

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE LEGISLATURE OF THE STATE
OF NEVADA; THE STATE OF NEVADA
DEPARTMENT OF TAXATION; AND
THE STATE OF NEVADA
DEPARTMENT OF MOTOR VEHICLES,
Appellants/Cross-Respondents,

vs.

THE HONORABLE JAMES A.
SETTELMAYER; THE HONORABLE
JOE HARDY; THE HONORABLE
HEIDI SEEVERS GANSERT; THE
HONORABLE SCOTT T. HAMMOND;
THE HONORABLE PETE
GOICOECHEA; THE HONORABLE
BEN KIECKHEFER; THE
HONORABLE IRA D. HANSEN; THE
HONORABLE KEITH F. PICKARD, IN
THEIR OFFICIAL CAPACITIES AS
MEMBERS OF THE SENATE OF THE
STATE OF NEVADA AND
INDIVIDUALLY; GREAT BASIN
ENGINEERING CONTRACTORS, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; GOODFELLOW
CORPORATION, A UTAH
CORPORATION QUALIFIED TO DO
BUSINESS IN THE STATE OF
NEVADA; KIMMIE CANDY COMPANY,
A NEVADA CORPORATION;
KEYSTONE CORP., A NEVADA
NONPROFIT CORPORATION;
NATIONAL FEDERATION OF
INDEPENDENT BUSINESS, A
CALIFORNIA NONPROFIT
CORPORATION QUALIFIED TO DO
BUSINESS IN THE STATE OF
NEVADA; NEVADA FRANCHISED
AUTO DEALERS ASSOCIATION, A

No. 81924

FILED

FEB 19 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

NEVADA NONPROFIT
CORPORATION; NEVADA TRUCKING
ASSOCIATION, INC., A NEVADA
NONPROFIT CORPORATION; AND
RETAIL ASSOCIATION OF NEVADA, A
NEVADA NONPROFIT
CORPORATION,
Respondents/Cross-Appellants.

ORDER

In response to this court's order to show cause why the cross-appeal should not be dismissed for lack of jurisdiction, respondents/cross-appellants explain that their cross-appeal is directed at the district court's ruling dismissing respondents/cross-appellants' claims against four certain individual state officers as parties, thereby precluding any relief against those individuals and denying respondents/cross-appellants' claim for attorney fees as special damages. Respondents/cross-appellants propose that they seek to alter the rights and obligations of the parties arising from the judgment and have therefore properly filed the cross-appeal. *See Ford v. Showboat Operating Co.*, 110 Nev. 752, 756, 877 P.2d 546, 549 (1994). In their reply, appellants/cross-respondents argue that this court lacks jurisdiction over the cross-appeal because respondents/cross-appellants waived their arguments and claims against the officers by failing to preserve them in the district court and because the individual state officers are immune from liability as a matter of law.

This court concludes that the arguments raised by the parties go to the merits of the cross-appeal. Accordingly, respondents/cross-appellants shall have 30 days from the date of this order to respond to the joint reply filed by appellants/cross-respondents on February 4, 2021. The response shall specifically address the arguments regarding waiver and

immunity raised by appellants/cross-respondents. Appellant/cross-respondents shall have 14 days from service of the response to file a surreply. At the conclusion of this briefing cycle, this court will consider the briefing in regard to the cross-appeal complete. The merits of this jurisdictional issue will be decided along with the disposition of the merits of the appeal.

This appeal was docketed in this court on October 13, 2020, and the cross-appeal was docketed on November 2, 2020. On December 7, 2020, this court identified the jurisdictional issue previously discussed and entered its order to show cause. Subsequently, appellants/cross-respondents obtained 14-day extensions of time to respond to the order to show cause. In light of the fact that, to date, no briefs have been filed in the appeal, this court directs the attorneys for the parties to appear before Chief Justice Hardesty at 1:30 p.m. on Thursday March 4, 2021, for an appeal conference to assist in determining how this court should proceed, including the establishment of a briefing schedule on the merits of the appeal. See NRAP 33. To facilitate this conference, the court will use the BlueJeans videoconferencing system, which requires laptop/desktop/videoconferencing computer internet access and audio and video (web camera) capability. In case technical difficulties develop at any time, the court will conduct the hearing by teleconference, which will require counsel to have immediate access to a landline phone connection.

Within 5 days of the date of this order, the parties shall submit to the Clerk of the Court a notice identifying the attorney(s) who will appear at the hearing and the phone number and email address of the attorney(s). The notice may be emailed to the court at nvscclerk@nvcourts.nv.gov. The attorneys will be required to schedule a session with the Clerk of the Court

to test capabilities of the connection and video equipment within the same time frame.

It is so ORDERED.

1. J. J. J. J. J., C.J.

cc: Attorney General/Carson City
Legislative Counsel Bureau Legal Division
Allison MacKenzie, Ltd.