18 COMMISSION OF WASHOE COUNTY

19 DANE ANDERSON, ESQ. for THE REGIONAL TRANSPORTATION
20 COMMISSION OF WASHOE COUNTY

21 **Deposited to the Second Judicial District Court mailing system in a sealed envelope for postage**
22 **and mailing by Washoe County using the United States Postal Service in Reno, Nevada:**
23 **[NONE]**

24
25 
26 DANIELLE REDMOND
27 Department 1 Judicial Assistant
28

3060

**IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE**

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY, a
special purpose unit of government,

Case No. CV19-00753

Plaintiff,

Dept. No. 1

vs.

JOHN ILIESCU, JR., and SONNIA ILIESCU,
Trustees of The John Iliescu, Jr. and Sonnia
Iliescu 1992 Family Trust Agreement, dated
January 24, 1992; The City of Reno, a political
subdivision of the State of Nevada; and DOES 1
-20, inclusive,

Defendants

**ORDER GRANTING PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE EVIDENCE
OR ARGUMENT REGARDING UNASSERTED CLAIMS**

Currently before the Court is Plaintiff The Regional Transportation Commission of Washoe County's ("RTC") *Motion in Limine to Preclude Evidence or Argument Regarding Unasserted Claims* filed June 4, 2020 and submitted to the Court for consideration on June 22, 2020. D.C.R. 13(3) provides "[f]ailure of the opposing party to serve and file his written opposition may be construed as an admission that the motion is meritorious and a consent to granting the same." Defendants did not file a response to Plaintiff's Motion. Accordingly, this Court finds good cause to grant Plaintiff's Motion.

Based on the foregoing and good cause appearing,

1 IT IS HEREBY ORDERED that Plaintiff's *Motion in Limine to Preclude Evidence or*
2 *Argument Regarding Unasserted Claims* is GRANTED.

3 IT IS SO ORDERED.

4 DATED this 26th day of June, 2020.

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7 _____
8 KATHLEEN DRAKULICH
9 DISTRICT JUDGE
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1 **CERTIFICATE OF SERVICE**

2 CASE NO. CV19-00753

3 I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the
4 STATE OF NEVADA, COUNTY OF WASHOE; that on the 26th day of June, 2020, I electronically
5 filed the **ORDER GRANTING PLAINTIFF'S MOTION IN LIMINE TO PRECLUDE**
6 **EVIDENCE OR ARGUMENT REGARDING UNASSERTED CLAIMS** with the Clerk of the
7 Court by using the ECF system.

8 I further certify that I transmitted a true and correct copy of the foregoing document by the
9 method(s) noted below:

10 **Electronically filed with the Clerk of the Court by using the ECF system which will send a notice**
11 **of electronic filing to the following:**

12 SUSAN ROTHE, ESQ. for CITY OF RENO

13 BRETT MAUPIN, ESQ. for JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES

14 MICHAEL MORRISON, ESQ. for JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES

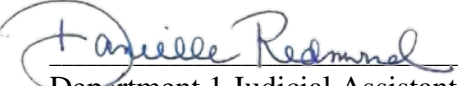
15 GORDON DEPAOLI, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION
16 OF WASHOE COUNTY

17 DANE ANDERSON, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION
18 OF WASHOE COUNTY

19 BRONAGH KELLY, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION
20 OF WASHOE COUNTY

21 **Deposited to the Second Judicial District Court mailing system in a sealed envelope for postage**
22 **and mailing by Washoe County using the United States Postal Service in Reno, Nevada:**

23 **[NONE]**

24 
25 Department 1 Judicial Assistant
26
27
28

3060

**IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE**

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY, a
special purpose unit of the government,

CASE NO.: CV19-00753

Plaintiff,

DEPT. NO.: 1

vs.

JOHN ILIESCU, JR. and SONNIA ILIESCU,
Trustees of The John Iliescu, Jr. and Sonnia Iliescu
1992 Family Trust Agreement, dated January 24,
1992; The City of Reno, a political subdivision of
the State of Nevada; and DOES 1 – 20, inclusive,

Defendants.

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

Currently before the Court is the Regional Transportation Commission of Washoe County's ("Plaintiff") *Motion for Summary Judgment and Declaration of Scott Q. Griffin in Support of Motion for Summary Judgment* ("Summary Judgment Motion") filed March 31, 2020. On May 22, 2020, Defendants John Iliescu, Jr. and Sonnia Iliescu, Trustees of The John Iliescu Jr. and Sonnia Iliescu 1992 Family Trust Agreement filed an *Opposition to Plaintiff's Motion for Summary Judgment* ("Summary Judgment Opposition"). On May 28, 2020, Plaintiff filed a *Reply in Support of Motion for Summary Judgment* ("Summary Judgment Reply") and submitted the Summary Judgment Motion to the Court for consideration.

///

1 **I. Background**

2 On July 25, 2019, this Court issued its *Scheduling Order* which set the initial expert
3 disclosure deadline as February 7, 2020 and the rebuttal expert disclosure deadline as March 9, 2020.
4 *Scheduling Order* at 2:4–8. The *Scheduling Order* noted that the requirement that experts submit
5 written reports had not been waived. *Id.* at 2:9. The *Scheduling Order* further noted that a
6 “continuance of the trial date does not modify, alter, change or continue the discovery schedule
7 unless specifically agreed to by the parties, in writing, and ordered by the Court.” *Id.* at 2:27–3:1.

8 On February 11, 2020, Plaintiff filed its *Motion in Limine to Exclude Evidence Pursuant to*
9 *NRS 50.275, 50.285 and 50.305* that alleged Defendants had failed to disclose a rebuttal expert.
10 Plaintiff filed a *Supplemental Reply in Support of Motion in Limine to Exclude Evidence Pursuant*
11 *to NRS 50.275, 50.285 and 50.305* on March 27, 2020 that confirmed Defendants had still failed to
12 disclose an expert witness.

13 On May 14, 2020, this Court issued its *Order Granting in Part and Denying in Part Motion*
14 *in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285 and 50.305* (“May 14 Order”).
15 Among other things, the Order stated:

16 Defendants will be barred from disclosing an initial expert in this case . . .
17 This Court will extend the discovery deadline and the deadline to make
18 rebuttal expert disclosures pursuant to NRCP 16.1(a)(2) to May 22, 2020.
19 This extension is for the limited purpose of allowing Defendants to disclose
20 a rebuttal expert whose testimony will be limited to rebutting the expert
21 testimony filed by Plaintiff.

22 Order at 5:21–6:2.

23 On May 15, 2020, Plaintiff filed a *Motion in Limine to Preclude Defendants From Calling*
24 *Witnesses and Presenting Documentary Evidence* (“Motion to Preclude”). In the Motion to
25 Preclude, Plaintiff states that on July 23, 2019, the parties filed a Joint Case Conference report
26 agreeing that they would make their initial disclosure of witnesses and documents pursuant to NRCP
27 16.1(a)(1). Motion to Preclude at 2:19-21. Defendants never served any disclosures. *Id.* at 2:21-
28 22. Plaintiff provides that the May 8, 2020 deadline to complete discovery was extended by the
Court to May 22, 2020, but only for the limited purpose of allowing Defendants to disclose a rebuttal
expert. *Id.* at 22-25. Plaintiff stated that for all other purposes, discovery was closed, Defendants

1 had made no disclosures required by NRCP 16.1(a)(1) and should be precluded from calling any
2 witnesses in their case. *Id.* at 3:1-3. Defendants failed to respond to the Motion to Preclude and
3 Plaintiff submitted this motion on June 1, 2020. This Court entered an *Order Granting Motion in*
4 *Limine to Preclude Defendants From Calling Witnesses and Presenting Documentary Evidence* on
5 June 4, 2020 (“June 4 Order”) that precludes Defendants from “from calling any witnesses in their
6 case in chief and from presenting any other evidence at trial. . . .” Motion to Preclude at 4:6–7.

7 On May 22, 2020, Defendants filed a *Notice* indicating that its expert witness would be Mr.
8 Tony Wren, MAI, SRA, Certified General Appraiser. Notice at 1:24–28. Exhibit 1 to the Notice
9 indicates Mr. Wren’s report was emailed to Defendants on April 8, 2020, sixty-one days after the
10 initial expert disclosure deadline. Notice at Ex. 1. Exhibit 1 to the Notice also includes a statement
11 by defense counsel on April 8, 2020 that states “I am hesitant to file anything with the Court on this
12 while the motion is pending but please let me know if you want us to file something on this.” *Id.*

13 On June 1, 2020, Plaintiff filed a *Motion in Limine to Preclude Defendants from Presenting*
14 *a Rebuttal Expert Witness* (“Rebuttal Expert Motion”). Plaintiff waited the requisite fourteen days
15 as required by WDCR 12(2) and then submitted it to the Court for consideration on June 16, 2020.
16 On June 18, 2020, or three days after the fourteen-day deadline imposed by WDCR 12(2),
17 Defendants filed an *Opposition to Plaintiff’s Motion in Limine*.¹ On June 24, 2020, Plaintiff filed a
18 *Reply to Defendants’ Untimely Opposition to Motion in Limine to Preclude Defendants from*
19 *Presenting a Rebuttal Expert Witness*.

20 **II. Relevant Legal Authority**

21 **a. Summary Judgment**

22 NRCP 56(c) provides, “[summary judgment] shall be rendered if the pleadings, depositions,
23 answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there
24 is no genuine issue as to any material fact and that the moving party is entitled to judgment as a
25 matter of law.” A genuine issue of material fact exists when the evidence is such that a rational trier
26 of fact could return a verdict for the nonmoving party. *Woods v. Safeway*, 121 Nev. 724, 731, 121

27 ¹ The title does not indicate which Motion in Limine the Motion is regarding but the conclusion of the Motion
28 requests an order denying Plaintiff’s June 1, 2020 Motion in Limine and this was the only motion filed that
day. Opp. at 9:19–20.

1 P.3d 1026, 1031 (2005). When deciding whether summary judgment is appropriate, the court must
2 view all evidence in the light most favorable to the non-moving party and accept all properly
3 supported evidence, factual allegations, and reasonable inferences favorable to the non-moving party
4 as true. *C. Nicholas Pereos, Ltd. v. Bank of Am.*, 131 Nev. Adv. Op. 44, 352 P.3d 1133, 1136 (2015);
5 *NGA No. 2 Ltd. Liab. Co. v. Rains*, 113 Nev. 1151, 1157, 946 P.2d 163, 167 (1997).

6 The Nevada Supreme Court has adopted the federal approach outlined in *Celotex Corp. v.*
7 *Catrett*, 477 U.S. 317 (1986), with respect to burdens of proof and persuasion in summary judgment
8 proceedings. See *Cuzze v. Univ. & Cmty. College Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131,
9 134 (2007). The party moving for summary judgment must meet his or her initial burden of
10 production and show there is no genuine issue of material fact. *Id.* “The manner in which each party
11 may satisfy its burden of production depends on which party will bear the burden of persuasion on
12 the challenged claim at trial.” *Id.* When the moving party bears the burden at trial, that party must
13 present evidence that would entitle it to judgment as a matter of law absent contrary evidence. *Id.*
14 If the burden of persuasion at trial will rest on the nonmoving party, “the party moving for summary
15 judgment may satisfy the burden of production by either (1) submitting evidence that negates an
16 essential element of the nonmoving party’s claim, or (2) pointing out that there is an absence of
17 evidence to support the nonmoving party’s case.” *Id.* After the moving party meets his or her initial
18 burden of production, the opposing party “must transcend the pleadings and by affidavit or other
19 admissible evidence, introduce specific facts that show a genuine issue of material fact.” *Id.*

20 When deciding a motion for summary judgment, “a district court cannot make findings
21 concerning the credibility of witnesses or weight of evidence.” *Sawyer v. Sugarless Shops Inc.*, 106
22 Nev. 265, 267–68, 792 P.2d 14, 15–16 (1990). Moreover, if documentary evidence is required, it
23 “must be construed in the light most favorable to the non-moving party. All of the non-movant’s
24 statements must be accepted as true and a district court may not pass on the credibility of affidavits.”
25 *Id.* (internal citation omitted)).

26 **b. Rebuttal Expert Witness**

27 In Nevada, once the issues of public use and necessity are established by the condemning
28 agency, the property owner has the burden of proving, by a preponderance of the evidence, the value

1 of the land taken and any severance damages. *State v. Pinson*, 66 Nev. 227, 236-238, 207 P.2d 1105,
2 1109–10 (1949); *City of Las Vegas v. Bustos*, 119 Nev. 360, 362, 75 P.3d 351, 352 (2003); *Pappas*
3 *v. State*, 104 Nev. 572, 575, 763 P.2d 348, 350 (1988).

4 In dictating when a party must make disclosure of expert witnesses, NRCP
5 16.1(a)(2)(E)(i)(b) provides that “if the evidence is intended solely to contradict or rebut evidence
6 on the same subject matter identified by another party under Rule 16.1(a)(2)(B), (C), or (D), within
7 30 days after the other party’s disclosure.” However, sub-section (ii) states that the thirty-day
8 deadline “does not apply to any party’s witness whose purpose is to contradict a portion of another
9 party’s case in chief that should have been expected and anticipated by the disclosing party, or to
10 present any opinions outside of the scope of another party’s disclosure.” NRCP 16.1(a)(2)(E)(ii).

11 The contours of this rule were discussed at length in *R&O Const. Co. v. Rox Pro Intern.*
12 *Group Ltd.*, No. 2:09–CV–01749–LRH–LRL, 2011 WL 2923703, *2 (D. Nev. July 18, 2011). First,
13 rebuttal expert reports are not the proper place to present new arguments. *Id.* (citations omitted).
14 Second, if the purpose of the expert testimony in question is to contradict an expected or anticipated
15 portion of the other party’s case in chief, the witness is not a rebuttal witness or anything analogous
16 to one. *Id.* (citations omitted). Third, rebuttal testimony “is limited to new unforeseen facts brought
17 out in the other side’s case.” *Id.* (internal quotation marks omitted).

18 **III. Analysis**

19 The parties agree the only remaining fact in dispute in this case is the amount of just
20 compensation due to Defendants for Plaintiff’s acquisition of the property and any severance
21 damages. Summ. J. Mot. at 2:10–17; Summ. J. Opp. at 2:13–17. Plaintiff argues it timely filed the
22 expert opinion of Mr. Scott Griffin who opined that the value of just compensation due to Defendants
23 is \$15,955. Summ. J. Mot. at 2:19–24. Plaintiff argues because Defendants failed to timely disclose
24 any experts to satisfy their burden of proving the value of the land taken or the existence and amount
25 of any severance damages, summary judgment is proper. *Id.* at 3:20–21. Plaintiff contends that
26 because Defendants cannot satisfy their burden, this Court should enter summary judgment in favor
27 of Plaintiff and find that the amount of just compensation due to Defendants is \$15,955. *Id.* at 3:22–
28 4:3.

1 Defendants respond² that their disclosure of expert witness and related reports were not
2 timely filed due to Mr. Morrison's health conditions and related medical tests and treatments. Summ.
3 J. Opp. at 2:20–23. Defendants assert at the time expert disclosures were due, Mr. Morrison was
4 Defendants' sole lawyer, but Defendants engaged Mr. Maupin to represent them on February 25,
5 2020. *Id.* at 2:24–27. Defendants assert that while the parties were engaged in settlement
6 discussions, Plaintiff filed the Summary Judgment Motion. *Id.* at 3:4–22. Defendants represent that
7 in a phone conversation, counsel for the Plaintiff had mentioned Mr. Maupin's diligent efforts to
8 obtain and perform an appraisal and expert report. *Id.* at 3:24–4:6. Defendants state that counsel for
9 the Plaintiff agreed that the *Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285*
10 *and 50.305* should be withdrawn but that the Plaintiff would have the final decision. *Id.* at 4:7–15.
11 Ultimately, Plaintiff decided not to withdraw the motion. *Id.* at 4:18–19. Defendants maintain that
12 this Court's May 14 Order that permits them to call a rebuttal expert witness is sufficient to create a
13 general issue of material fact. *Id.* at 4:21–5:2.

14 Defendants argue that because this Court had not issued the May 14 Order when the
15 Summary Judgment Motion was filed, it was premature and that Plaintiff's counsel's statements
16 adversely impacted Defendants' ability to disclose an expert witness. *Id.* at 6:4–13. Defendants
17 contend that by granting Defendants the ability to call a rebuttal expert witness in the May 14 Order,
18 this Court essentially made the Summary Judgment Motion moot in its current form. *Id.* at 6:19–24.
19 Defendants state that by disclosing Mr. Wren on April 8, 2020 and disclosing his appraisal report
20 that directly rebuts Plaintiff's expert's testimony, that creates a genuine dispute of material fact as
21 to the proper amount of just compensation. *Id.* at 7:3–10.

22 Plaintiff replies that there is no requirement that it file a motion in limine and filing this
23 Summary Judgment Motion is proper and timely. Summ. J. Reply at 2:6–13. Plaintiff contends this
24 Court's May 14 Order makes this Summary Judgment Motion ripe because Defendants are unable
25 to meet their burden of proof using a rebuttal expert and thus Plaintiff is entitled to judgment as a
26 matter of law. *Id.* at 2:14–18. Plaintiff contends Mr. Wren's appraisals are not rebuttal reports as

27 ² While Plaintiff filed the Summary Judgment Motion on March 31, 2020, Defendants did not file the
28 Summary Judgment Opposition until May 22, 2020, after this Court's *Order Granting in Part and Denying*
in Part Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285 and 50.305.

1 they do not mention Mr. Griffin or his report, do not contradict or rebut Mr. Griffin's report, and are
2 presented for the purpose of estimating the market value and just compensation. *Id.* at 3:3–7.
3 Plaintiff argues a rebuttal expert cannot be used to meet a party's burden of proof in their case in
4 chief. *Id.* at 3:11–12. Plaintiff states that NRCP 16.1(a)(2)(E)(ii) makes clear that if the party's
5 expert's purpose is to contradict a matter that should have been expected or anticipated the expert
6 disclosure deadline does not apply. *Id.* at 3:13–20.

7 Plaintiff contends that Mr. Wren's report is based on the elimination of access to South
8 Virginia Street on parcel APN 014-063-07, but that access is entirely within the right of way meaning
9 that the alleged taking is not part of this condemnation proceeding and should have been the subject
10 of an inverse condemnation counterclaim that Defendants failed to assert in this case. *Id.* at 3:21–
11 4:1. Plaintiff points out the deadline to amend pleadings in this case has passed and Defendants
12 cannot produce any evidence supporting a claim clearly beyond the scope of Plaintiff's alleged
13 taking. *Id.* at 4:1–5. Plaintiff adds that statements of Plaintiff's counsel are irrelevant and did not
14 prevent Defendants from complying with the expert disclosure deadline in this case, or any of the
15 other deadlines Defendants have failed to comply with in this case. *Id.* at 4:14–28. Plaintiff states
16 that while Defendants demanded a jury trial, they have not identified any witnesses or produced any
17 documents that would be admissible to establish just compensation and summary judgment is proper
18 for the \$15,955 figure suggested in Mr. Griffin's report. *Id.* at 5:1–6.

19 Having reviewed the pleadings on file and the facts and legal support set forth therein, this
20 Court finds good cause to grant the Summary Judgment Motion. Defendants bear the burden to
21 prove the value of the land taken and any severance damages. *Bustos*, 119 Nev. at 362. Defendants
22 are unable to satisfy this burden relying upon a rebuttal expert. This Court does not agree with
23 Defendants that the Court's May 14 Order made the Summary Judgment Motion moot in its current
24 form. The logical extension of this assertion results in impermissibly shifting the burden to Plaintiff
25 to establish the value of the land taken and any severance damages. Plaintiff's hypothetical
26 illustrates this point: at trial, the jury would hear opening statements, Defendants who bear the
27 burden of proof would have no witnesses, and Plaintiff would stand up and move for judgment as a
28 matter of law. *Summ. J. Reply* at 3:28.

1 Despite this Court's May 14 Order, Defendants nonetheless failed to disclose a proper
2 rebuttal expert. The *Notice* filed by Defendants on May 22, 2020 attempts to repackage Mr. Wren's
3 initial expert report as a rebuttal expert report, but the actual report attached to the Summary
4 Judgment Opposition is very clearly an initial expert report as it doesn't mention Plaintiff's expert
5 report. Summ. J. Opp. at Ex. 2. Further, Mr. Wren's report is not a proper rebuttal expert report as
6 it presents opinions outside the scope of Plaintiff's expert report and provides Mr. Wren's valuation
7 of the land and proposes just compensation, which Defendants not only should have expected or
8 anticipated but is also a fact they bear the burden of proving; and contains no facts that are new or
9 unforeseen such that they would be proper subject matter for a rebuttal expert report.³ NRCP
10 16.1(a)(2)(E)(ii); *R&O Const. Co.*, 2011 WL 2923703 at *2. Further, this Court is persuaded by
11 Plaintiff's argument that Mr. Wren's evaluation is based upon the loss of access to South Virginia
12 Street and to claim damages on that basis Defendants would have needed to assert a counterclaim
13 for inverse condemnation. Defendants have asserted no such counterclaim and the time for doing
14 so has passed.

15 As to their case in chief, Defendants have failed to produce evidence that would prove the
16 value of the land taken and any severance damages and will be unable to carry their burden to prove
17 the same. *Bustos*, 119 Nev. at 362. Importantly, this Court's June 4 Order granted Plaintiff's Motion
18 to Preclude after Defendants failed to file a response. The June 4 Order provides Defendants are
19 precluded "from calling any witnesses in their case in chief and from presenting any other evidence
20 at trial. . . ." Motion to Preclude at 4:6-7. As to the ability to call a rebuttal expert witness,
21 Defendants have failed to provide a proper rebuttal expert witness report. In summary, Defendants
22 have failed to produce admissible evidence that shows a genuine dispute of material fact as to the
23 only remaining issue in this case. Accordingly, summary judgment is proper and the amount of just
24 compensation due to Defendants is \$15,955.

25 ///

26 ///

27
28 ³ This renders moot Plaintiff's *Motion in Limine to Preclude Defendants from Presenting a Rebuttal Expert Witness*.

1 Based upon the foregoing and good cause appearing,


2 IT IS HEREBY ORDERED that Plaintiff Regional Transportation Commission of Washoe
3 County's *Motion for Summary Judgment* is GRANTED.

4 IT IS HEREBY FURTHER ORDERED that the amount of just compensation due to
5 Defendants John Ilescu, Jr. and Sonnia Ilescu, Trustees of The John Ilescu Jr. and Sonnia Ilescu
6 1992 Family Trust Agreement is \$15,955.

7 IT IS HEREBY FURTHER ORDERED that submission of Plaintiff Regional Transportation
8 Commission of Washoe County's pending *Motion in Limine to Preclude Defendants from*
9 *Presenting a Rebuttal Expert Witness* is vacated as moot.

10 IT IS SO ORDERED.

11 DATED this 3rd day of August, 2020.

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13 _____
14 KATHLEEN M. DRAKULICH
15 District Court Judge
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CERTIFICATE OF SERVICE

CASE NO. CV19-00753

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 3rd day of August, 2020, I electronically filed the **ORDER GRANTING MOTION FOR SUMMARY JUDGMENT** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

SUSAN ROTHE, ESQ. for CITY OF RENO

MICHAEL MORRISON, ESQ. for JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES


DANE ANDERSON, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION
OF WASHOE COUNTY

BRONAGH KELLY, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION
OF WASHOE COUNTY

GORDON DEPAOLI, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION
OF WASHOE COUNTY

BRETT MAUPIN, ESQ. for JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES

Deposited to the Second Judicial District Court mailing system in a sealed envelope for postage and mailing by Washoe County using the United States Postal Service in Reno, Nevada:
[NONE]


DANIELLE REDMOND
Department 1 Judicial Assistant

1 **2540**

2 Gordon H. DePaoli, Esq.

3 Nevada Bar No. 195

4 Dane W. Anderson, Esq.

5 Nevada Bar No. 6883

6 Bronagh M. Kelly, Esq.

7 Nevada Bar No. 14555

8 **WOODBURN AND WEDGE**

9 6100 Neil Road, Suite 500

10 Reno, Nevada 89511

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12 Facsimile: 775-688-3088

13 gdepaoli@woodburnandwedge.com

14 danderson@woodburnandwedge.com

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16
17 Attorneys for Plaintiff, the Regional Transportation
18 Commission of Washoe County

19 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

20 **IN AND FOR THE COUNTY OF WASHOE**

21 THE REGIONAL TRANSPORTATION
22 COMMISSION OF WASHOE COUNTY, a
23 special purpose unit of the government,

Case No.: CV19-00753

Dept. No.: 1

Plaintiff,

v.

24 JOHN ILIESCU, JR. and SONNIA ILIESCU,
25 Trustees of The John Iliescu, Jr. and Sonnia
26 Iliescu 1992 Family Trust Agreement, dated
27 January 24, 1992; The City of Reno, a
28 political subdivision of the State of Nevada;
and DOES 1 – 20, inclusive,

Defendants.

NOTICE OF ENTRY OF ORDER

TO: ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that an Order Granting Motion for Summary Judgment was entered in the above-entitled action on August 3, 2020, by this Court. A copy of the Order is attached hereto as **Exhibit 1**.

1 **Affirmation pursuant to NRS 239B.030**

2 The undersigned does hereby affirm that the preceding document does not contain the
3 personal information of any person.

4 DATED: August 4, 2020.

5 **WOODBURN AND WEDGE**

6
7 By: /s/ Dane W. Anderson
8 Gordon H. DePaoli, Esq.
9 Nevada Bar No. 195
10 Dane W. Anderson, Esq.
11 Nevada Bar No. 6883
12 Bronagh M. Kelly, Esq.
13 Nevada Bar No. 14555

14
15 Attorneys for Plaintiff, the Regional
16 Transportation Commission of Washoe County
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **NOTICE OF ENTRY OF ORDER** to:

Michael James Morrison, Esq.
1495 Ridgeview Drive, Suite 220
Reno, NV 89519
venturelawusa@gmail.com

*Attorneys for Defendants
John Iliescu, Jr. and Sonnia Iliescu,
Trustees of The John Iliescu, Jr. and Sonnia
Iliescu
1992 Family Trust Agreement,
Dated January 24, 1992*

Brett W. Maupin, Esq.
Maupin, Cox & LeGoy
4785 Caughlin Parkway
P.O. Box 30000
Reno, NV 89520
bmaupin@mcllawfirm.com

*Attorneys for Defendant John Iliescu, Jr.
and Sonnia Iliescu*

DATED: August 4, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION OF EXHIBIT	NO OF PAGES INCLUDING EXHIBIT PAGES
1	Order Granting Motion for Summary Judgment	11

EXHIBIT 1

EXHIBIT 1

3060

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
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THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY, a
special purpose unit of the government,

Plaintiff,

CASE NO.: CV19-00753

DEPT. NO.: 1

vs.

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Trustees of The John Iliescu, Jr. and Sonnia Iliescu
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the State of Nevada; and DOES 1 – 20, inclusive,

Defendants.

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

Currently before the Court is the Regional Transportation Commission of Washoe County's ("Plaintiff") *Motion for Summary Judgment and Declaration of Scott Q. Griffin in Support of Motion for Summary Judgment* ("Summary Judgment Motion") filed March 31, 2020. On May 22, 2020, Defendants John Iliescu, Jr. and Sonnia Iliescu, Trustees of The John Iliescu Jr. and Sonnia Iliescu 1992 Family Trust Agreement filed an *Opposition to Plaintiff's Motion for Summary Judgment* ("Summary Judgment Opposition"). On May 28, 2020, Plaintiff filed a *Reply in Support of Motion for Summary Judgment* ("Summary Judgment Reply") and submitted the Summary Judgment Motion to the Court for consideration.

///

1 **I. Background**

2 On July 25, 2019, this Court issued its *Scheduling Order* which set the initial expert
3 disclosure deadline as February 7, 2020 and the rebuttal expert disclosure deadline as March 9, 2020.
4 *Scheduling Order* at 2:4–8. The *Scheduling Order* noted that the requirement that experts submit
5 written reports had not been waived. *Id.* at 2:9. The *Scheduling Order* further noted that a
6 “continuance of the trial date does not modify, alter, change or continue the discovery schedule
7 unless specifically agreed to by the parties, in writing, and ordered by the Court.” *Id.* at 2:27–3:1.

8 On February 11, 2020, Plaintiff filed its *Motion in Limine to Exclude Evidence Pursuant to*
9 *NRS 50.275, 50.285 and 50.305* that alleged Defendants had failed to disclose a rebuttal expert.
10 Plaintiff filed a *Supplemental Reply in Support of Motion in Limine to Exclude Evidence Pursuant*
11 *to NRS 50.275, 50.285 and 50.305* on March 27, 2020 that confirmed Defendants had still failed to
12 disclose an expert witness.

13 On May 14, 2020, this Court issued its *Order Granting in Part and Denying in Part Motion*
14 *in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285 and 50.305* (“May 14 Order”).
15 Among other things, the Order stated:

16 Defendants will be barred from disclosing an initial expert in this case . . .
17 This Court will extend the discovery deadline and the deadline to make
18 rebuttal expert disclosures pursuant to NRCP 16.1(a)(2) to May 22, 2020.
19 This extension is for the limited purpose of allowing Defendants to disclose
20 a rebuttal expert whose testimony will be limited to rebutting the expert
21 testimony filed by Plaintiff.

22 Order at 5:21–6:2.

23 On May 15, 2020, Plaintiff filed a *Motion in Limine to Preclude Defendants From Calling*
24 *Witnesses and Presenting Documentary Evidence* (“Motion to Preclude”). In the Motion to
25 Preclude, Plaintiff states that on July 23, 2019, the parties filed a Joint Case Conference report
26 agreeing that they would make their initial disclosure of witnesses and documents pursuant to NRCP
27 16.1(a)(1). Motion to Preclude at 2:19-21. Defendants never served any disclosures. *Id.* at 2:21-
28 22. Plaintiff provides that the May 8, 2020 deadline to complete discovery was extended by the
Court to May 22, 2020, but only for the limited purpose of allowing Defendants to disclose a rebuttal
expert. *Id.* at 22-25. Plaintiff stated that for all other purposes, discovery was closed, Defendants

1 had made no disclosures required by NRCP 16.1(a)(1) and should be precluded from calling any
2 witnesses in their case. *Id.* at 3:1-3. Defendants failed to respond to the Motion to Preclude and
3 Plaintiff submitted this motion on June 1, 2020. This Court entered an *Order Granting Motion in*
4 *Limine to Preclude Defendants From Calling Witnesses and Presenting Documentary Evidence* on
5 June 4, 2020 (“June 4 Order”) that precludes Defendants from “from calling any witnesses in their
6 case in chief and from presenting any other evidence at trial. . . .” Motion to Preclude at 4:6–7.

7 On May 22, 2020, Defendants filed a *Notice* indicating that its expert witness would be Mr.
8 Tony Wren, MAI, SRA, Certified General Appraiser. Notice at 1:24–28. Exhibit 1 to the Notice
9 indicates Mr. Wren’s report was emailed to Defendants on April 8, 2020, sixty-one days after the
10 initial expert disclosure deadline. Notice at Ex. 1. Exhibit 1 to the Notice also includes a statement
11 by defense counsel on April 8, 2020 that states “I am hesitant to file anything with the Court on this
12 while the motion is pending but please let me know if you want us to file something on this.” *Id.*

13 On June 1, 2020, Plaintiff filed a *Motion in Limine to Preclude Defendants from Presenting*
14 *a Rebuttal Expert Witness* (“Rebuttal Expert Motion”). Plaintiff waited the requisite fourteen days
15 as required by WDCR 12(2) and then submitted it to the Court for consideration on June 16, 2020.
16 On June 18, 2020, or three days after the fourteen-day deadline imposed by WDCR 12(2),
17 Defendants filed an *Opposition to Plaintiff’s Motion in Limine*.¹ On June 24, 2020, Plaintiff filed a
18 *Reply to Defendants’ Untimely Opposition to Motion in Limine to Preclude Defendants from*
19 *Presenting a Rebuttal Expert Witness*.

20 **II. Relevant Legal Authority**

21 **a. Summary Judgment**

22 NRCP 56(c) provides, “[summary judgment] shall be rendered if the pleadings, depositions,
23 answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there
24 is no genuine issue as to any material fact and that the moving party is entitled to judgment as a
25 matter of law.” A genuine issue of material fact exists when the evidence is such that a rational trier
26 of fact could return a verdict for the nonmoving party. *Woods v. Safeway*, 121 Nev. 724, 731, 121

27 ¹ The title does not indicate which Motion in Limine the Motion is regarding but the conclusion of the Motion
28 requests an order denying Plaintiff’s June 1, 2020 Motion in Limine and this was the only motion filed that
day. Opp. at 9:19–20.

1 P.3d 1026, 1031 (2005). When deciding whether summary judgment is appropriate, the court must
2 view all evidence in the light most favorable to the non-moving party and accept all properly
3 supported evidence, factual allegations, and reasonable inferences favorable to the non-moving party
4 as true. *C. Nicholas Pereos, Ltd. v. Bank of Am.*, 131 Nev. Adv. Op. 44, 352 P.3d 1133, 1136 (2015);
5 *NGA No. 2 Ltd. Liab. Co. v. Rains*, 113 Nev. 1151, 1157, 946 P.2d 163, 167 (1997).

6 The Nevada Supreme Court has adopted the federal approach outlined in *Celotex Corp. v.*
7 *Catrett*, 477 U.S. 317 (1986), with respect to burdens of proof and persuasion in summary judgment
8 proceedings. See *Cuzze v. Univ. & Cmty. College Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131,
9 134 (2007). The party moving for summary judgment must meet his or her initial burden of
10 production and show there is no genuine issue of material fact. *Id.* “The manner in which each party
11 may satisfy its burden of production depends on which party will bear the burden of persuasion on
12 the challenged claim at trial.” *Id.* When the moving party bears the burden at trial, that party must
13 present evidence that would entitle it to judgment as a matter of law absent contrary evidence. *Id.*
14 If the burden of persuasion at trial will rest on the nonmoving party, “the party moving for summary
15 judgment may satisfy the burden of production by either (1) submitting evidence that negates an
16 essential element of the nonmoving party’s claim, or (2) pointing out that there is an absence of
17 evidence to support the nonmoving party’s case.” *Id.* After the moving party meets his or her initial
18 burden of production, the opposing party “must transcend the pleadings and by affidavit or other
19 admissible evidence, introduce specific facts that show a genuine issue of material fact.” *Id.*

20 When deciding a motion for summary judgment, “a district court cannot make findings
21 concerning the credibility of witnesses or weight of evidence.” *Sawyer v. Sugarless Shops Inc.*, 106
22 Nev. 265, 267–68, 792 P.2d 14, 15–16 (1990). Moreover, if documentary evidence is required, it
23 “must be construed in the light most favorable to the non-moving party. All of the non-movant’s
24 statements must be accepted as true and a district court may not pass on the credibility of affidavits.”
25 *Id.* (internal citation omitted)).

26 **b. Rebuttal Expert Witness**

27 In Nevada, once the issues of public use and necessity are established by the condemning
28 agency, the property owner has the burden of proving, by a preponderance of the evidence, the value

1 of the land taken and any severance damages. *State v. Pinson*, 66 Nev. 227, 236-238, 207 P.2d 1105,
2 1109–10 (1949); *City of Las Vegas v. Bustos*, 119 Nev. 360, 362, 75 P.3d 351, 352 (2003); *Pappas*
3 *v. State*, 104 Nev. 572, 575, 763 P.2d 348, 350 (1988).

4 In dictating when a party must make disclosure of expert witnesses, NRCP
5 16.1(a)(2)(E)(i)(b) provides that “if the evidence is intended solely to contradict or rebut evidence
6 on the same subject matter identified by another party under Rule 16.1(a)(2)(B), (C), or (D), within
7 30 days after the other party’s disclosure.” However, sub-section (ii) states that the thirty-day
8 deadline “does not apply to any party’s witness whose purpose is to contradict a portion of another
9 party’s case in chief that should have been expected and anticipated by the disclosing party, or to
10 present any opinions outside of the scope of another party’s disclosure.” NRCP 16.1(a)(2)(E)(ii).

11 The contours of this rule were discussed at length in *R&O Const. Co. v. Rox Pro Intern.*
12 *Group Ltd.*, No. 2:09–CV–01749–LRH–LRL, 2011 WL 2923703, *2 (D. Nev. July 18, 2011). First,
13 rebuttal expert reports are not the proper place to present new arguments. *Id.* (citations omitted).
14 Second, if the purpose of the expert testimony in question is to contradict an expected or anticipated
15 portion of the other party’s case in chief, the witness is not a rebuttal witness or anything analogous
16 to one. *Id.* (citations omitted). Third, rebuttal testimony “is limited to new unforeseen facts brought
17 out in the other side’s case.” *Id.* (internal quotation marks omitted).

18 **III. Analysis**

19 The parties agree the only remaining fact in dispute in this case is the amount of just
20 compensation due to Defendants for Plaintiff’s acquisition of the property and any severance
21 damages. Summ. J. Mot. at 2:10–17; Summ. J. Opp. at 2:13–17. Plaintiff argues it timely filed the
22 expert opinion of Mr. Scott Griffin who opined that the value of just compensation due to Defendants
23 is \$15,955. Summ. J. Mot. at 2:19–24. Plaintiff argues because Defendants failed to timely disclose
24 any experts to satisfy their burden of proving the value of the land taken or the existence and amount
25 of any severance damages, summary judgment is proper. *Id.* at 3:20–21. Plaintiff contends that
26 because Defendants cannot satisfy their burden, this Court should enter summary judgment in favor
27 of Plaintiff and find that the amount of just compensation due to Defendants is \$15,955. *Id.* at 3:22–
28 4:3.

1 Defendants respond² that their disclosure of expert witness and related reports were not
2 timely filed due to Mr. Morrison's health conditions and related medical tests and treatments. Summ.
3 J. Opp. at 2:20–23. Defendants assert at the time expert disclosures were due, Mr. Morrison was
4 Defendants' sole lawyer, but Defendants engaged Mr. Maupin to represent them on February 25,
5 2020. *Id.* at 2:24–27. Defendants assert that while the parties were engaged in settlement
6 discussions, Plaintiff filed the Summary Judgment Motion. *Id.* at 3:4–22. Defendants represent that
7 in a phone conversation, counsel for the Plaintiff had mentioned Mr. Maupin's diligent efforts to
8 obtain and perform an appraisal and expert report. *Id.* at 3:24–4:6. Defendants state that counsel for
9 the Plaintiff agreed that the *Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285*
10 *and 50.305* should be withdrawn but that the Plaintiff would have the final decision. *Id.* at 4:7–15.
11 Ultimately, Plaintiff decided not to withdraw the motion. *Id.* at 4:18–19. Defendants maintain that
12 this Court's May 14 Order that permits them to call a rebuttal expert witness is sufficient to create a
13 general issue of material fact. *Id.* at 4:21–5:2.

14 Defendants argue that because this Court had not issued the May 14 Order when the
15 Summary Judgment Motion was filed, it was premature and that Plaintiff's counsel's statements
16 adversely impacted Defendants' ability to disclose an expert witness. *Id.* at 6:4–13. Defendants
17 contend that by granting Defendants the ability to call a rebuttal expert witness in the May 14 Order,
18 this Court essentially made the Summary Judgment Motion moot in its current form. *Id.* at 6:19–24.
19 Defendants state that by disclosing Mr. Wren on April 8, 2020 and disclosing his appraisal report
20 that directly rebuts Plaintiff's expert's testimony, that creates a genuine dispute of material fact as
21 to the proper amount of just compensation. *Id.* at 7:3–10.

22 Plaintiff replies that there is no requirement that it file a motion in limine and filing this
23 Summary Judgment Motion is proper and timely. Summ. J. Reply at 2:6–13. Plaintiff contends this
24 Court's May 14 Order makes this Summary Judgment Motion ripe because Defendants are unable
25 to meet their burden of proof using a rebuttal expert and thus Plaintiff is entitled to judgment as a
26 matter of law. *Id.* at 2:14–18. Plaintiff contends Mr. Wren's appraisals are not rebuttal reports as

27 ² While Plaintiff filed the Summary Judgment Motion on March 31, 2020, Defendants did not file the
28 Summary Judgment Opposition until May 22, 2020, after this Court's *Order Granting in Part and Denying*
in Part Motion in Limine to Exclude Evidence Pursuant to NRS 50.275, 50.285 and 50.305.

1 they do not mention Mr. Griffin or his report, do not contradict or rebut Mr. Griffin's report, and are
2 presented for the purpose of estimating the market value and just compensation. *Id.* at 3:3–7.
3 Plaintiff argues a rebuttal expert cannot be used to meet a party's burden of proof in their case in
4 chief. *Id.* at 3:11–12. Plaintiff states that NRCP 16.1(a)(2)(E)(ii) makes clear that if the party's
5 expert's purpose is to contradict a matter that should have been expected or anticipated the expert
6 disclosure deadline does not apply. *Id.* at 3:13–20.

7 Plaintiff contends that Mr. Wren's report is based on the elimination of access to South
8 Virginia Street on parcel APN 014-063-07, but that access is entirely within the right of way meaning
9 that the alleged taking is not part of this condemnation proceeding and should have been the subject
10 of an inverse condemnation counterclaim that Defendants failed to assert in this case. *Id.* at 3:21–
11 4:1. Plaintiff points out the deadline to amend pleadings in this case has passed and Defendants
12 cannot produce any evidence supporting a claim clearly beyond the scope of Plaintiff's alleged
13 taking. *Id.* at 4:1–5. Plaintiff adds that statements of Plaintiff's counsel are irrelevant and did not
14 prevent Defendants from complying with the expert disclosure deadline in this case, or any of the
15 other deadlines Defendants have failed to comply with in this case. *Id.* at 4:14–28. Plaintiff states
16 that while Defendants demanded a jury trial, they have not identified any witnesses or produced any
17 documents that would be admissible to establish just compensation and summary judgment is proper
18 for the \$15,955 figure suggested in Mr. Griffin's report. *Id.* at 5:1–6.

19 Having reviewed the pleadings on file and the facts and legal support set forth therein, this
20 Court finds good cause to grant the Summary Judgment Motion. Defendants bear the burden to
21 prove the value of the land taken and any severance damages. *Bustos*, 119 Nev. at 362. Defendants
22 are unable to satisfy this burden relying upon a rebuttal expert. This Court does not agree with
23 Defendants that the Court's May 14 Order made the Summary Judgment Motion moot in its current
24 form. The logical extension of this assertion results in impermissibly shifting the burden to Plaintiff
25 to establish the value of the land taken and any severance damages. Plaintiff's hypothetical
26 illustrates this point: at trial, the jury would hear opening statements, Defendants who bear the
27 burden of proof would have no witnesses, and Plaintiff would stand up and move for judgment as a
28 matter of law. Summ. J. Reply at 3:28.

1 Despite this Court's May 14 Order, Defendants nonetheless failed to disclose a proper
2 rebuttal expert. The *Notice* filed by Defendants on May 22, 2020 attempts to repackage Mr. Wren's
3 initial expert report as a rebuttal expert report, but the actual report attached to the Summary
4 Judgment Opposition is very clearly an initial expert report as it doesn't mention Plaintiff's expert
5 report. Summ. J. Opp. at Ex. 2. Further, Mr. Wren's report is not a proper rebuttal expert report as
6 it presents opinions outside the scope of Plaintiff's expert report and provides Mr. Wren's valuation
7 of the land and proposes just compensation, which Defendants not only should have expected or
8 anticipated but is also a fact they bear the burden of proving; and contains no facts that are new or
9 unforeseen such that they would be proper subject matter for a rebuttal expert report.³ NRCP
10 16.1(a)(2)(E)(ii); *R&O Const. Co.*, 2011 WL 2923703 at *2. Further, this Court is persuaded by
11 Plaintiff's argument that Mr. Wren's evaluation is based upon the loss of access to South Virginia
12 Street and to claim damages on that basis Defendants would have needed to assert a counterclaim
13 for inverse condemnation. Defendants have asserted no such counterclaim and the time for doing
14 so has passed.

15 As to their case in chief, Defendants have failed to produce evidence that would prove the
16 value of the land taken and any severance damages and will be unable to carry their burden to prove
17 the same. *Bustos*, 119 Nev. at 362. Importantly, this Court's June 4 Order granted Plaintiff's Motion
18 to Preclude after Defendants failed to file a response. The June 4 Order provides Defendants are
19 precluded "from calling any witnesses in their case in chief and from presenting any other evidence
20 at trial. . . ." Motion to Preclude at 4:6-7. As to the ability to call a rebuttal expert witness,
21 Defendants have failed to provide a proper rebuttal expert witness report. In summary, Defendants
22 have failed to produce admissible evidence that shows a genuine dispute of material fact as to the
23 only remaining issue in this case. Accordingly, summary judgment is proper and the amount of just
24 compensation due to Defendants is \$15,955.

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28 ³ This renders moot Plaintiff's *Motion in Limine to Preclude Defendants from Presenting a Rebuttal Expert Witness*.

1 Based upon the foregoing and good cause appearing,

2 IT IS HEREBY ORDERED that Plaintiff Regional Transportation Commission of Washoe
3 County's *Motion for Summary Judgment* is GRANTED.

4 IT IS HEREBY FURTHER ORDERED that the amount of just compensation due to
5 Defendants John Iliescu, Jr. and Sonnia Iliescu, Trustees of The John Iliescu Jr. and Sonnia Iliescu
6 1992 Family Trust Agreement is \$15,955.

7 IT IS HEREBY FURTHER ORDERED that submission of Plaintiff Regional Transportation
8 Commission of Washoe County's pending *Motion in Limine to Preclude Defendants from*
9 *Presenting a Rebuttal Expert Witness* is vacated as moot.

10 IT IS SO ORDERED.

11 DATED this 3rd day of August, 2020.

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14 KATHLEEN M. DRAKULICH
15 District Court Judge
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Code 1350

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

THE REGIONAL TRANSPORTATION COMMISSION
OF WASHOE COUNTY, a special purpose unit of the
government,

Case No. CV19-00753

Dept. No. 1

Plaintiff,

vs.

JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of
the John Iliescu, Jr. and Sonnia Iliescu 1992 Family
Trust Agreement, dated January 24, 1992; the City of
Reno, a political subdivision of the State of Nevada; and
DOES 1 - 20, inclusive,

Defendants.

CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 4th day of September, 2020, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 4th day of September, 2020.

Jacqueline Bryant
Clerk of the Court
By /s/YViloria
YViloria
Deputy Clerk

Code 4132

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

**THE REGIONAL TRANSPORTATION COMMISSION
OF WASHOE COUNTY, a special purpose unit of the
government,**

Case No. CV19-00753

Plaintiff,

Dept. No. 1

vs.

**JOHN ILIESCU, JR. and SONNIA ILIESCU, Trustees of
the John Iliescu, Jr. and Sonnia Iliescu 1992 Family
Trust Agreement, dated January 24, 1992; the City of
Reno, a political subdivision of the State of Nevada; and
DOES 1 - 20, inclusive,**

Defendants.

NOTICE OF APPEAL DEFICIENCY

TO: Clerk of the Court, Nevada Supreme Court,
and All Parties or their Respective Counsel Of Record:

On September 3rd, 2020, Attorney Donald A. Lattin, Esq. for John Iliescu, Jr. and Sonnia Iliescu, filed a Notice of Appeal with the Court. Attorney Donald Lattin, Esq. was unable to include the Two Hundred Fifty Dollar (\$250.00) Supreme Court filing fee due to the public closure of the Second Judicial District Court Administrative Order 2020-02, 2020-05 AND 2020-09.

Pursuant to NRAP 3(a)(3), on September 4th, 2020, the Notice of Appeal was filed with the Nevada Supreme Court. By copy of this notice. Attorney Donald Lattin, Esq. was advised of the deficiency.

Dated this 4th day of September, 2020.

Jacqueline Bryant
Clerk of the Court
By: /s/YViloria
YViloria
Deputy Clerk

CERTIFICATE OF SERVICE

CASE NO. CV19-00753

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County Of Washoe; that on the 4th day of September, 2020, I electronically filed the Notice of Appeal Deficiency with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

SUSAN ROTHE, ESQ. for CITY OF RENO

MICHAEL MORRISON, ESQ. for JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES

DANE ANDERSON, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

BRONAGH KELLY, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

GORDON DEPAOLI, ESQ. for THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

BRETT MAUPIN, ESQ. for JOHN ILIESCU & SONNIA ILIESCU, TRUSTEES

Deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada:

/s/YViloria
YViloria
Deputy Clerk