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SANOFI-AVENTIS U.S. LLC

10 IN THE SUPREME COURT OF THE STATE OF NEVADA

11 THE NEVADA INDEPENDENT,

12 Appellant,

13 vs.

14 RICHARD WHITLEY, in his official
capacity as the director of the Nevada
Department of Health and Human
15 Services; THE STATE OF NEVADA
ex rel. the DEPARTMENT OF
16 HEALTH AND HUMAN SERVICES;
and SANOFI-AVENTIS U.S. LLC,

17 Respondents.

Electronically Filed
Nov 09 2020 02:31 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No. 81844

District Court No. A-19-799939-W

**RESPONDENT SANOFI-
AVENTIS U.S. LLC'S
RESPONSE TO DOCKETING
STATEMENT**

1 **RESPONSE TO DOCKETING STATEMENT**

2 Pursuant to NRAP 14(f), Respondent Sanofi-Aventis U.S. LLC
3 (“Sanofi”) hereby responds to Appellant The Nevada Independent’s (“TNI”)
4 Docketing Statement, filed on November 2, 2020. Sanofi’s Response is
5 attached as Exhibit A.

6 DATED this 9th day of November, 2020.

7 BAILEY ♦ KENNEDY

8 By: /s/ John R. Bailey

9 JOHN R. BAILEY

10 DENNIS L. KENNEDY

11 SARAH E. HARMON

12 REBECCA L. CROOKER

13 Attorneys for Respondent

14 SANOFI-AVENTIS U.S. LLC

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY❖KENNEDY and that on the 9th day of November, 2020, service of the foregoing **RESPONDENT** **SANOFI-AVENTIS U.S. LLC'S RESPONSE TO DOCKETING STATEMENT** was made by electronic service through Nevada Supreme Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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RICHARD WHITLEY, in his
official capacity as the Director of
the Nevada Department of Health
and Human Services, and THE
STATE OF NEVADA, ex rel. the
NEVADA DEPARTMENT OF
HEALTH AND HUMAN
SERVICES

/s/ Angelique Mattox
Employee of BAILEY❖KENNEDY

EXHIBIT A

EXHIBIT A

RESPONDENT'S RESPONSE TO DOCKETING STATEMENT

Sanofi objects to two of TNI's issues on appeal:

- **Issue No. 4:** Whether a non-governmental intervenor who opposes production of records in an NPRA case must be held liable for attorney's fees in the event the records are ordered produced.
- **Issue No. 5:** Whether an affidavit or declaration which does not conform to the requirements of NRCP 56(e) should have been excluded from the consideration of this matter.

TNI raised Issue No. 4 in its October 31, 2019 Opposition to Sanofi's Motion to Intervene. On December 23, 2019, the District Court rejected TNI's argument. Because TNI elected not to timely appeal from this Order, NRAP 4(a)(1), TNI waived its right to appeal Issue No. 4.

TNI raised Issue No. 5 in its January 30, 2020 Motion to Compel Testimony of James Borneman, or in the Alternative, to Strike His Declaration. On February 14, 2020, the District Court denied TNI's Motion and rejected its argument regarding Issue No. 5. Because TNI elected not to timely appeal from this Order, NRAP 4(a)(1), TNI has waived its right to appeal Issue No. 5.

Neither Issue No. 4 nor Issue No. 5 was raised in the Petition or addressed in the Order Denying Writ Petition. Further, when TNI filed its Notice of Appeal on September 22, 2020, the time to appeal either issue had expired. Accordingly, Issue Nos. 4 and 5 should be excluded from this appeal.