

Electronically Filed  
Oct 13 2020 03:08 p.m.  
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Clerk of Supreme Court

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*Attorneys for Nevada Collectors Association*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NEVADA COLLECTORS ASSOCIATION, a  
Nevada non-profit corporation,

Plaintiff,

v.

SANDY O'LAUGHLIN, in her official  
capacity as Commissioner of the State of  
Nevada Department Of Business And Industry  
Financial Institutions Division; STATE OF  
NEVADA DEPARTMENT OF BUSINESS  
AND INDUSTRY FINANCIAL  
INSTITUTIONS DIVISION; JUSTICE  
COURT OF LAS VEGAS TOWNSHIP; DOE  
DEFENDANTS 1 through 20; and ROE  
ENTITY DEFENDANTS 1 through 20,

Defendants.

Case No. A-19-805334-C

Dept. No. XXVII

**NOTICE OF APPEAL**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

NOTICE IS HEREBY GIVEN that Plaintiff Nevada Collectors Association ("NCA") hereby appeals to the Supreme Court of the State of Nevada from Final Judgment in this matter and all underlying rulings, including: (1) this Court's Findings of Fact, Conclusions of Law, and Order, filed on July 20, 2020, which Notice of Entry was filed on July 20, 2020, attached as

21687031

**Exhibit 1;** (2) this Court's Order Granting in Part and Denying in Part Plaintiffs Motion to Amend Findings of Fact and Conclusions of Law filed on September 10, 2020, which Notice of Entry was filed on September 10, 2020, attached as **Exhibit 2;** and (3) this Court's Amended Findings of Fact and Conclusions of Law and Order filed on September 10, 2020, which Notice of Entry was filed on September 10, 2020, attached as **Exhibit 3.**

DATED this 8th day of October, 2020.

/s/ Patrick J. Reilly

Patrick J. Reilly

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*Attorneys for Nevada Collectors Association*

**CERTIFICATE OF SERVICE**

Pursuant to Nevada Rule of Civil Procedure 5(b), I certify that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that the foregoing **NOTICE OF APPEAL** was served by submitting electronically for filing and/or service with the Eighth Judicial District Court's Odyssey eFileNV Electronic Filing system and serving all parties with an email address on record, as indicated below, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R. on the 8<sup>th</sup> day of October, 2020, to the addresses shown below:

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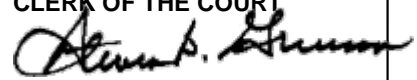
*Attorneys for Sandy O'Laughlin and State of Nevada, Department of Business and Industry Financial Institutions Division*

/s/ Mary Barnes

Mary Barnes, an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP

# **Exhibit 1**

**(7/20/2020 Notice of Entry of Findings of  
Fact, Conclusions of Law and Order)**



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8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 NEVADA COLLECTORS )  
11 ASSOCIATION, a Nevada non-profit )  
12 corporation, )  
13 Plaintiff, )  
14 v. )  
15 )  
16 STATE OF NEVADA DEPARTMENT )  
17 OF BUSINESS AND INDUSTRY )  
18 FINANCIAL INSTITUTIONS )  
19 DIVISION; JUSTICE COURT OF LAS )  
20 VEGAS TOWNSHIP; DOE )  
21 DEFENDANTS 1 through 20; and ROE )  
22 ENTITIY DEFENDANTS 1 through 20, )  
23 Defendants. )

Case No.: A-19-805334-C  
Dept. No.: XXVII

20 **NOTICE OF ENTRY OF ORDER OF FINDINGS OF**  
21 **FACT, CONCLUSIONS OF LAW, AND ORDER**

22 PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law, and Order  
23 was filed on this date, a copy of which is attached hereto.

24 DATED this 20th day of July 2020.

25 **AARON D. FORD**  
26 Attorney General

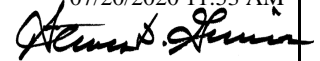
27 By: /s/ VIVIENNE RAKOWSKY  
28 **VIVIENNE RAKOWSKY**  
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CLERK OF THE COURT

**ORDR**

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NEVADA COLLECTORS ASSOCIATION, a  
Nevada non-profit corporation,

Plaintiff,

v.

SANDY O'LAUGHLIN, in her official  
capacity as Commissioner of State of  
Nevada Department of Business and  
Industry and Financial Institutions  
Division; STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND  
INDUSTRY FINANCIAL INSTITUTIONS  
DIVISION; JUSTICE COURT OF LAS  
VEGAS TOWNSHIP; DOE DEFENDANTS  
1 through 20; and ROE ENTITIY  
DEFENDANTS 1 through 20,  
Defendants.

Case No.: A-19-805334-C  
Dept. No.: XXVII

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER**

1 This matter came on for hearing on July 1, 2020, (the “Hearing”). Plaintiff,  
2 Nevada Collectors Association, represented by Patrick J. Reilly of the law firm of  
3 Brownstein Hyatt Farber Schreck, LLP appeared at the Hearing. Thomas D. Dillard,  
4 Jr. of Olson Cannon Gormley & Stoberski appeared for Defendant Justice Court and  
5 Vivienne Rakowsky, Deputy Attorney General with the Nevada Attorney General’s  
6 Office, appeared on behalf of Sandy O’Laughlin in her official capacity as Commissioner  
7 of the Financial Institutions Division and the State of Nevada Department of Business  
8 and Industry Financial Institutions Division (“FID”).

9 At the hearing, the Court heard the Justice Court’s and the FID’s separate  
10 Motions to Dismiss and the Plaintiff’s Motion for a Temporary Injunction and  
11 Alternative Motion for a Writ of Mandamus or Prohibition. After considering the briefs  
12 and the respective arguments, and having considered the evidence introduced by the  
13 parties and being fully advised, this Court enters the following Findings of Fact,  
14 Conclusions of Law, and Order.

### 15 **FINDINGS OF FACT**

16 Based upon the papers filed and arguments at the time of the hearing, this Court  
17 finds that by a preponderance of the evidence in the record the following facts have been  
18 proven.

19 1. The current version of Las Vegas Justice Court Rule 16 (“LVJC Rule 16”) was  
20 made effective on January 1, 2007. LVJC Rule 16 states:

21 Unless appearing by an attorney regularly admitted to practice law in  
22 Nevada and in good standing, no entry of appearance or subsequent  
23 document purporting to be signed by any party to an action shall be  
24 recognized or given any force or effect unless the same shall be notarized,  
25 or signed with an unsworn declaration pursuant to NRS 53.045, by the  
26 party signing the same. Corporations and limited liability corporations  
(LLC) shall be represented by an attorney. [Added; effective January 1,  
2007.]

26 2. The Nevada State Legislature unanimously passed A.B. 477 (entitled the  
27 “Consumer Protection from the Accrual of Predatory Interest After Default Act”) in the  
28 2019 Nevada State Legislative Session.

1           3.       On November 13 2019, Plaintiff, on behalf of its members, filed a complaint  
2 in the Eighth Judicial District Court naming the FID and Justice Court as Defendants  
3 alleging that sections 18 and 19 of AB 477, codified as NRS 97B.160 and NRS 97B.170,  
4 violate the due process and equal protection guarantees of the State and federal  
5 constitutions. Plaintiff further alleged that these sections when combined with LVJC  
6 Rule 16 denied it access to the courts because the legislation limited attorney fees  
7 recovery to 15% of the underlying judgment involving consumer debt contract cases of  
8 less than \$5,000 (for which there is concurrent jurisdiction in the Justice Courts and  
9 the Small Claims Courts). Plaintiff also requested declaratory and injunctive relief.

10           4.       On January 2, 2020, Defendant Justice Court removed the case to the U.S.  
11 District Court based on federal question jurisdiction (Case No. 2:20-CV-0007-JCM-  
12 EJY).

13           5.       Based on a motion to dismiss filed by the FID and a motion for judgment  
14 on the pleadings filed by Justice Court, on February 3, 2020, Plaintiff successfully  
15 sought leave to file an Amended Complaint. Amongst other changes, Plaintiff amended  
16 the Complaint to add the Commissioner of the FID in her official capacity.

17           6.       On April 13, 2020, the U.S. District Court *sua sponte* applied *Burford*  
18 abstention and remanded the matter back to State Court, finding that it would be  
19 “intervening in Nevada’s efforts to establish a coherent policy if it were to adjudicate  
20 the instant action.” ECF No. 39, p. 7:3-4.

21           7.       Upon remand, the FID and Justice Court each filed Motions to Dismiss,  
22 and Plaintiff filed a motion for a Preliminary Injunction or, Alternatively for a Writ of  
23 Mandamus or Prohibition along with exhibits including declarations and exemplar  
24 small dollar collections. The motions were fully briefed by all parties. A hearing was  
25 held for all motions on July 1, 2020.

26           8.       Plaintiff claims that its members are primarily concerned with collecting  
27 small debts under \$5,000, and argued that the limitations on attorney fees codified in  
28 AB 477 is unconstitutional. Plaintiff moved for a temporary injunction, writ of

1 mandamus or writ or prohibition claiming: (1) a creditor will not be able to hire an  
2 attorney to represent them in Justice Court; (2) attorneys may refuse to represent  
3 creditor entities; and (3) that credit may be tightened for all consumers.

4 9. Defendant Justice Court argued Plaintiff did not plausibly allege that Las  
5 Vegas Justice Court Rule 16 caused Plaintiff to suffer an actual injury relating to its  
6 right to have access to the courts protected by the First Amendment and/or the  
7 Fourteenth Amendment Due Process Clause; and the Justice Court relied upon well-  
8 established and controlling law from the U.S. Supreme Court and the Nevada Supreme  
9 Court when enacting, years prior to this suit, Rule 16 and therefore possessed immunity  
10 from suit for simply following the law.

11 10. The FID argued that dismissal is justified pursuant to NRCP 12(b)(1) and  
12 NRCP 12(b)(5). Plaintiff lacks standing because there is no justiciable controversy. The  
13 case is not ripe for adjudication because ripeness cannot be based on speculative or  
14 hypothetical prospect of a future harm. The Nevada Legislature did not designate the  
15 FID to administer AB 477 and the FID does not regulate many of the Plaintiffs members  
16 including attorneys and businesses that extend credit to their own customers. An  
17 agency cannot expand the powers delegated by the legislature through regulations.  
18 Plaintiffs 42 USC § 1983 claims for violations of due process and equal protection do  
19 not apply to the FID and its Commissioner because neither the agency nor its  
20 commissioner in her official capacity are persons subject to section 1983.

21 11. Plaintiff failed to provide facts to establish that it was substantially denied  
22 access to the Justice Courts in Nevada or negate all plausible justifications for the  
23 Nevada Legislature to pass AB 477 and LVJC Rule 16.

24 12. Plaintiff in the FAC further failed to allege that it or any affiliated  
25 company took any matter to Justice Court and received an order reducing requested  
26 attorney fees pursuant to the 2019 Legislative Act.

27 13. Plaintiff's allegations fail to detail official acts foreseeably frustrating  
28 litigation and foreclosing relief in a future suit.

///

1 CONCLUSIONS OF LAW

2 Based on the foregoing factual findings, this Court makes the following  
3 conclusions of law:

4 1. Plaintiff has the burden to show by a preponderance of the evidence that  
5 the allegations are sufficient to invoke this Court's jurisdiction. *Leite v. Crane Co.* 749  
6 F.3d1117, 1122 (9th Cir. 2014)

7 2. The Nevada Constitution provides that its courts have jurisdiction over  
8 civil and criminal cases, which has been interpreted to prohibit courts from ruling on  
9 cases that are not ripe. *City of North Las Vegas v. Cluff*, 85 Nev. 200, 452 P.2d 461  
10 (1969)

11 3. Dismissal is required pursuant to NRCP 12(b)(1) because Plaintiff failed  
12 to establish subject matter jurisdiction. Plaintiff did not show that the parties were  
13 adverse, that a controversy existed between the parties and that the issues were ripe  
14 for adjudication. See *Kress v. Cory*, 65 Nev. 1, 26, 189 P. 2d 352 (1948). The FID and  
15 Plaintiff are not adverse. There is no controversy between the Plaintiff and FID because  
16 the Nevada Legislature did not delegate the authority to enforce AB 477 to the FID, and  
17 the FID does not regulate activities of the Justice Court including the amount of  
18 attorney fees it can award to a prevailing party or the requirement that an entity must  
19 appear with counsel.

20 4. Plaintiff failed to show a hardship or that the issues were fit for judicial  
21 decision. *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 887, 141 P.3d 1224 (2006).  
22 Plaintiff did not meet the prudential considerations because Plaintiff's claim of potential  
23 hardship if the members cannot access the Court system for small debt collection cases  
24 is speculative. Plaintiffs lacked an actual injury because there has not been any  
25 enforcement or a threat of enforcement of AB 477.

26 5. This case is not ripe for determination. A case is not ripe for review when  
27 the degree to which the harm alleged by the party seeking review is not sufficiently  
28 concrete and any alleged injury is remote or hypothetical. *Cote H. v. Eighth Judicial*

1 *Dist. Court ex rel County of Clark*, 124 Nev. 36 n.1, 175 P.3d 906 (2008). Speculative or  
2 hypothetical future harm is not sufficient to invoke jurisdiction. *Doe v. Bryan*, 102 Nev.  
3 523, 525, 728 P.2d 443, (1986) Plaintiff's claim of possible future injury if the Plaintiffs  
4 do not have access to the court of their choice is not ripe because the Plaintiff has not  
5 been denied access to court and there has not been any enforcement activities or threat  
6 of enforcement of AB477.

7 6. In considering the ripeness doctrine in pre-enforcement cases, the court  
8 looks to see if there is a "credible threat," or an "actual and well-founded fear" that  
9 enforcement action would be taken against the plaintiff by the defendant. *Holder v.*  
10 *Humanitarian Law Project*, 561 U.S. 1, 15 (2010); *Virginia v. American Booksellers*  
11 *Assn. Inc.*, 484 U.S. 383, 393 (1988); *see also Delew v. Wagner*, 143 F.3d 1219, 1223 (9th  
12 Cir. 1988). In the nine months since AB 477 went into effect, there has not been any  
13 imminent threat that the FID will or even can enforce Sections 18 or 19 of AB 477  
14 against Plaintiff's members.

15 7. Plaintiff failed to provide a set of facts which would entitle Plaintiff to  
16 relief, pursuant to NRCP 12(b)(5). The FID's regulatory ability is limited to the powers  
17 provided in NRS chapter 649. The Nevada Legislature did not delegate the authority to  
18 enforce AB 477 to the FID, nor does the FID regulate activities of the Justice Court  
19 including the amount of attorney fees it can award to a prevailing party or the  
20 requirement that an entity must appear with counsel. *See State of Nevada v. Nevada*  
21 *Association Services*, 128 Nev. 362, 294 P.3d 1223 (2012).

22 8. NRS 41.031 requires that the agency's action must provide the *basis* for  
23 the lawsuit, Plaintiff has not shown that the FID has taken any action that can be  
24 interpreted as a basis for declaratory, injunctive or any relief against the FID. The FID  
25 enforces the law with respect to its licensees, but not with respect to a small business  
26 that extend credit to its own customers or with respect to attorneys.

27 9. The FID has the power to adopt regulations, as long as the regulations do  
28 not broaden the powers of the FID past the limitations found in statutes. There is no

1 statute in Chapter 649 that allows the FID to regulate attorney fees in a contract  
2 between a creditor and a debtor.

3 10. Judicial notice of facts outside of the complaint is only applicable to facts  
4 not subject to reasonable dispute or facts that are capable of verification from a reliable  
5 source. NRS 47.130, *Mack .v Estate of Mack*, 125 Nev. 80, 92, 206 P.3d 98 (2009).  
6 Plaintiff's declarations do not fit the criteria for judicial notice.

7 11. Neither the FID nor its commissioner sued in her official capacity is a  
8 person subject to section 1983. *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 69  
9 (1989). Therefore all official capacity 42 USC § 1983 claims against the FID must be  
10 dismissed.

11 12. Claims for denial of access to the courts may arise from the frustration or  
12 hindrance of "a litigating opportunity yet to be gained" (forward-looking access claim)  
13 or from the loss of a meritorious suit that cannot now be tried (backward-looking claim).  
14 *Christopher v. Harbury*, 536 U.S. 403, 412–415, 122 S.Ct. 2179 (2002). For access to the  
15 court's claims, the plaintiff must show: (1) the loss of a 'nonfrivolous' or 'arguable'  
16 underlying claim; (2) the official acts frustrating the litigation; and (3) a remedy that  
17 may be awarded as recompense but that is not otherwise available in a future suit. *Id.*  
18 at 413–14.

19 13. LVJC Rule 16 and A.B. 477 do not unduly infringe any identified  
20 fundamental right and also does not target or impose a disparate impact on a protected  
21 class; therefore, the Justice Court Rule as well as the subject legislation imposed by the  
22 State are subject to only a rational basis type of review. *See Romer v. Evans*, 517 U.S.  
23 620, 631–32, 116 S.Ct. 1620 (1996); *FCC v. Beech Communications, Inc.*, 508 U.S. 307,  
24 313-14, 113 S.Ct. 2096 (1993).

25 14. To prevail on a rational basis challenge, Plaintiff therefore must "negate  
26 every conceivable basis" that could support a rational basis for the alleged regulation.  
27 *Medina Tovar v. Zuchowski*, 950 F.3d 581, 593 (9th Cir. 2020); *Fournier v. Sebelius*, 718  
28 F.3d 1110, 1123 (9th Cir. 2013); *see also Armour v. City of Indianapolis, Ind.*, 566 U.S.

1 673, 681, 132 S.Ct. 2073 (2012). Plaintiff certainly has not in this case negated all the  
2 conceivable rationale regarding the corporate representation rule codified by LVJC Rule  
3 16 or, for that matter, the consumer protection rationale for A.B. 477. *See* Sec. 3 (stating  
4 “[t]he purpose of this chapter is to protect consumers”).

5 15. Also, A.B. 477's “cap on attorney’s fees is not a barrier to court access, but  
6 a limitation on relief.” *Boivin v. Black*, 225 F.3d 36, 45 (1st Cir. 2000). LVJC Rule 16  
7 thus does not deny litigants “a reasonably adequate opportunity to present” their case  
8 to the Justice Court. *Lewis v. Casey*, 518 U.S. 343, 351, 116 S.Ct. 2174 (1996) (quoting  
9 *Bounds v. Smith*, 430 U.S. 817, 825, 97 S.Ct. 1491 (1977)).

10 16. The Nevada Supreme Court has held long before the enactment of LVJC  
11 Rule 16 that a legal entity such as a corporation cannot appear except through counsel,  
12 and non-lawyer principals are prohibited from representing these types of entities. *See*  
13 *In re: Discipline of Schaefer*, 117 Nev. 496, 509 (2001); *see also Rowland v. California*  
14 *Men's Colony*, 506 U.S. 194, 201–02, 113 S.Ct. 716 (1993) (“It has been the law for the  
15 better part of two centuries ... that a corporation may appear in the federal courts only  
16 through licensed counsel.”)(citing *Commercial & R.R. Bank of Vicksburg v. Slocomb*,  
17 *Richards & Co.*, 39 U.S. (14 Pet.) 60, 65, 10 L.Ed. 354 (1840) (“[A] corporation cannot  
18 appear but by attorney ....”) *overruled in part by* 43 U.S. (2 How.) 497, 11 L.Ed. 353  
19 (1844); and *Osborn v. Bank of the United States*, 22 U.S. (9 Wheat.) 738, 830, 6 L.Ed.  
20 204 (1824) (“A corporation, it is true, can appear only by attorney, while a natural person  
21 may appear for himself.”)).

22 17. A defendant that is charged with the duty of executing a facially valid court  
23 order enjoys absolute immunity from liability for a suit challenging the propriety of that  
24 court order. *See Turney v. O’Toole*, 898 F.2d 1470, 1472 (10th Cir. 1990); *see also*  
25 *Engbretson v. Mahoney*, 724 F.3d 1034, 1038 (9th Cir. 2013) (“[P]ublic officials who  
26 ministerially enforce facially valid court orders are entitled to absolute immunity.”).

27 18. The Justice Court appropriately followed that law when enacting and  
28 publishing LVJC 16 in accordance with controlling law from the Nevada Supreme

1 Court. Plaintiff cannot prevail then against the Justice Court as a matter of law that is  
2 solely based on the propriety of that valid and controlling case law. The Justice Court  
3 effectively is immune from Plaintiff's suit by virtue of quasi-judicial immunity for  
4 following the extant law announced by the Nevada Supreme Court.

5 19. A temporary injunction is an extraordinary remedy "must balance the  
6 competing claims of injury and must consider the effect on each party of the granting or  
7 withholding of the requested relief." *Winter*, 555 U.S. at 24 (citation omitted). As a  
8 threshold inquiry, when a plaintiff fails to show the likelihood of success on the merits,  
9 the court need not consider the remaining factors. *Garcia v. Google, Inc.*, 786 F.3d 733,  
10 740 (9th Cir. 2015). Plaintiff is not likely to succeed on the merits and has failed to  
11 show that they are subject to irreparable harm if a temporary injunction is not issued.  
12 Balancing the competing claims, along with the effect on each party does not weigh in  
13 favor of the Plaintiff.

14 20. Plaintiff has failed to provide a basis to issue a writ of mandamus or a writ  
15 of prohibition. *Nevada Restaurant Services, Inc. v. Clark County*, 2018 WL 1077279\*7,  
16 *Stearns v. Eighth Judicial District Court in and for Clark County*, 62, Nev. 102,112, 12  
17 P.2d 206 (1943).

18 21. NRS 73.010(1) provides that "[a] justice of the peace has jurisdiction and  
19 may proceed as provided in this chapter and by rules of court in all cases arising in the  
20 justice court for the recovery of money only, where the amount claimed does not exceed  
21 \$10,000. Plaintiff's members have not been denied access to court for their small  
22 collection cases; it is only that Plaintiff's members chose not to use the court with  
23 jurisdiction for their claims that will allow them to appear without an attorney.

24 22. An injury does not take place when the Plaintiffs have access to another  
25 court with jurisdiction for their claims and does not require an entity to appear with an  
26 attorney.

27 ///

28 ///

**ORDER**

This Court being fully apprised in the premises, and good cause appearing to the Court ORDERS as follows:

1. Plaintiff's Motion for a Preliminary Injunction or, alternatively for a writ of mandamus or prohibition is denied. The Plaintiff is not likely to succeed on the merits and has not suffered irreparable harm. The balance of the hardships do not weigh in favor of the Plaintiff.
2. Defendants FID and Justice Court's Motions to Dismiss are granted with prejudice.

DATED this \_\_\_\_ day of July, 2020.

Dated this 20th day of July, 2020

By: Nancy L Alf  
DISTRICT COURT JUDGE

FA8 3C2 F559 72AD JD  
Nancy Alf  
District Court Judge

Submitted by:  
AARON D. FORD  
Attorney General

Approved as to form only:

By: /s/ VIVIENNE RAKOWSKY  
VIVIENNE RAKOWSKY  
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Township

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Nevada Collectors Association,  
7 Plaintiff(s)

CASE NO: A-19-805334-C

8 vs.

DEPT. NO. Department 27

9 State of Nevada Department of  
10 Business and Industry Financial  
11 Institutions Div., Defendant(s)

12 **AUTOMATED CERTIFICATE OF SERVICE**

13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the  
15 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
16 case as listed below:

Service Date: 7/20/2020

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22 Debra Turman	dturman@ag.nv.gov
23 David Pope	dpope@ag.nv.gov
24 Patrick Reilly	preilly@bhfs.com
25 Susan Roman	sroman@bhfs.com

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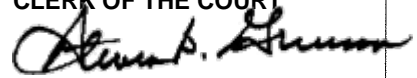
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Mary Barnes

mabarnes@bhfs.com

# **Exhibit 2**

**(9/10/2020 Notice of Entry of Order Granting  
in Part and Denying in Part Plaintiff's  
Motion to Amend Finding of Fact and  
Conclusions of Law)**



THOMAS D. DILLARD, JR., ESQ.  
Nevada Bar No. 006270  
OLSON CANNON GORMLEY  
& STOBERSKI  
9950 W. Cheyenne Avenue  
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(702) 384-4012 - telephone  
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Attorney for Defendant  
Justice Court of Las Vegas  
Township

DISTRICT COURT

CLARK COUNTY, NEVADA

NEVADA COLLECTORS  
ASSOCIATION, a Nevada non-profit  
corporation,

Plaintiff,

vs.

STATE OF NEVADA DEPARTMENT  
OF BUSINESS AND INDUSTRY  
FINANCIAL INSTITUTIONS DIVISION;  
JUSTICE COURT OF LAS VEGAS  
TOWNSHIP; DOE DEFENDANTS 1  
through 20; and ROE ENTITY  
DEFENDANTS 1 through 20,

Defendants.

CASE NO. A-19-805334-C  
DEPT. NO. 27

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that the **ORDER GRANTING IN PART AND DENYING  
IN PART PLAINTIFF'S MOTION TO AMEND FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**, was filed on September 10, 2020, in the above-captioned matter.

A copy of said Order is attached hereto.

DATED this 10th day of September, 2020.

OLSON CANNON GORMLEY  
& STOBERSKI

BY: /s/ Thomas D. Dillard  
THOMAS D. DILLARD, JR., ESQ.  
9950 W. Cheyenne Avenue  
Las Vegas, Nevada 89129  
Attorney for Defendant  
Justice Court of Las Vegas  
Township

**CERTIFICATE OF MAILING**

On the 10<sup>th</sup> day of September, 2020, the undersigned, an employee of Olson, Cannon, Gormley, Angulo & Stoberski, hereby served a true copy of **NOTICE OF ENTRY OF ORDER**, to the parties listed below via the EFP Program, pursuant to the Court's Electronic Filing Service Order effective June 1, 2014, or mailed to the following:

Patrick J. Reilly, Esq.  
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[dpope@ag.nv.gov](mailto:dpope@ag.nv.gov)  
Attorneys for State Defendant

/s/ Melissa Burgener  
An employee of OLSON CANNON  
GORMLEY & STOBERSKI

**ORDR**

AARON D. FORD  
Attorney General  
VIVIENNE RAKOWSKY (Bar No. 9160)  
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*Attorneys for State Defendant*

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*Attorney for Defendant*  
*Justice Court of Las Vegas*  
*Township*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NEVADA COLLECTORS ASSOCIATION, a  
Nevada non-profit corporation,

Plaintiff,

v.

SANDY O'LAUGHLIN, in her official  
capacity as Commissioner of State of  
Nevada Department of Business and  
Industry and Financial Institutions  
Division; STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND  
INDUSTRY FINANCIAL INSTITUTIONS  
DIVISION; JUSTICE COURT OF LAS  
VEGAS TOWNSHIP; DOE DEFENDANTS  
1 through 20; and ROE ENTITIY  
DEFENDANTS 1 through 20,  
Defendants.

Case No.: A-19-805334-C  
Dept. No.: XXVII

**ORDER GRANTING IN PART  
AND DENYING IN PART  
PLAINTIFF'S MOTION TO  
AMEND FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

1 This matter came on for hearing on September 9, 2020, (the "Hearing") with the  
2 Plaintiff filing their Motion to Amend Findings of Fact and Conclusions of Law and to  
3 Alter or Amend Judgment on August 3, 2020, Defendant Justice Court of Las Vegas  
4 Township filing its Opposition on August 14, 2020, State Defendant filing its Opposition  
5 on August 17, 2020 and Plaintiff filing its Reply thereto on September 2, 2020.

6 The Court hearing arguments from the parties and reviewed the pleadings  
7 therto,

8 IT IS HEREBY ORDERED that the Motion is GRANTED IN PART AND  
9 DENIED IN PART. The Court has GRANTED the Motion as to removing the last  
10 sentence of paragraph five (5) of the previous order that states:

11  
12 Plaintiffs claim of possible future injury if the Plaintiffs  
13 do not have access to the court of their choice is not ripe  
14 because the Plaintiff has not been denied access to court  
and there has not been any enforcement activities or  
threat of enforcement of AB477.

15 IT IS FURTHER ORDERED that the Motion is denied as to all other respects.

16 DATED this \_\_\_\_ day of September, 2020.

17 Dated this 10th day of September, 2020

18 By: Nancy L Alf  
19 DISTRICT COURT JUDGE

20 Submitted by:  
21 AARON D. FORD  
Attorney General

D79 742 9B6B 8278  
Nancy Alf  
District Court Judge

22  
23 By: /s/ Vivienne Rakowsy  
24 VIVIENNE RAKOWSKY  
25 Deputy Attorney General  
26 555 E. Washington Ave. Ste 3900  
Las Vegas, Nevada 89101  
Attorneys for State Defendants

27 ///

28

1 OLSON CANNON GORMLEY  
& STOBERSKI

2 By: /s/ Thomas D. Dillard, Jr.  
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4 9950 W. Cheyenne Avenue  
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6 Attorney for Defendant  
Justice Court of Las Vegas  
Township

7 Approved as to form and content by:

8 BROWNSTEIN HYATT  
9 FARBER SCHRECK, LLP

10 By: /s/ Patrick J. Reilly  
11 Patrick J. Reilly, Esq.  
12 Marckia L. Hayes, Esq.  
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17 preilly@bhfs.com  
18 mhayes@bhfs.com  
19 Attorneys for Plaintiff  
20  
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## Melissa Burgener

---

**From:** Reilly, Patrick J. <preilly@bhfs.com>  
**Sent:** Wednesday, September 9, 2020 1:09 PM  
**To:** Vivienne Rakowsky; Melissa Burgener  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Approved as to form on my end as well. You may use my electronic signature.

Thank you.

**Patrick J. Reilly**  
Brownstein Hyatt Farber Schreck, LLP  
100 North City Parkway, Suite 1600  
Las Vegas, NV 89106  
702.464.7033 tel  
702.882.0112 cell  
[preilly@bhfs.com](mailto:preilly@bhfs.com)

---

**From:** Vivienne Rakowsky [mailto:[VRakowsky@ag.nv.gov](mailto:VRakowsky@ag.nv.gov)]  
**Sent:** Wednesday, September 09, 2020 12:48 PM  
**To:** 'Melissa Burgener'; Reilly, Patrick J.  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Thank you. I am fine with the Amended Order and the Order on the hearing today. You may use my electronic signature.

Sincerely,  
Vivienne

**Vivienne Rakowsky, Deputy Attorney General**  
State of Nevada  
Office of the Attorney General  
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Las Vegas, Nevada 89101  
[vrakowsky@ag.nv.gov](mailto:vrakowsky@ag.nv.gov)  
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---

**From:** Melissa Burgener <[mburgener@ocgas.com](mailto:mburgener@ocgas.com)>  
**Sent:** Wednesday, September 9, 2020 11:52 AM  
**To:** Vivienne Rakowsky <[VRakowsky@ag.nv.gov](mailto:VRakowsky@ag.nv.gov)>; Reilly, Patrick J. <[preilly@bhfs.com](mailto:preilly@bhfs.com)>  
**Cc:** Tom Dillard <[tdillard@ocgas.com](mailto:tdillard@ocgas.com)>  
**Subject:** NV Collectors v. LVJC, et al.

Good Morning,

Please find the attached orders in the above mentioned matter for your review.

Thank you,  
Melissa Burgener  
Assistant to Thomas D. Dillard, Jr., Esq.  
and Michael Mcloughlin, Esq.  
Olson Cannon Gormley & Stoberski  
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Las Vegas, Nevada 89129  
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1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5  
6 Nevada Collectors Association,  
7 Plaintiff(s)

CASE NO: A-19-805334-C

8 vs.

DEPT. NO. Department 27

9 State of Nevada Department of  
10 Business and Industry Financial  
11 Institutions Div., Defendant(s)

12 **AUTOMATED CERTIFICATE OF SERVICE**

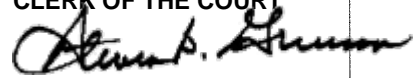
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order was served via the court's electronic eFile system to all  
15 recipients registered for e-Service on the above entitled case as listed below:

16 Service Date: 9/10/2020

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18 Melissa Burgener	mburgener@ocgas.com
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21 Michele Caro	mcaro@ag.nv.gov
22 Debra Turman	dturman@ag.nv.gov
23 David Pope	dpope@ag.nv.gov
24 Patrick Reilly	preilly@bhfs.com
25 Susan Roman	sroman@bhfs.com
26 Mary Barnes	mabarnes@bhfs.com

# **Exhibit 3**

**(9/10/2020 Notice of Entry of Order –  
Amended Findings of Fact and Conclusions  
of Law and Order)**



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Justice Court of Las Vegas  
Township

DISTRICT COURT

CLARK COUNTY, NEVADA

NEVADA COLLECTORS  
ASSOCIATION, a Nevada non-profit  
corporation,

Plaintiff,

vs.

STATE OF NEVADA DEPARTMENT  
OF BUSINESS AND INDUSTRY  
FINANCIAL INSTITUTIONS DIVISION;  
JUSTICE COURT OF LAS VEGAS  
TOWNSHIP; DOE DEFENDANTS 1  
through 20; and ROE ENTITY  
DEFENDANTS 1 through 20,

Defendants.

CASE NO. A-19-805334-C  
DEPT. NO. 27

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that the **AMENDED FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND ORDER**, was filed on September 10, 2020, in the above-  
captioned matter. A copy of said Order is attached hereto.

DATED this 10th day of September, 2020.

OLSON CANNON GORMLEY  
& STOBERSKI

BY: /s/ Thomas D. Dillard  
THOMAS D. DILLARD, JR., ESQ.  
9950 W. Cheyenne Avenue  
Las Vegas, Nevada 89129  
Attorney for Defendant  
Justice Court of Las Vegas  
Township

**CERTIFICATE OF MAILING**

On the 10<sup>th</sup> day of September, 2020, the undersigned, an employee of Olson, Cannon, Gormley, Angulo & Stoberski, hereby served a true copy of **NOTICE OF ENTRY OF ORDER**, to the parties listed below via the EFP Program, pursuant to the Court's Electronic Filing Service Order effective June 1, 2014, or mailed to the following:

Patrick J. Reilly, Esq.  
Marckia L. Hayes, Esq.  
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Vivienne Rakowsky, Esq.  
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[dpope@ag.nv.gov](mailto:dpope@ag.nv.gov)  
Attorneys for State Defendant

/s/ Melissa Burgener  
An employee of OLSON CANNON  
GORMLEY & STOBERSKI

**ORDR**

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*Attorneys for State Defendant*

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*Attorney for Defendant*  
*Justice Court of Las Vegas*  
*Township*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NEVADA COLLECTORS ASSOCIATION, a  
Nevada non-profit corporation,

Plaintiff,

v.

SANDY O'LAUGHLIN, in her official  
capacity as Commissioner of State of  
Nevada Department of Business and  
Industry and Financial Institutions  
Division; STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND  
INDUSTRY FINANCIAL INSTITUTIONS  
DIVISION; JUSTICE COURT OF LAS  
VEGAS TOWNSHIP; DOE DEFENDANTS  
1 through 20; and ROE ENTITIY  
DEFENDANTS 1 through 20,  
Defendants.

Case No.: A-19-805334-C  
Dept. No.: XXVII

**AMENDED FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER**

1 This matter came on for hearing on July 1, 2020, (the "Hearing"). Plaintiff,  
2 Nevada Collectors Association, represented by Patrick J. Reilly of the law firm of  
3 Brownstein Hyatt Farber Schreck, LLP appeared at the Hearing. Thomas D. Dillard,  
4 Jr. of Olson Cannon Gormley & Stoberski appeared for Defendant Justice Court and  
5 Vivienne Rakowsky, Deputy Attorney General with the Nevada Attorney General's  
6 Office, appeared on behalf of Sandy O'Laughlin in her official capacity as Commissioner  
7 of the Financial Institutions Division and the State of Nevada Department of Business  
8 and Industry Financial Institutions Division ("FID").

9 At the hearing, the Court heard the Justice Court's and the FID's separate  
10 Motions to Dismiss and the Plaintiff's Motion for a Temporary Injunction and  
11 Alternative Motion for a Writ of Mandamus or Prohibition. After considering the briefs  
12 and the respective arguments, and having considered the evidence introduced by the  
13 parties and being fully advised, this Court enters the following Findings of Fact,  
14 Conclusions of Law, and Order.

### 15 FINDINGS OF FACT

16 Based upon the papers filed and arguments at the time of the hearing, this Court  
17 finds that by a preponderance of the evidence in the record the following facts have been  
18 proven.

19 1. The current version of Las Vegas Justice Court Rule 16 ("LVJC Rule 16") was  
20 made effective on January 1, 2007. LVJC Rule 16 states:

21 Unless appearing by an attorney regularly admitted to practice law in  
22 Nevada and in good standing, no entry of appearance or subsequent  
23 document purporting to be signed by any party to an action shall be  
24 recognized or given any force or effect unless the same shall be notarized,  
25 or signed with an unsworn declaration pursuant to NRS 53.045, by the  
26 party signing the same. Corporations and limited liability corporations  
(LLC) shall be represented by an attorney. [Added; effective January 1,  
2007.]

26 2. The Nevada State Legislature unanimously passed A.B. 477 (entitled the  
27 "Consumer Protection from the Accrual of Predatory Interest After Default Act") in the  
28 2019 Nevada State Legislative Session.

1           3.       On November 13 2019, Plaintiff, on behalf of its members, filed a complaint  
2 in the Eighth Judicial District Court naming the FID and Justice Court as Defendants  
3 alleging that sections 18 and 19 of AB 477, codified as NRS 97B.160 and NRS 97B.170,  
4 violate the due process and equal protection guarantees of the State and federal  
5 constitutions. Plaintiff further alleged that these sections when combined with LVJC  
6 Rule 16 denied it access to the courts because the legislation limited attorney fees  
7 recovery to 15% of the underlying judgment involving consumer debt contract cases of  
8 less than \$5,000 (for which there is concurrent jurisdiction in the Justice Courts and  
9 the Small Claims Courts). Plaintiff also requested declaratory and injunctive relief.

10           4.       On January 2, 2020, Defendant Justice Court removed the case to the U.S.  
11 District Court based on federal question jurisdiction (Case No. 2:20-CV-0007-JCM-  
12 EJY).

13           5.       Based on a motion to dismiss filed by the FID and a motion for judgment  
14 on the pleadings filed by Justice Court, on February 3, 2020, Plaintiff successfully  
15 sought leave to file an Amended Complaint. Amongst other changes, Plaintiff amended  
16 the Complaint to add the Commissioner of the FID in her official capacity.

17           6.       On April 13, 2020, the U.S. District Court *sua sponte* applied *Burford*  
18 abstention and remanded the matter back to State Court, finding that it would be  
19 “intervening in Nevada’s efforts to establish a coherent policy if it were to adjudicate  
20 the instant action.” ECF No. 39, p. 7:3-4.

21           7.       Upon remand, the FID and Justice Court each filed Motions to Dismiss,  
22 and Plaintiff filed a motion for a Preliminary Injunction or, Alternatively for a Writ of  
23 Mandamus or Prohibition along with exhibits including declarations and exemplar  
24 small dollar collections. The motions were fully briefed by all parties. A hearing was  
25 held for all motions on July 1, 2020.

26           8.       Plaintiff claims that its members are primarily concerned with collecting  
27 small debts under \$5,000, and argued that the limitations on attorney fees codified in  
28 AB 477 is unconstitutional. Plaintiff moved for a temporary injunction, writ of

1 mandamus or writ or prohibition claiming: (1) a creditor will not be able to hire an  
2 attorney to represent them in Justice Court; (2) attorneys may refuse to represent  
3 creditor entities; and (3) that credit may be tightened for all consumers.

4 9. Defendant Justice Court argued Plaintiff did not plausibly allege that Las  
5 Vegas Justice Court Rule 16 caused Plaintiff to suffer an actual injury relating to its  
6 right to have access to the courts protected by the First Amendment and/or the  
7 Fourteenth Amendment Due Process Clause; and the Justice Court relied upon well-  
8 established and controlling law from the U.S. Supreme Court and the Nevada Supreme  
9 Court when enacting, years prior to this suit, Rule 16 and therefore possessed immunity  
10 from suit for simply following the law.

11 10. The FID argued that dismissal is justified pursuant to NRCP 12(b)(1) and  
12 NRCP 12(b)(5). Plaintiff lacks standing because there is no justiciable controversy. The  
13 case is not ripe for adjudication because ripeness cannot be based on speculative or  
14 hypothetical prospect of a future harm. The Nevada Legislature did not designate the  
15 FID to administer AB 477 and the FID does not regulate many of the Plaintiffs members  
16 including attorneys and businesses that extend credit to their own customers. An  
17 agency cannot expand the powers delegated by the legislature through regulations.  
18 Plaintiffs 42 USC § 1983 claims for violations of due process and equal protection do  
19 not apply to the FID and its Commissioner because neither the agency nor its  
20 commissioner in her official capacity are persons subject to section 1983.

21 11. Plaintiff failed to provide facts to establish that it was substantially denied  
22 access to the Justice Courts in Nevada or negate all plausible justifications for the  
23 Nevada Legislature to pass AB 477 and LVJC Rule 16.

24 12. Plaintiff in the FAC further failed to allege that it or any affiliated  
25 company took any matter to Justice Court and received an order reducing requested  
26 attorney fees pursuant to the 2019 Legislative Act.

27 13. Plaintiff's allegations fail to detail official acts foreseeably frustrating  
28 litigation and foreclosing relief in a future suit.

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1. Plaintiff has the burden to show by a preponderance of the evidence that the allegations are sufficient to invoke this Court's jurisdiction. *Leite v. Crane Co.* 749 F.3d1117, 1122 (9th Cir. 2014)

3. Dismissal is required pursuant to NRCPC 12(b)(1) because Plaintiff failed to establish subject matter jurisdiction. Plaintiff did not show that the parties were adverse, that a controversy existed between the parties and that the issues were ripe for adjudication. See *Kress v. Cory*, 65 Nev. 1, 26, 189 P. 2d 352 (1948). The FID and Plaintiff are not adverse. There is no controversy between the Plaintiff and FID because the Nevada Legislature did not delegate the authority to enforce AB 477 to the FID, and the FID does not regulate activities of the Justice Court including the amount of attorney fees it can award to a prevailing party or the requirement that an entity must appear with counsel.

5. This case is not ripe for determination. A case is not ripe for review when the degree to which the harm alleged by the party seeking review is not sufficiently concrete and any alleged injury is remote or hypothetical. *Cote H. v. Eighth Judicial*

1 *Dist. Court ex rel County of Clark*, 124 Nev. 36 n.1, 175 P.3d 906 (2008). Speculative or  
2 hypothetical future harm is not sufficient to invoke jurisdiction. *Doe v. Bryan*, 102 Nev.  
3 523, 525, 728 P.2d 443, (1986).

4 6. In considering the ripeness doctrine in pre-enforcement cases, the court  
5 looks to see if there is a “credible threat,” or an “actual and well-founded fear” that  
6 enforcement action would be taken against the plaintiff by the defendant. *Holder v.*  
7 *Humanitarian Law Project*, 561 U.S. 1, 15 (2010); *Virginia v. American Booksellers*  
8 *Assn. Inc.*, 484 U.S. 383, 393 (1988); *see also Delew v. Wagner*, 143 F.3d 1219, 1223 (9th  
9 Cir. 1988). In the nine months since AB 477 went into effect, there has not been any  
10 imminent threat that the FID will or even can enforce Sections 18 or 19 of AB 477  
11 against Plaintiff’s members.

12 7. Plaintiff failed to provide a set of facts which would entitle Plaintiff to  
13 relief, pursuant to NRCP 12(b)(5). The FID’s regulatory ability is limited to the powers  
14 provided in NRS chapter 649. The Nevada Legislature did not delegate the authority to  
15 enforce AB 477 to the FID, nor does the FID regulate activities of the Justice Court  
16 including the amount of attorney fees it can award to a prevailing party or the  
17 requirement that an entity must appear with counsel. *See State of Nevada v. Nevada*  
18 *Association Services*, 128 Nev. 362, 294 P.3d 1223 (2012).

19 8. NRS 41.031 requires that the agency’s action must provide the *basis* for  
20 the lawsuit, Plaintiff has not shown that the FID has taken any action that can be  
21 interpreted as a basis for declaratory, injunctive or any relief against the FID. The FID  
22 enforces the law with respect to its licensees, but not with respect to a small business  
23 that extend credit to its own customers or with respect to attorneys.

24 9. The FID has the power to adopt regulations, as long as the regulations do  
25 not broaden the powers of the FID past the limitations found in statutes. There is no  
26 statute in Chapter 649 that allows the FID to regulate attorney fees in a contract  
27 between a creditor and a debtor.

28 10. Judicial notice of facts outside of the complaint is only applicable to facts

1 not subject to reasonable dispute or facts that are capable of verification from a reliable  
2 source. NRS 47.130, *Mack v. Estate of Mack*, 125 Nev. 80, 92, 206 P.3d 98 (2009).  
3 Plaintiff's declarations do not fit the criteria for judicial notice.

4 11. Neither the FID nor its commissioner sued in her official capacity is a  
5 person subject to section 1983. *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 69  
6 (1989). Therefore all official capacity 42 USC § 1983 claims against the FID must be  
7 dismissed.

8 12. Claims for denial of access to the courts may arise from the frustration or  
9 hindrance of "a litigating opportunity yet to be gained" (forward-looking access claim)  
10 or from the loss of a meritorious suit that cannot now be tried (backward-looking claim).  
11 *Christopher v. Harbury*, 536 U.S. 403, 412–415, 122 S.Ct. 2179 (2002). For access to the  
12 court's claims, the plaintiff must show: (1) the loss of a 'nonfrivolous' or 'arguable'  
13 underlying claim; (2) the official acts frustrating the litigation; and (3) a remedy that  
14 may be awarded as recompense but that is not otherwise available in a future suit. *Id.*  
15 at 413–14.

16 13. LVJC Rule 16 and A.B. 477 do not unduly infringe any identified  
17 fundamental right and also does not target or impose a disparate impact on a protected  
18 class; therefore, the Justice Court Rule as well as the subject legislation imposed by the  
19 State are subject to only a rational basis type of review. *See Romer v. Evans*, 517 U.S.  
20 620, 631–32, 116 S.Ct. 1620 (1996); *FCC v. Beech Communications, Inc.*, 508 U.S. 307,  
21 313-14, 113 S.Ct. 2096 (1993).

22 14. To prevail on a rational basis challenge, Plaintiff therefore must "negate  
23 every conceivable basis" that could support a rational basis for the alleged regulation.  
24 *Medina Tovar v. Zuchowski*, 950 F.3d 581, 593 (9th Cir. 2020); *Fournier v. Sebelius*, 718  
25 F.3d 1110, 1123 (9th Cir. 2013); *see also Armour v. City of Indianapolis, Ind.*, 566 U.S.  
26 673, 681, 132 S.Ct. 2073 (2012). Plaintiff certainly has not in this case negated all the  
27 conceivable rationale regarding the corporate representation rule codified by LVJC Rule  
28 16 or, for that matter, the consumer protection rationale for A.B. 477. *See* Sec. 3 (stating

1 "[t]he purpose of this chapter is to protect consumers").

2 15. Also, A.B. 477's "cap on attorney's fees is not a barrier to court access, but  
3 a limitation on relief." *Boivin v. Black*, 225 F.3d 36, 45 (1st Cir. 2000). LVJC Rule 16  
4 thus does not deny litigants "a reasonably adequate opportunity to present" their case  
5 to the Justice Court. *Lewis v. Casey*, 518 U.S. 343, 351, 116 S.Ct. 2174 (1996) (quoting  
6 *Bounds v. Smith*, 430 U.S. 817, 825, 97 S.Ct. 1491 (1977)).

7 16. The Nevada Supreme Court has held long before the enactment of LVJC  
8 Rule 16 that a legal entity such as a corporation cannot appear except through counsel,  
9 and non-lawyer principals are prohibited from representing these types of entities. *See*  
10 *In re: Discipline of Schaefer*, 117 Nev. 496, 509 (2001); *see also Rowland v. California*  
11 *Men's Colony*, 506 U.S. 194, 201–02, 113 S.Ct. 716 (1993) ("It has been the law for the  
12 better part of two centuries ... that a corporation may appear in the federal courts only  
13 through licensed counsel.")(citing *Commercial & R.R. Bank of Vicksburg v. Slocumb,*  
14 *Richards & Co.*, 39 U.S. (14 Pet.) 60, 65, 10 L.Ed. 354 (1840) ("[A] corporation cannot  
15 appear but by attorney ....") *overruled in part* by 43 U.S. (2 How.) 497, 11 L.Ed. 353  
16 (1844); and *Osborn v. Bank of the United States*, 22 U.S. (9 Wheat.) 738, 830, 6 L.Ed.  
17 204 (1824) ("A corporation, it is true, can appear only by attorney, while a natural person  
18 may appear for himself.")).

19 17. A defendant that is charged with the duty of executing a facially valid court  
20 order enjoys absolute immunity from liability for a suit challenging the propriety of that  
21 court order. *See Turney v. O'Toole*, 898 F.2d 1470, 1472 (10th Cir. 1990); *see also*  
22 *Engbretson v. Mahoney*, 724 F.3d 1034, 1038 (9th Cir. 2013) ("[P]ublic officials who  
23 ministerially enforce facially valid court orders are entitled to absolute immunity.").

24 18. The Justice Court appropriately followed that law when enacting and  
25 publishing LVJC 16 in accordance with controlling law from the Nevada Supreme  
26 Court. Plaintiff cannot prevail then against the Justice Court as a matter of law that is  
27 solely based on the propriety of that valid and controlling case law. The Justice Court  
28 effectively is immune from Plaintiff's suit by virtue of quasi-judicial immunity for

1 following the extant law announced by the Nevada Supreme Court.

2 19. A temporary injunction is an extraordinary remedy “must balance the  
3 competing claims of injury and must consider the effect on each party of the granting or  
4 withholding of the requested relief.” *Winter*, 555 U.S. at 24 (citation omitted). As a  
5 threshold inquiry, when a plaintiff fails to show the likelihood of success on the merits,  
6 the court need not consider the remaining factors. *Garcia v. Google, Inc.*, 786 F.3d 733,  
7 740 (9th Cir. 2015). Plaintiff is not likely to succeed on the merits and has failed to  
8 show that they are subject to irreparable harm if a temporary injunction is not issued.  
9 Balancing the competing claims, along with the effect on each party does not weigh in  
10 favor of the Plaintiff.

11 20. Plaintiff has failed to provide a basis to issue a writ of mandamus or a writ  
12 of prohibition. *Nevada Restaurant Services, Inc. v. Clark County*, 2018 WL 1077279\*7,  
13 *Stearns v. Eighth Judicial District Court in and for Clark County*, 62, Nev. 102,112, 12  
14 P.2d 206 (1943).

15 21. NRS 73.010(1) provides that “[a] justice of the peace has jurisdiction and  
16 may proceed as provided in this chapter and by rules of court in all cases arising in the  
17 justice court for the recovery of money only, where the amount claimed does not exceed  
18 \$10,000. Plaintiff’s members have not been denied access to court for their small  
19 collection cases; it is only that Plaintiff’s members chose not to use the court with  
20 jurisdiction for their claims that will allow them to appear without an attorney.

21 22. An injury does not take place when the Plaintiffs have access to another  
22 court with jurisdiction for their claims and does not require an entity to appear with an  
23 attorney.

24 ///

25 ///

26 ///

27 ///

28

1 ORDER

2 This Court being fully apprised in the premises, and good cause appearing to  
3 the Court ORDERS as follows:

- 4 1. Plaintiff's Motion for a Preliminary Injunction or, alternatively for a writ of  
5 mandamus or prohibition is denied. The Plaintiff is not likely to succeed on  
6 the merits and has not suffered irreparable harm. The balance of the  
7 hardships do not weigh in favor of the Plaintiff.  
8 2. Defendants FID and Justice Court's Motions to Dismiss are granted with  
9 prejudice.

10 DATED this 9 day of September, 2020.

Dated this 10th day of September, 2020

11 By: Nancy L Alf  
12 DISTRICT COURT JUDGE

13  
14 Submitted by:  
15 AARON D. FORD  
16 Attorney General

56A D48 D9D3 9D4A N  
Nancy Alf  
District Court Judge

17 By: /s/ Vivienne Rakowsky  
18 VIVIENNE RAKOWSKY  
19 Deputy Attorney General  
20 555 E. Washington Ave. Ste 3900  
Las Vegas, Nevada 89101  
Attorneys for State Defendants

21 OLSON CANNON GORMLEY  
22 & STOBERSKI

23 By: /s/ Thomas D. Dillard, Jr.  
24 THOMAS D. DILLARD, JR., ESQ.  
25 9950 W. Cheyenne Avenue  
26 Las Vegas, Nevada 89129  
27 Attorney for Defendant  
Justice Court of Las Vegas  
Township

28 ///

1 Approved as to form and content by:

2 BROWNSTEIN HYATT  
3 FARBER SCHRECK, LLP

4 By: /s/ Patrick J. Reilly  
5 Patrick J. Reilly, Esq.  
6 Marckia L. Hayes, Esq.  
7 100 N. City Parkway, Ste. 1600  
8 Las Vegas, Nevada 89106-4614  
9 P: 702-382-2101  
F: 702-382-8135  
10 preilly@bhfs.com  
11 mhayes@bhfs.com  
12 Attorneys for Plaintiff  
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26  
27  
28

## Melissa Burgener

---

**From:** Reilly, Patrick J. <preilly@bhfs.com>  
**Sent:** Wednesday, September 9, 2020 1:09 PM  
**To:** Vivienne Rakowsky; Melissa Burgener  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Approved as to form on my end as well. You may use my electronic signature.

Thank you.

**Patrick J. Reilly**  
**Brownstein Hyatt Farber Schreck, LLP**  
100 North City Parkway, Suite 1600  
Las Vegas, NV 89106  
702.464.7033 tel  
702.882.0112 cell  
[preilly@bhfs.com](mailto:preilly@bhfs.com)

---

**From:** Vivienne Rakowsky [mailto:VRakowsky@ag.nv.gov]  
**Sent:** Wednesday, September 09, 2020 12:48 PM  
**To:** 'Melissa Burgener'; Reilly, Patrick J.  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Thank you. I am fine with the Amended Order and the Order on the hearing today. You may use my electronic signature.

Sincerely,  
Vivienne

**Vivienne Rakowsky, Deputy Attorney General**  
**State of Nevada**  
**Office of the Attorney General**  
555 East Washington Avenue, Suite 3900  
Las Vegas, Nevada 89101  
[vrakowsky@ag.nv.gov](mailto:vrakowsky@ag.nv.gov)  
**Phone:** (702) 486-3103  
**Fax:** (702) 486-3416

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---

**From:** Melissa Burgener <mburgener@ocgas.com>  
**Sent:** Wednesday, September 9, 2020 11:52 AM  
**To:** Vivienne Rakowsky <VRakowsky@ag.nv.gov>; Reilly, Patrick J. <preilly@bhfs.com>  
**Cc:** Tom Dillard <tdillard@ocgas.com>  
**Subject:** NV Collectors v. LVJC, et al.

Good Morning,

Please find the attached orders in the above mentioned matter for your review.

Thank you,  
Melissa Burgener  
Assistant to Thomas D. Dillard, Jr., Esq.  
and Michael McLoughlin, Esq.  
Olson Cannon Gormley & Stoberski  
9950 W. Cheyenne Ave.,  
Las Vegas, Nevada 89129  
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1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5  
6 Nevada Collectors Association,  
7 Plaintiff(s)

CASE NO: A-19-805334-C

8 vs.

DEPT. NO. Department 27

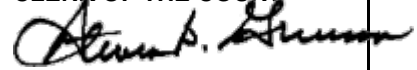
9 State of Nevada Department of  
10 Business and Industry Financial  
11 Institutions Div., Defendant(s)

12 **AUTOMATED CERTIFICATE OF SERVICE**

13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order was served via the court's electronic eFile system to all  
15 recipients registered for e-Service on the above entitled case as listed below:

16 Service Date: 9/10/2020

17 Tom Dillard	tdillard@ocgas.com
18 Melissa Burgener	mburgener@ocgas.com
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100 North City Parkway, Suite 1600  
7 Las Vegas, NV 89106-4614  
Telephone: 702.382.2101  
8 Facsimile: 702.382.8135

9 *Attorneys for Nevada Collectors Association*

10  
11 **DISTRICT COURT**  
12 **CLARK COUNTY, NEVADA**

13  
14 **NEVADA COLLECTORS ASSOCIATION, a**  
Nevada non-profit corporation,  
15  
16 **Plaintiff,**

17 **v.**

18 **SANDY O’LAUGHLIN, in her official**  
capacity as Commissioner of the State of  
Nevada Department Of Business And Industry  
19 Financial Institutions Division; STATE OF  
NEVADA DEPARTMENT OF BUSINESS  
20 AND INDUSTRY FINANCIAL  
INSTITUTIONS DIVISION; JUSTICE  
21 COURT OF LAS VEGAS TOWNSHIP; DOE  
DEFENDANTS 1 through 20; and ROE  
22 ENTITY DEFENDANTS 1 through 20,

23 **Defendants.**

Case No. A-19-805334-C

Dept. No. XXVII

**CASE APPEAL STATEMENT**

24  
25 1. Name of Appellants Filing this Case Appeal Statement:

26 Nevada Collectors Association (“NCA”)

27 2. The Judge Issuing the Decision, Judgment, or Order Appealed From:

28 The Honorable Nancy L. Allf

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

Nevada Collectors Association is represented by Patrick J. Reilly, Esq., and Emily A. Ellis, Esq., Brownstein Hyatt Farber Schreck, LLP, 100 North City Parkway, Suite 1600, Las Vegas, NV 89106-4614.

4. Each respondent and the name and address of appellate counsel, if known, for each respondent, but if the name of a respondent's appellate counsel is not known, then the name and address of that respondent's trial counsel:

The State of Nevada Department of Business and Industry Financial Institutions Division is represented by Aaron D. Ford, Esq., Vivienne Rakowsky, Esq. and David J. Pope, Esq., State of Nevada Office of the Attorney General, 555 E. Washington Avenue, Suite 3900 Las Vegas, Nevada 89101.

The Justice Court of Las Vegas Township is represented by Thomas D. Dillard, Jr., Esq., Olson Cannon Gormley & Stoberski, 9950 W. Cheyenne Avenue, Las Vegas, NV 89129.

5. Whether any attorney identified in response to subparagraph (D) is not licensed to practice law in Nevada, and if so, whether the district court granted that attorney permission to appear under SCR 42, including a copy of any district court order granting that permission:

All attorneys are licensed to practice law in Nevada.

6. Whether appellant was represented by appointed counsel in the district court, and whether the appellant is represented by appointed counsel on appeal.

NCA was represented by retained counsel in the district court and is represented by retained counsel on appeal.

7. Whether the district court granted the appellant leave to proceed in forma pauperis, and if so, the date of the district court's order granting that leave.

Not applicable.

8. The date that the proceedings commenced in the district court.

The Complaint was filed on November 3, 2019.

9. A brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

1 This action involves facial and as applied challenges to the constitutionality of Justice  
2 Court of Las Vegas Township Rule (“JCR”) 16 requiring corporations to retain an attorney to  
3 appear in Court and Assembly Bill (“A.B.”) 477, which was enacted by the Nevada State  
4 Legislature in the 2019 legislative session.

5 Specifically, Section 18 of A.B. 477 arbitrarily caps the recovery of attorney fees for a  
6 prevailing party in a civil lawsuit at only 15% of the amount of any unpaid “consumer debt,”  
7 regardless of the amount of work incurred by counsel in a debt collection action. A.B. 477, when  
8 acting in conjunction with JCR 16, violates the rights of NCA’s members and creditors of the  
9 like, fundamental right to meaningful access to Nevada Justice Courts. This law also subjected  
10 NCA members to potential administrative enforcement every time they sought attorney fees  
11 above and beyond the amount allowed under A.B. 477. Notably, financial institutions such as  
12 banks were wholly exempt from A.B. 477, with no conceivable rational basis ever offered by  
13 Respondents for this unlawful and irrational classification.

14 As such, NCA commenced this action seeking redress for violations of (i) Substantive  
15 Due Process based on Section 18 of A.B. 477 and JCR 16, (ii) Substantive and Procedural Due  
16 Process based on Section 19 of A.B. 477, (iii) Equal Protection based Section 18 of A.B. 477, and  
17 (iv) Equal Protection based Section 19 of A.B. 477, and seeking declaratory and injunctive relief  
18 relating thereto. Following the filing of a Motion to Dismiss, the Court concluded that there was  
19 no standing and no ripe case or controversy, yet improperly ruled on the substantive merits of the  
20 motion. The Court entered its Findings of Fact, Conclusions of Law, and Order, on July 20,  
21 2020, ruling in favor of Respondents. Thereafter, on September 10, 2020, this Court issued its  
22 Order Granting in Part and Denying in Part Plaintiffs Motion to Amend Findings of Fact and  
23 Conclusions of Law, and its Amended Findings of Fact and Conclusions of Law and Order on  
24 September 10, 2020.

25 10. Whether the case has previously been the subject of an appeal to or original writ  
26 proceeding in the Supreme Court or Court of Appeals and, if so, the caption and docket number  
27 of the prior proceeding:

28 Not applicable.

11. The appeal does not involve child custody or visitation.

Not applicable.

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

NCA believes that this appeal may involve the possibility of settlement, and will participate in any settlement conference in good faith.

DATED this 8th day of October, 2020.

/s/ Patrick J. Reilly

Patrick J. Reilly  
BROWNSTEIN HYATT FARBER SCHRECK, LLP  
100 North City Parkway, Suite 1600  
Las Vegas, NV 89106-4614

*Attorneys for Nevada Collectors Association*

**CERTIFICATE OF SERVICE**

Pursuant to Nevada Rule of Civil Procedure 5(b), I certify that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that the foregoing **CASE APPEAL STATEMENT** was served by submitting electronically for filing and/or service with the Eighth Judicial District Court's Odyssey eFileNV Electronic Filing system and serving all parties with an email address on record, as indicated below, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R. on the 8th day of October, 2020, to the addresses shown below:

Thomas D. Dillard, Jr., Esq.  
Olson Cannon Gormley & Stoberski  
9950 West Cheyenne Avenue  
Las Vegas, NV 89129  
[tdillard@ocgas.com](mailto:tdillard@ocgas.com)

*Attorneys for Jusitice Court of Las Vegas Township*

Vivienne Rakowsky, Esq.  
Office of the Attorney General  
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Suite 3900  
Las Vegas, NV 89101  
[vrakowsky@ag.nv.gov](mailto:vrakowsky@ag.nv.gov)

*Attorneys for Sandy O'Laughlin and State of Nevada, Department of Business and Industry Financial Institutions Division*

/s/ Mary Barnes

Mary Barnes, an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP

**CASE SUMMARY****CASE NO. A-19-805334-C****Nevada Collectors Association, Plaintiff(s)****vs.****State of Nevada Department of Business and Industry  
Financial Institutions Div., Defendant(s)**§  
§  
§  
§  
§Location: **Department 27**Judicial Officer: **Allf, Nancy**Filed on: **11/13/2019**Cross-Reference Case **A805334**

Number:

**CASE INFORMATION****Statistical Closures**09/10/2020 Summary Judgment  
07/20/2020 Summary Judgment  
01/13/2020 Transferred (before trial)Case Type: **Other Civil Matters**Case  
Status: **09/10/2020 Closed****DATE****CASE ASSIGNMENT****Current Case Assignment**Case Number A-19-805334-C  
Court Department 27  
Date Assigned 11/13/2019  
Judicial Officer Allf, Nancy**PARTY INFORMATION****Plaintiff Nevada Collectors Association***Lead Attorneys***Reilly, Patrick J.**  
*Retained*  
702-382-2101(W)**Defendant Justice Court of Las Vegas Township**  
Removed: 07/20/2020  
Dismissed**Dillard Jr, Thomas D.**  
*Retained*  
7023844012(W)**Justice Court of Las Vegas Township****Dillard Jr, Thomas D.**  
*Retained*  
7023844012(W)**State of Nevada Department of Business and Industry Financial  
Institutions Div.****RAKOWSKY, VIVIENNE,**  
**ESQ**  
*Retained*  
702-486-3103(W)**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

11/13/2019

**Complaint**Filed By: Plaintiff Nevada Collectors Association  
*Complaint and Petition for Writ of Prohibition*

11/13/2019

**Initial Appearance Fee Disclosure**Filed By: Plaintiff Nevada Collectors Association  
*Initial Appearance Fee Disclosure*

11/13/2019

**Summons Electronically Issued - Service Pending**Party: Plaintiff Nevada Collectors Association  
*Summons*

11/13/2019

**Summons Electronically Issued - Service Pending**

Party: Plaintiff Nevada Collectors Association

# CASE SUMMARY

CASE NO. A-19-805334-C

## Summons

11/22/2019	 Proof of Service Filed by: Plaintiff Nevada Collectors Association <i>Proof of Service - State of Nevada Dept. of Business and Industry Financial Institutions Division</i>
11/27/2019	 Motion for Preliminary Injunction Filed By: Plaintiff Nevada Collectors Association <i>Motion for Preliminary Injunction or, Alternatively, For a Writ of Mandamus or Prohibition</i>
11/27/2019	 Appendix Filed By: Plaintiff Nevada Collectors Association <i>Appendix to Motion for Preliminary Injunction or, Alternatively, For a Writ of Mandamus or Prohibition - Vol I</i>
11/27/2019	 Appendix Filed By: Plaintiff Nevada Collectors Association <i>Appendix to Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition - Vol II</i>
11/27/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/10/2019	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Collectors Association <i>Alias Summons - NV Dept of Business</i>
12/12/2019	 Proof of Service Filed by: Plaintiff Nevada Collectors Association <i>Proof of Service - Justice Court of Las Vegas Township</i>
12/17/2019	 Proof of Service Filed by: Plaintiff Nevada Collectors Association <i>Proof of Service - State of Nevada Dept. of Business and Industry Financial Institutions Division</i>
12/17/2019	 Amended Notice Filed By: Plaintiff Nevada Collectors Association <i>Amended Notice of Hearing</i>
01/02/2020	 Notice of Removal Filed By: Defendant Justice Court of Las Vegas Township <i>Notice of Removal of Civil Action to the United States District Court for the District of Nevada</i>
01/13/2020	 Order to Statistically Close Case <i>Order to Statistically Close Case</i>
04/24/2020	 Order <i>Order</i>
04/30/2020	 Notice Filed By: Plaintiff Nevada Collectors Association <i>Notice of Remand to State Court</i>

# CASE SUMMARY

CASE NO. A-19-805334-C

05/11/2020	 Stipulation and Order Filed by: Defendant State of Nevada Department of Business and Industry Financial Institutions Div. <i>Stipulation and Order Extending Time for Defendants to File Response to Amended Complaint and Setting Briefing Schedule to Plaintiff's Motion for Preliminary Injunction</i>
05/12/2020	 Motion to Dismiss Filed By: Defendant Justice Court of Las Vegas Township <i>Motion to Dismiss</i>
05/12/2020	 Initial Appearance Fee Disclosure Filed By: Defendant Justice Court of Las Vegas Township <i>Initial Appearance Fee Disclosure</i>
05/14/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/15/2020	 Motion for Preliminary Injunction Filed By: Plaintiff Nevada Collectors Association <i>Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition</i>
05/15/2020	 Appendix Filed By: Plaintiff Nevada Collectors Association <i>Appendix of Exhibits to Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition - Volume I</i>
05/15/2020	 Appendix Filed By: Plaintiff Nevada Collectors Association <i>Appendix of Exhibits to Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition - Volume II</i>
05/15/2020	 Appendix Filed By: Plaintiff Nevada Collectors Association <i>Appendix of Exhibits to Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition - Volume III</i>
05/18/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/26/2020	 Opposition to Motion to Dismiss Filed By: Plaintiff Nevada Collectors Association <i>Opposition to Motion to Dismiss</i>
05/28/2020	 Opposition to Motion Filed By: Defendant Justice Court of Las Vegas Township <i>Opposition to Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition</i>
06/04/2020	 Reply Filed by: Defendant Justice Court of Las Vegas Township <i>REPLY TO PLAINTIFF S OPPOSITION TO THE JUSTICE COURT S MOTION TO DISMISS</i>
06/08/2020	 Motion to Dismiss

**CASE SUMMARY**

**CASE NO. A-19-805334-C**

Filed By: Defendant State of Nevada Department of Business and Industry Financial Institutions Div.

*State Defendant's Motion to Dismiss Amended Complaint*

06/08/2020



Errata

Filed By: Defendant State of Nevada Department of Business and Industry Financial Institutions Div.

*Errata to State Defendant's Motion to Dismiss Amended Complaint*

06/09/2020



Errata

Filed By: Defendant State of Nevada Department of Business and Industry Financial Institutions Div.

*Second Errata to State's Motion to Dismiss Amended Complaint*

06/09/2020



Errata

Filed By: Defendant State of Nevada Department of Business and Industry Financial Institutions Div.

*Second Errata to State Defendant's Motion to Dismiss Amended Complaint*

06/10/2020



Reply in Support

Filed By: Plaintiff Nevada Collectors Association

*Reply in Support of NCA's Motion for Preliminary Injunction, or Alternatively, for a Writ of Mandamus or Prohibition*

06/12/2020



Clerk's Notice of Nonconforming Document

*Clerk's Notice of Nonconforming Document*

06/15/2020



Clerk's Notice of Nonconforming Document and Curative Action

*Clerk's Notice of Curative Action*

06/15/2020



Opposition

*State Defendants' Opposition to Plaintiff's Motion for a Preliminary Injunction, Writ of Mandamus or Prohibition*

06/16/2020



Clerk's Notice of Hearing

*Notice of Hearing*

06/16/2020



Reply in Support

Filed By: Plaintiff Nevada Collectors Association

*Second Reply in Support of NCA's Motion for Preliminary Injunction, or Alternatively, for a Writ of Mandamus or Prohibition*

06/22/2020



Opposition to Motion to Dismiss

Filed By: Plaintiff Nevada Collectors Association

*Opposition to Motion to Dismiss*

06/29/2020



Reply to Opposition

Filed by: Defendant State of Nevada Department of Business and Industry Financial Institutions Div.

*State Defendant's Reply to Plaintiff's Opposition to Motion to Dismiss*

07/20/2020
















Findings of Fact, Conclusions of Law and Order

Filed By: Defendant Justice Court of Las Vegas Township

*Findings of Fact, Conclusions of Law and Order*

**CASE SUMMARY**

**CASE NO. A-19-805334-C**

07/20/2020	 Notice of Entry of Order Filed By: Defendant State of Nevada Department of Business and Industry Financial Institutions Div. <i>Notice of Entry Findings of Fact, Conclusions of Law, and Order</i>
08/03/2020	 Motion to Amend Judgment Filed By: Plaintiff Nevada Collectors Association <i>Motion to Amend Findings of Fact and Conclusions of Law and to Alter or Amend Judgment</i>
08/04/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
08/14/2020	 Opposition to Motion Filed By: Defendant Justice Court of Las Vegas Township <i>Opposition to Plaintiff's Motion to Amend Findings of Fact and Conclusions of Law and to Alter or Amend Judgment</i>
08/17/2020	 Opposition to Motion Filed By: Defendant State of Nevada Department of Business and Industry Financial Institutions Div. <i>State's Opposition to Motion to Amend Findings of Fact Conclusions of Law and Order</i>
08/17/2020	 Opposition to Motion Filed By: Defendant State of Nevada Department of Business and Industry Financial Institutions Div. <i>State's Defendant's Opposition to Motion to Amend Findings of Fact Conclusions of Law and Order</i>
08/19/2020	 Recorders Transcript of Hearing <i>Transcript of Proceedings, All Pending Motions, Heard on July 1, 2020</i>
09/02/2020	 Reply in Support Filed By: Plaintiff Nevada Collectors Association <i>Reply Memorandum in Support of Motion to Amend Findings of Fact and Conclusions of Law and to Alter or Amend Judgment</i>
09/10/2020	 Amended Order Filed By: Defendant Justice Court of Las Vegas Township <i>Amended Finding of Fact, Conclusions of Law and Order</i>
09/10/2020	 Notice of Entry of Order Filed By: Defendant Justice Court of Las Vegas Township <i>Notice of Entry of Order</i>
09/10/2020	 Order Filed By: Defendant Justice Court of Las Vegas Township <i>(See Amended Order 9/10/2020) Order Granting in Part and Denying in Part Plaintiff's Motion to Amend Findings of Fact and Conclusions of Law</i>
09/10/2020	 Notice of Entry of Order Filed By: Defendant Justice Court of Las Vegas Township <i>Notice of Entry of Order</i>
10/08/2020	 Notice of Appeal Filed By: Plaintiff Nevada Collectors Association

# CASE SUMMARY

CASE NO. A-19-805334-C

*Notice of Appeal*

10/08/2020



Case Appeal Statement

Filed By: Plaintiff Nevada Collectors Association

*Case Appeal Statement*

## **DISPOSITIONS**

09/10/2020

**Amended Order of Dismissal With Prejudice** (Judicial Officer: Allf, Nancy)

Debtors: Nevada Collectors Association (Plaintiff)

Creditors: State of Nevada Department of Business and Industry Financial Institutions Div. (Defendant), Justice Court of Las Vegas Township (Defendant)

Judgment: 09/10/2020, Docketed: 07/21/2020

Comment: In Part

## **HEARINGS**

02/27/2020

**CANCELED Motion for Preliminary Injunction** (11:00 AM) (Judicial Officer: Allf, Nancy)

*Vacated*

*Motion for Preliminary Injunction or, Alternatively, For a Writ of Mandamus or Prohibition*

06/16/2020



**Minute Order** (3:00 AM) (Judicial Officer: Allf, Nancy)

*Minute Order: Telephonic Appearance*

Minute Order - No Hearing Held; Minute Order: Telephonic Appearance

Journal Entry Details:

*Department 27 Formal Request to Appear Telephonically Re Defendant's Motion to Dismiss and Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition Set: June 17, 2020 at 10:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 494 224 909 Meeting URL: <https://bluejeans.com/494224909> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/16/2020;*

06/30/2020



**Minute Order** (3:00 AM) (Judicial Officer: Allf, Nancy)

*Minute Order: BlueJeans Appearances*

Minute Order - No Hearing Held; Minute Order: BlueJeans Appearances

Journal Entry Details:

*Department 27 Formal Request to Appear Telephonically Re: Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition & Defendant's Motion to Dismiss Set: July 1, 2020 at 9:30 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 356 362 567 Meeting URL: <https://bluejeans.com/356362567> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL*

# CASE SUMMARY

CASE NO. A-19-805334-C

link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/30/2020 CLERK'S NOTE: Minute order AMENDED to correct Meeting ID number and Meeting URL. This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/30/2020;

07/01/2020

**Motion to Dismiss (9:30 AM)** (Judicial Officer: Allf, Nancy)

*Defendant's Motion to Dismiss*

Granted;

07/01/2020

**Motion for Preliminary Injunction (9:30 AM)** (Judicial Officer: Allf, Nancy)

*Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition*

Denied;

07/01/2020



**All Pending Motions (9:30 AM)** (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

*All counsel present via the BlueJeans Videoconferencing Application. Arguments by counsel regarding the merits of and opposition to the motions. Court stated its findings and ORDERED, Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition DENIED; Defendant's Motion to Dismiss GRANTED. Defendant's counsel to prepare the order, including findings of fact and conclusions of law, and provide the order to Plaintiff's counsel one week prior to Court.;*

07/21/2020



**Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

*Minute Order: Mkotin to Dismiss on 7/22/2020 VACATED*

*Minute Order - No Hearing Held; Minute Order: Mkotin to Dismiss on 7/22/2020 VACATED*

Journal Entry Details:

*COURT FINDS after review the State Defendant's Motion to Dismiss Amended Complaint is set for hearing for July 22, 2020 at 10:00 a.m. on Motions Calendar. THEREFORE, COURT ORDERS for good cause appearing and after review in light of the decision on this matter at the July 1, 2020 hearing, the hearing set for July 22, 2020 at 10:00 a.m. shall be VACATED. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/21/2020.;*

07/22/2020

**CANCELED Motion to Dismiss (10:00 AM)** (Judicial Officer: Allf, Nancy)

*Vacated - Previously Decided*

*State Defendant's Motion to Dismiss Amended Complaint*

09/04/2020



**Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

*Minute Order: BlueJeans Appearance*

*Minute Order - No Hearing Held; Minute Order: BlueJeans Appearance*

Journal Entry Details:

*Department 27 Formal Request to Appear Telephonically Re: Matter set on September 9, 2020 at 9:00 a.m. Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing*

# CASE SUMMARY

CASE NO. A-19-805334-C

system. You have the choice to appear either by phone or computer/video. Dial the following number: 1-408-419-1715 Meeting ID: 897 138 369 Meeting URL: <https://bluejeans.com/897138369> To connect by phone dial the number provided and enter the meeting ID followed by # To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans. You may also download the Blue Jeans app and join the meeting by entering the meeting ID PLEASE NOTE the following protocol each participant will be required to follow: Place your phone on MUTE while waiting for your matter to be called. Do NOT place the call on hold since some phones may play wait/hold music. Please do NOT use speaker phone as it causes a loud echo/ringing noise. Please state your name each time you speak so that the court recorder can capture a clear record. Please be mindful of rustling papers, background noise, and coughing or loud breathing. Please be mindful of where your camera is pointing. We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing. If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing. Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/4/2020. ;

09/09/2020



**Motion to Amend Judgment (9:00 AM)** (Judicial Officer: Allf, Nancy)

*Motion to Amend Findings of Fact and Conclusions of Law and to Alter or Amend Judgment*  
Granted in Part;

Journal Entry Details:

*All appearances made via the BlueJeans Videoconferencing Application Arguments by counsel regarding the merits of and opposition to the motion. COURT ORDERED, Motion to Amend Findings of Fact and Conclusions of Law and to Alter or Amend Judgment GRANTED IN PART as to last sentence in the fifth paragraph, DENIED IN PART as to the balance of the motion. Mr. Dillard to prepare the revised judgment and submit it to opposing counsel for approval as to form. Mr. Reilly stated there is no motion before the Court to alter or amend the order in that regard. Court stated that because the motion was to alter or amend, Court is granting it in regard to that concession made by Justice Court;*

DATE

FINANCIAL INFORMATION

**Defendant** Justice Court of Las Vegas Township

Total Charges

223.00

Total Payments and Credits

223.00

**Balance Due as of 10/12/2020**

**0.00**

**Plaintiff** Nevada Collectors Association

Total Charges

294.00

Total Payments and Credits

294.00

**Balance Due as of 10/12/2020**

**0.00**

## DISTRICT COURT CIVIL COVER SHEET CASE NO: A-19-805334-C

County, Nevada

Department 27

Case No. \_\_\_\_\_

(Assigned by Clerk's Office)

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

NEVADA COLLECTORS ASSOCIATION, a Nevada  
non-profit corporation,

Defendant(s) (name/address/phone):

State of Nevada Department of Business  
and Industry Financial Institutions Division;  
Justice Court of Las Vegas Township,

Attorney (name/address/phone):

Patrick J. Reilly, Esq.

Brownstein Hyatt Farber Schreck, LLP

100 N. City Parkway, Suite 1600, Las Vegas, NV 89106

(702) 382-2101

Attorney (name/address/phone):

**II. Nature of Controversy** (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property	Torts
<b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate	Judicial Review/Appeal
<b>Probate (select case type and estate value)</b> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ	Other Civil Filing
<b>Civil Writ</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

11-13-19

Date

Signature of initiating party or representative

See other side for family-related case filings.

*Heather S. Linn*

CLERK OF THE COURT

**ORDR**

AARON D. FORD

Attorney General

VIVIENNE RAKOWSKY (Bar No. 9160)

Deputy Attorney General

State of Nevada

Office of the Attorney General

555 E. Washington Avenue, Suite 3900

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*Attorneys for State Defendant*

THOMAS D. DILLARD, JR., ESQ.

Nevada Bar No. 006270

OLSON CANNON GORMLEY

& STOBERSKI

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Las Vegas, Nevada 89129

(702) 384-4012 - telephone

(702) 383-0701 - facsimile

*Attorney for Defendant*

*Justice Court of Las Vegas*

*Township*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NEVADA COLLECTORS ASSOCIATION, a  
Nevada non-profit corporation,

Plaintiff,

v.

SANDY O'LAUGHLIN, in her official  
capacity as Commissioner of State of  
Nevada Department of Business and  
Industry and Financial Institutions  
Division; STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND  
INDUSTRY FINANCIAL INSTITUTIONS  
DIVISION; JUSTICE COURT OF LAS  
VEGAS TOWNSHIP; DOE DEFENDANTS  
1 through 20; and ROE ENTITIY  
DEFENDANTS 1 through 20,  
Defendants.

Case No.: A-19-805334-C

Dept. No.: XXVII

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER**

1 This matter came on for hearing on July 1, 2020, (the “Hearing”). Plaintiff,  
2 Nevada Collectors Association, represented by Patrick J. Reilly of the law firm of  
3 Brownstein Hyatt Farber Schreck, LLP appeared at the Hearing. Thomas D. Dillard,  
4 Jr. of Olson Cannon Gormley & Stoberski appeared for Defendant Justice Court and  
5 Vivienne Rakowsky, Deputy Attorney General with the Nevada Attorney General’s  
6 Office, appeared on behalf of Sandy O’Laughlin in her official capacity as Commissioner  
7 of the Financial Institutions Division and the State of Nevada Department of Business  
8 and Industry Financial Institutions Division (“FID”).

9 At the hearing, the Court heard the Justice Court’s and the FID’s separate  
10 Motions to Dismiss and the Plaintiff’s Motion for a Temporary Injunction and  
11 Alternative Motion for a Writ of Mandamus or Prohibition. After considering the briefs  
12 and the respective arguments, and having considered the evidence introduced by the  
13 parties and being fully advised, this Court enters the following Findings of Fact,  
14 Conclusions of Law, and Order.

### 15 **FINDINGS OF FACT**

16 Based upon the papers filed and arguments at the time of the hearing, this Court  
17 finds that by a preponderance of the evidence in the record the following facts have been  
18 proven.

19 1. The current version of Las Vegas Justice Court Rule 16 (“LVJC Rule 16”) was  
20 made effective on January 1, 2007. LVJC Rule 16 states:

21 Unless appearing by an attorney regularly admitted to practice law in  
22 Nevada and in good standing, no entry of appearance or subsequent  
23 document purporting to be signed by any party to an action shall be  
24 recognized or given any force or effect unless the same shall be notarized,  
25 or signed with an unsworn declaration pursuant to NRS 53.045, by the  
26 party signing the same. Corporations and limited liability corporations  
(LLC) shall be represented by an attorney. [Added; effective January 1,  
2007.]

26 2. The Nevada State Legislature unanimously passed A.B. 477 (entitled the  
27 “Consumer Protection from the Accrual of Predatory Interest After Default Act”) in the  
28 2019 Nevada State Legislative Session.

1           3.       On November 13 2019, Plaintiff, on behalf of its members, filed a complaint  
2 in the Eighth Judicial District Court naming the FID and Justice Court as Defendants  
3 alleging that sections 18 and 19 of AB 477, codified as NRS 97B.160 and NRS 97B.170,  
4 violate the due process and equal protection guarantees of the State and federal  
5 constitutions. Plaintiff further alleged that these sections when combined with LVJC  
6 Rule 16 denied it access to the courts because the legislation limited attorney fees  
7 recovery to 15% of the underlying judgment involving consumer debt contract cases of  
8 less than \$5,000 (for which there is concurrent jurisdiction in the Justice Courts and  
9 the Small Claims Courts). Plaintiff also requested declaratory and injunctive relief.

10           4.       On January 2, 2020, Defendant Justice Court removed the case to the U.S.  
11 District Court based on federal question jurisdiction (Case No. 2:20-CV-0007-JCM-  
12 EJY).

13           5.       Based on a motion to dismiss filed by the FID and a motion for judgment  
14 on the pleadings filed by Justice Court, on February 3, 2020, Plaintiff successfully  
15 sought leave to file an Amended Complaint. Amongst other changes, Plaintiff amended  
16 the Complaint to add the Commissioner of the FID in her official capacity.

17           6.       On April 13, 2020, the U.S. District Court *sua sponte* applied *Burford*  
18 abstention and remanded the matter back to State Court, finding that it would be  
19 “intervening in Nevada’s efforts to establish a coherent policy if it were to adjudicate  
20 the instant action.” ECF No. 39, p. 7:3-4.

21           7.       Upon remand, the FID and Justice Court each filed Motions to Dismiss,  
22 and Plaintiff filed a motion for a Preliminary Injunction or, Alternatively for a Writ of  
23 Mandamus or Prohibition along with exhibits including declarations and exemplar  
24 small dollar collections. The motions were fully briefed by all parties. A hearing was  
25 held for all motions on July 1, 2020.

26           8.       Plaintiff claims that its members are primarily concerned with collecting  
27 small debts under \$5,000, and argued that the limitations on attorney fees codified in  
28 AB 477 is unconstitutional. Plaintiff moved for a temporary injunction, writ of

1 mandamus or writ or prohibition claiming: (1) a creditor will not be able to hire an  
2 attorney to represent them in Justice Court; (2) attorneys may refuse to represent  
3 creditor entities; and (3) that credit may be tightened for all consumers.

4 9. Defendant Justice Court argued Plaintiff did not plausibly allege that Las  
5 Vegas Justice Court Rule 16 caused Plaintiff to suffer an actual injury relating to its  
6 right to have access to the courts protected by the First Amendment and/or the  
7 Fourteenth Amendment Due Process Clause; and the Justice Court relied upon well-  
8 established and controlling law from the U.S. Supreme Court and the Nevada Supreme  
9 Court when enacting, years prior to this suit, Rule 16 and therefore possessed immunity  
10 from suit for simply following the law.

11 10. The FID argued that dismissal is justified pursuant to NRCP 12(b)(1) and  
12 NRCP 12(b)(5). Plaintiff lacks standing because there is no justiciable controversy. The  
13 case is not ripe for adjudication because ripeness cannot be based on speculative or  
14 hypothetical prospect of a future harm. The Nevada Legislature did not designate the  
15 FID to administer AB 477 and the FID does not regulate many of the Plaintiffs members  
16 including attorneys and businesses that extend credit to their own customers. An  
17 agency cannot expand the powers delegated by the legislature through regulations.  
18 Plaintiffs 42 USC § 1983 claims for violations of due process and equal protection do  
19 not apply to the FID and its Commissioner because neither the agency nor its  
20 commissioner in her official capacity are persons subject to section 1983.

21 11. Plaintiff failed to provide facts to establish that it was substantially denied  
22 access to the Justice Courts in Nevada or negate all plausible justifications for the  
23 Nevada Legislature to pass AB 477 and LVJC Rule 16.

24 12. Plaintiff in the FAC further failed to allege that it or any affiliated  
25 company took any matter to Justice Court and received an order reducing requested  
26 attorney fees pursuant to the 2019 Legislative Act.

27 13. Plaintiff's allegations fail to detail official acts foreseeably frustrating  
28 litigation and foreclosing relief in a future suit.

///

1 CONCLUSIONS OF LAW

2 Based on the foregoing factual findings, this Court makes the following  
3 conclusions of law:

4 1. Plaintiff has the burden to show by a preponderance of the evidence that  
5 the allegations are sufficient to invoke this Court's jurisdiction. *Leite v. Crane Co.* 749  
6 F.3d1117, 1122 (9th Cir. 2014)

7 2. The Nevada Constitution provides that its courts have jurisdiction over  
8 civil and criminal cases, which has been interpreted to prohibit courts from ruling on  
9 cases that are not ripe. *City of North Las Vegas v. Cluff*, 85 Nev. 200, 452 P.2d 461  
10 (1969)

11 3. Dismissal is required pursuant to NRCP 12(b)(1) because Plaintiff failed  
12 to establish subject matter jurisdiction. Plaintiff did not show that the parties were  
13 adverse, that a controversy existed between the parties and that the issues were ripe  
14 for adjudication. See *Kress v. Cory*, 65 Nev. 1, 26, 189 P. 2d 352 (1948). The FID and  
15 Plaintiff are not adverse. There is no controversy between the Plaintiff and FID because  
16 the Nevada Legislature did not delegate the authority to enforce AB 477 to the FID, and  
17 the FID does not regulate activities of the Justice Court including the amount of  
18 attorney fees it can award to a prevailing party or the requirement that an entity must  
19 appear with counsel.

20 4. Plaintiff failed to show a hardship or that the issues were fit for judicial  
21 decision. *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 887, 141 P.3d 1224 (2006).  
22 Plaintiff did not meet the prudential considerations because Plaintiff's claim of potential  
23 hardship if the members cannot access the Court system for small debt collection cases  
24 is speculative. Plaintiffs lacked an actual injury because there has not been any  
25 enforcement or a threat of enforcement of AB 477.

26 5. This case is not ripe for determination. A case is not ripe for review when  
27 the degree to which the harm alleged by the party seeking review is not sufficiently  
28 concrete and any alleged injury is remote or hypothetical. *Cote H. v. Eighth Judicial*

1 *Dist. Court ex rel County of Clark*, 124 Nev. 36 n.1, 175 P.3d 906 (2008). Speculative or  
2 hypothetical future harm is not sufficient to invoke jurisdiction. *Doe v. Bryan*, 102 Nev.  
3 523, 525, 728 P.2d 443, (1986) Plaintiff's claim of possible future injury if the Plaintiffs  
4 do not have access to the court of their choice is not ripe because the Plaintiff has not  
5 been denied access to court and there has not been any enforcement activities or threat  
6 of enforcement of AB477.

7 6. In considering the ripeness doctrine in pre-enforcement cases, the court  
8 looks to see if there is a "credible threat," or an "actual and well-founded fear" that  
9 enforcement action would be taken against the plaintiff by the defendant. *Holder v.*  
10 *Humanitarian Law Project*, 561 U.S. 1, 15 (2010); *Virginia v. American Booksellers*  
11 *Assn. Inc.*, 484 U.S. 383, 393 (1988); *see also Delew v. Wagner*, 143 F.3d 1219, 1223 (9th  
12 Cir. 1988). In the nine months since AB 477 went into effect, there has not been any  
13 imminent threat that the FID will or even can enforce Sections 18 or 19 of AB 477  
14 against Plaintiff's members.

15 7. Plaintiff failed to provide a set of facts which would entitle Plaintiff to  
16 relief, pursuant to NRCP 12(b)(5). The FID's regulatory ability is limited to the powers  
17 provided in NRS chapter 649. The Nevada Legislature did not delegate the authority to  
18 enforce AB 477 to the FID, nor does the FID regulate activities of the Justice Court  
19 including the amount of attorney fees it can award to a prevailing party or the  
20 requirement that an entity must appear with counsel. *See State of Nevada v. Nevada*  
21 *Association Services*, 128 Nev. 362, 294 P.3d 1223 (2012).

22 8. NRS 41.031 requires that the agency's action must provide the *basis* for  
23 the lawsuit, Plaintiff has not shown that the FID has taken any action that can be  
24 interpreted as a basis for declaratory, injunctive or any relief against the FID. The FID  
25 enforces the law with respect to its licensees, but not with respect to a small business  
26 that extend credit to its own customers or with respect to attorneys.

27 9. The FID has the power to adopt regulations, as long as the regulations do  
28 not broaden the powers of the FID past the limitations found in statutes. There is no

1 statute in Chapter 649 that allows the FID to regulate attorney fees in a contract  
2 between a creditor and a debtor.

3 10. Judicial notice of facts outside of the complaint is only applicable to facts  
4 not subject to reasonable dispute or facts that are capable of verification from a reliable  
5 source. NRS 47.130, *Mack .v Estate of Mack*, 125 Nev. 80, 92, 206 P.3d 98 (2009).  
6 Plaintiff's declarations do not fit the criteria for judicial notice.

7 11. Neither the FID nor its commissioner sued in her official capacity is a  
8 person subject to section 1983. *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 69  
9 (1989). Therefore all official capacity 42 USC § 1983 claims against the FID must be  
10 dismissed.

11 12. Claims for denial of access to the courts may arise from the frustration or  
12 hindrance of “a litigating opportunity yet to be gained” (forward-looking access claim)  
13 or from the loss of a meritorious suit that cannot now be tried (backward-looking claim).  
14 *Christopher v. Harbury*, 536 U.S. 403, 412–415, 122 S.Ct. 2179 (2002). For access to the  
15 court's claims, the plaintiff must show: (1) the loss of a ‘nonfrivolous’ or ‘arguable’  
16 underlying claim; (2) the official acts frustrating the litigation; and (3) a remedy that  
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19 13. LVJC Rule 16 and A.B. 477 do not unduly infringe any identified  
20 fundamental right and also does not target or impose a disparate impact on a protected  
21 class; therefore, the Justice Court Rule as well as the subject legislation imposed by the  
22 State are subject to only a rational basis type of review. *See Romer v. Evans*, 517 U.S.  
23 620, 631–32, 116 S.Ct. 1620 (1996); *FCC v. Beech Communications, Inc.*, 508 U.S. 307,  
24 313-14, 113 S.Ct. 2096 (1993).

25 14. To prevail on a rational basis challenge, Plaintiff therefore must “negate  
26 every conceivable basis” that could support a rational basis for the alleged regulation.  
27 *Medina Tovar v. Zuchowski*, 950 F.3d 581, 593 (9th Cir. 2020); *Fournier v. Sebelius*, 718  
28 F.3d 1110, 1123 (9th Cir. 2013); *see also Armour v. City of Indianapolis, Ind.*, 566 U.S.

1 673, 681, 132 S.Ct. 2073 (2012). Plaintiff certainly has not in this case negated all the  
2 conceivable rationale regarding the corporate representation rule codified by LVJC Rule  
3 16 or, for that matter, the consumer protection rationale for A.B. 477. *See* Sec. 3 (stating  
4 “[t]he purpose of this chapter is to protect consumers”).

5 15. Also, A.B. 477's “cap on attorney’s fees is not a barrier to court access, but  
6 a limitation on relief.” *Boivin v. Black*, 225 F.3d 36, 45 (1st Cir. 2000). LVJC Rule 16  
7 thus does not deny litigants “a reasonably adequate opportunity to present” their case  
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9 *Bounds v. Smith*, 430 U.S. 817, 825, 97 S.Ct. 1491 (1977)).

10 16. The Nevada Supreme Court has held long before the enactment of LVJC  
11 Rule 16 that a legal entity such as a corporation cannot appear except through counsel,  
12 and non-lawyer principals are prohibited from representing these types of entities. *See*  
13 *In re: Discipline of Schaefer*, 117 Nev. 496, 509 (2001); *see also Rowland v. California*  
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17 *Richards & Co.*, 39 U.S. (14 Pet.) 60, 65, 10 L.Ed. 354 (1840) (“[A] corporation cannot  
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20 204 (1824) (“A corporation, it is true, can appear only by attorney, while a natural person  
21 may appear for himself.”)).

22 17. A defendant that is charged with the duty of executing a facially valid court  
23 order enjoys absolute immunity from liability for a suit challenging the propriety of that  
24 court order. *See Turney v. O’Toole*, 898 F.2d 1470, 1472 (10th Cir. 1990); *see also*  
25 *Engbretson v. Mahoney*, 724 F.3d 1034, 1038 (9th Cir. 2013) (“[P]ublic officials who  
26 ministerially enforce facially valid court orders are entitled to absolute immunity.”).

27 18. The Justice Court appropriately followed that law when enacting and  
28 publishing LVJC 16 in accordance with controlling law from the Nevada Supreme

1 Court. Plaintiff cannot prevail then against the Justice Court as a matter of law that is  
2 solely based on the propriety of that valid and controlling case law. The Justice Court  
3 effectively is immune from Plaintiff's suit by virtue of quasi-judicial immunity for  
4 following the extant law announced by the Nevada Supreme Court.

5 19. A temporary injunction is an extraordinary remedy "must balance the  
6 competing claims of injury and must consider the effect on each party of the granting or  
7 withholding of the requested relief." *Winter*, 555 U.S. at 24 (citation omitted). As a  
8 threshold inquiry, when a plaintiff fails to show the likelihood of success on the merits,  
9 the court need not consider the remaining factors. *Garcia v. Google, Inc.*, 786 F.3d 733,  
10 740 (9th Cir. 2015). Plaintiff is not likely to succeed on the merits and has failed to  
11 show that they are subject to irreparable harm if a temporary injunction is not issued.  
12 Balancing the competing claims, along with the effect on each party does not weigh in  
13 favor of the Plaintiff.

14 20. Plaintiff has failed to provide a basis to issue a writ of mandamus or a writ  
15 of prohibition. *Nevada Restaurant Services, Inc. v. Clark County*, 2018 WL 1077279\*7,  
16 *Stearns v. Eighth Judicial District Court in and for Clark County*, 62, Nev. 102,112, 12  
17 P.2d 206 (1943).

18 21. NRS 73.010(1) provides that "[a] justice of the peace has jurisdiction and  
19 may proceed as provided in this chapter and by rules of court in all cases arising in the  
20 justice court for the recovery of money only, where the amount claimed does not exceed  
21 \$10,000. Plaintiff's members have not been denied access to court for their small  
22 collection cases; it is only that Plaintiff's members chose not to use the court with  
23 jurisdiction for their claims that will allow them to appear without an attorney.

24 22. An injury does not take place when the Plaintiffs have access to another  
25 court with jurisdiction for their claims and does not require an entity to appear with an  
26 attorney.

27 ///

28 ///

**ORDER**

This Court being fully apprised in the premises, and good cause appearing to the Court ORDERS as follows:

1. Plaintiff's Motion for a Preliminary Injunction or, alternatively for a writ of mandamus or prohibition is denied. The Plaintiff is not likely to succeed on the merits and has not suffered irreparable harm. The balance of the hardships do not weigh in favor of the Plaintiff.
2. Defendants FID and Justice Court's Motions to Dismiss are granted with prejudice.

DATED this \_\_\_\_ day of July, 2020.

Dated this 20th day of July, 2020

By: Nancy L Alf  
DISTRICT COURT JUDGE

FA8 3C2 F559 72AD JD  
Nancy Alf  
District Court Judge

Submitted by:  
AARON D. FORD  
Attorney General

Approved as to form only:

By: /s/ VIVIENNE RAKOWSKY  
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Las Vegas, Nevada 89129  
Attorney for Defendant  
Justice Court of Las Vegas  
Township

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Nevada Collectors Association,  
7 Plaintiff(s)

CASE NO: A-19-805334-C

8 vs.

DEPT. NO. Department 27

9 State of Nevada Department of  
10 Business and Industry Financial  
11 Institutions Div., Defendant(s)

12 **AUTOMATED CERTIFICATE OF SERVICE**

13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the  
15 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
16 case as listed below:

Service Date: 7/20/2020

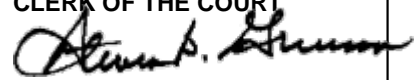
17 Tom Dillard	tdillard@ocgas.com
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8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 NEVADA COLLECTORS )  
11 ASSOCIATION, a Nevada non-profit )  
12 corporation, )  
13 Plaintiff, )  
14 v. )  
15 )  
16 STATE OF NEVADA DEPARTMENT )  
17 OF BUSINESS AND INDUSTRY )  
18 FINANCIAL INSTITUTIONS )  
19 DIVISION; JUSTICE COURT OF LAS )  
20 VEGAS TOWNSHIP; DOE )  
21 DEFENDANTS 1 through 20; and ROE )  
22 ENTITIY DEFENDANTS 1 through 20, )  
23 Defendants. )

Case No.: A-19-805334-C  
Dept. No.: XXVII

20 **NOTICE OF ENTRY OF ORDER OF FINDINGS OF**  
21 **FACT, CONCLUSIONS OF LAW, AND ORDER**

22 PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law, and Order  
23 was filed on this date, a copy of which is attached hereto.

24 DATED this 20th day of July 2020.

25 AARON D. FORD  
26 Attorney General

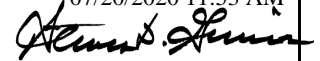
27 By: /s/ VIVIENNE RAKOWSKY  
28 VIVIENNE RAKOWSKY  
Attorneys for Defendant

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of the Office of the Attorney General  
3 and that on the 20th day of July, 2020, I filed the foregoing **NOTICE OF ENTRY OF**  
4 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** via this Court's  
5 electronic filing system. Parties that are registered with this Court's EFS will be  
6 served electronically.

7  
8  
9 /s/ Michele Caro

10 An Employee of the Office of the Attorney General  
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CLERK OF THE COURT

**ORDR**

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*Attorney for Defendant*  
*Justice Court of Las Vegas*  
*Township*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NEVADA COLLECTORS ASSOCIATION, a  
Nevada non-profit corporation,

Plaintiff,

v.

SANDY O'LAUGHLIN, in her official  
capacity as Commissioner of State of  
Nevada Department of Business and  
Industry and Financial Institutions  
Division; STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND  
INDUSTRY FINANCIAL INSTITUTIONS  
DIVISION; JUSTICE COURT OF LAS  
VEGAS TOWNSHIP; DOE DEFENDANTS  
1 through 20; and ROE ENTITIY  
DEFENDANTS 1 through 20,  
Defendants.

Case No.: A-19-805334-C  
Dept. No.: XXVII

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER**

1 This matter came on for hearing on July 1, 2020, (the “Hearing”). Plaintiff,  
2 Nevada Collectors Association, represented by Patrick J. Reilly of the law firm of  
3 Brownstein Hyatt Farber Schreck, LLP appeared at the Hearing. Thomas D. Dillard,  
4 Jr. of Olson Cannon Gormley & Stoberski appeared for Defendant Justice Court and  
5 Vivienne Rakowsky, Deputy Attorney General with the Nevada Attorney General’s  
6 Office, appeared on behalf of Sandy O’Laughlin in her official capacity as Commissioner  
7 of the Financial Institutions Division and the State of Nevada Department of Business  
8 and Industry Financial Institutions Division (“FID”).

9 At the hearing, the Court heard the Justice Court’s and the FID’s separate  
10 Motions to Dismiss and the Plaintiff’s Motion for a Temporary Injunction and  
11 Alternative Motion for a Writ of Mandamus or Prohibition. After considering the briefs  
12 and the respective arguments, and having considered the evidence introduced by the  
13 parties and being fully advised, this Court enters the following Findings of Fact,  
14 Conclusions of Law, and Order.

### 15 **FINDINGS OF FACT**

16 Based upon the papers filed and arguments at the time of the hearing, this Court  
17 finds that by a preponderance of the evidence in the record the following facts have been  
18 proven.

19 1. The current version of Las Vegas Justice Court Rule 16 (“LVJC Rule 16”) was  
20 made effective on January 1, 2007. LVJC Rule 16 states:

21 Unless appearing by an attorney regularly admitted to practice law in  
22 Nevada and in good standing, no entry of appearance or subsequent  
23 document purporting to be signed by any party to an action shall be  
24 recognized or given any force or effect unless the same shall be notarized,  
25 or signed with an unsworn declaration pursuant to NRS 53.045, by the  
26 party signing the same. Corporations and limited liability corporations  
(LLC) shall be represented by an attorney. [Added; effective January 1,  
2007.]

26 2. The Nevada State Legislature unanimously passed A.B. 477 (entitled the  
27 “Consumer Protection from the Accrual of Predatory Interest After Default Act”) in the  
28 2019 Nevada State Legislative Session.

1           3.       On November 13 2019, Plaintiff, on behalf of its members, filed a complaint  
2 in the Eighth Judicial District Court naming the FID and Justice Court as Defendants  
3 alleging that sections 18 and 19 of AB 477, codified as NRS 97B.160 and NRS 97B.170,  
4 violate the due process and equal protection guarantees of the State and federal  
5 constitutions. Plaintiff further alleged that these sections when combined with LVJC  
6 Rule 16 denied it access to the courts because the legislation limited attorney fees  
7 recovery to 15% of the underlying judgment involving consumer debt contract cases of  
8 less than \$5,000 (for which there is concurrent jurisdiction in the Justice Courts and  
9 the Small Claims Courts). Plaintiff also requested declaratory and injunctive relief.

10           4.       On January 2, 2020, Defendant Justice Court removed the case to the U.S.  
11 District Court based on federal question jurisdiction (Case No. 2:20-CV-0007-JCM-  
12 EJY).

13           5.       Based on a motion to dismiss filed by the FID and a motion for judgment  
14 on the pleadings filed by Justice Court, on February 3, 2020, Plaintiff successfully  
15 sought leave to file an Amended Complaint. Amongst other changes, Plaintiff amended  
16 the Complaint to add the Commissioner of the FID in her official capacity.

17           6.       On April 13, 2020, the U.S. District Court *sua sponte* applied *Burford*  
18 abstention and remanded the matter back to State Court, finding that it would be  
19 “intervening in Nevada’s efforts to establish a coherent policy if it were to adjudicate  
20 the instant action.” ECF No. 39, p. 7:3-4.

21           7.       Upon remand, the FID and Justice Court each filed Motions to Dismiss,  
22 and Plaintiff filed a motion for a Preliminary Injunction or, Alternatively for a Writ of  
23 Mandamus or Prohibition along with exhibits including declarations and exemplar  
24 small dollar collections. The motions were fully briefed by all parties. A hearing was  
25 held for all motions on July 1, 2020.

26           8.       Plaintiff claims that its members are primarily concerned with collecting  
27 small debts under \$5,000, and argued that the limitations on attorney fees codified in  
28 AB 477 is unconstitutional. Plaintiff moved for a temporary injunction, writ of

1 mandamus or writ or prohibition claiming: (1) a creditor will not be able to hire an  
2 attorney to represent them in Justice Court; (2) attorneys may refuse to represent  
3 creditor entities; and (3) that credit may be tightened for all consumers.

4 9. Defendant Justice Court argued Plaintiff did not plausibly allege that Las  
5 Vegas Justice Court Rule 16 caused Plaintiff to suffer an actual injury relating to its  
6 right to have access to the courts protected by the First Amendment and/or the  
7 Fourteenth Amendment Due Process Clause; and the Justice Court relied upon well-  
8 established and controlling law from the U.S. Supreme Court and the Nevada Supreme  
9 Court when enacting, years prior to this suit, Rule 16 and therefore possessed immunity  
10 from suit for simply following the law.

11 10. The FID argued that dismissal is justified pursuant to NRCP 12(b)(1) and  
12 NRCP 12(b)(5). Plaintiff lacks standing because there is no justiciable controversy. The  
13 case is not ripe for adjudication because ripeness cannot be based on speculative or  
14 hypothetical prospect of a future harm. The Nevada Legislature did not designate the  
15 FID to administer AB 477 and the FID does not regulate many of the Plaintiffs members  
16 including attorneys and businesses that extend credit to their own customers. An  
17 agency cannot expand the powers delegated by the legislature through regulations.  
18 Plaintiffs 42 USC § 1983 claims for violations of due process and equal protection do  
19 not apply to the FID and its Commissioner because neither the agency nor its  
20 commissioner in her official capacity are persons subject to section 1983.

21 11. Plaintiff failed to provide facts to establish that it was substantially denied  
22 access to the Justice Courts in Nevada or negate all plausible justifications for the  
23 Nevada Legislature to pass AB 477 and LVJC Rule 16.

24 12. Plaintiff in the FAC further failed to allege that it or any affiliated  
25 company took any matter to Justice Court and received an order reducing requested  
26 attorney fees pursuant to the 2019 Legislative Act.

27 13. Plaintiff's allegations fail to detail official acts foreseeably frustrating  
28 litigation and foreclosing relief in a future suit.

///

1 CONCLUSIONS OF LAW

2 Based on the foregoing factual findings, this Court makes the following  
3 conclusions of law:

4 1. Plaintiff has the burden to show by a preponderance of the evidence that  
5 the allegations are sufficient to invoke this Court's jurisdiction. *Leite v. Crane Co.* 749  
6 F.3d1117, 1122 (9th Cir. 2014)

7 2. The Nevada Constitution provides that its courts have jurisdiction over  
8 civil and criminal cases, which has been interpreted to prohibit courts from ruling on  
9 cases that are not ripe. *City of North Las Vegas v. Cluff*, 85 Nev. 200, 452 P.2d 461  
10 (1969)

11 3. Dismissal is required pursuant to NRCP 12(b)(1) because Plaintiff failed  
12 to establish subject matter jurisdiction. Plaintiff did not show that the parties were  
13 adverse, that a controversy existed between the parties and that the issues were ripe  
14 for adjudication. See *Kress v. Cory*, 65 Nev. 1, 26, 189 P. 2d 352 (1948). The FID and  
15 Plaintiff are not adverse. There is no controversy between the Plaintiff and FID because  
16 the Nevada Legislature did not delegate the authority to enforce AB 477 to the FID, and  
17 the FID does not regulate activities of the Justice Court including the amount of  
18 attorney fees it can award to a prevailing party or the requirement that an entity must  
19 appear with counsel.

20 4. Plaintiff failed to show a hardship or that the issues were fit for judicial  
21 decision. *Herbst Gaming, Inc. v. Heller*, 122 Nev. 877, 887, 141 P.3d 1224 (2006).  
22 Plaintiff did not meet the prudential considerations because Plaintiff's claim of potential  
23 hardship if the members cannot access the Court system for small debt collection cases  
24 is speculative. Plaintiffs lacked an actual injury because there has not been any  
25 enforcement or a threat of enforcement of AB 477.

26 5. This case is not ripe for determination. A case is not ripe for review when  
27 the degree to which the harm alleged by the party seeking review is not sufficiently  
28 concrete and any alleged injury is remote or hypothetical. *Cote H. v. Eighth Judicial*

1 *Dist. Court ex rel County of Clark*, 124 Nev. 36 n.1, 175 P.3d 906 (2008). Speculative or  
2 hypothetical future harm is not sufficient to invoke jurisdiction. *Doe v. Bryan*, 102 Nev.  
3 523, 525, 728 P.2d 443, (1986) Plaintiff's claim of possible future injury if the Plaintiffs  
4 do not have access to the court of their choice is not ripe because the Plaintiff has not  
5 been denied access to court and there has not been any enforcement activities or threat  
6 of enforcement of AB477.

7 6. In considering the ripeness doctrine in pre-enforcement cases, the court  
8 looks to see if there is a "credible threat," or an "actual and well-founded fear" that  
9 enforcement action would be taken against the plaintiff by the defendant. *Holder v.*  
10 *Humanitarian Law Project*, 561 U.S. 1, 15 (2010); *Virginia v. American Booksellers*  
11 *Assn. Inc.*, 484 U.S. 383, 393 (1988); *see also Delew v. Wagner*, 143 F.3d 1219, 1223 (9th  
12 Cir. 1988). In the nine months since AB 477 went into effect, there has not been any  
13 imminent threat that the FID will or even can enforce Sections 18 or 19 of AB 477  
14 against Plaintiff's members.

15 7. Plaintiff failed to provide a set of facts which would entitle Plaintiff to  
16 relief, pursuant to NRCP 12(b)(5). The FID's regulatory ability is limited to the powers  
17 provided in NRS chapter 649. The Nevada Legislature did not delegate the authority to  
18 enforce AB 477 to the FID, nor does the FID regulate activities of the Justice Court  
19 including the amount of attorney fees it can award to a prevailing party or the  
20 requirement that an entity must appear with counsel. *See State of Nevada v. Nevada*  
21 *Association Services*, 128 Nev. 362, 294 P.3d 1223 (2012).

22 8. NRS 41.031 requires that the agency's action must provide the *basis* for  
23 the lawsuit, Plaintiff has not shown that the FID has taken any action that can be  
24 interpreted as a basis for declaratory, injunctive or any relief against the FID. The FID  
25 enforces the law with respect to its licensees, but not with respect to a small business  
26 that extend credit to its own customers or with respect to attorneys.

27 9. The FID has the power to adopt regulations, as long as the regulations do  
28 not broaden the powers of the FID past the limitations found in statutes. There is no

1 statute in Chapter 649 that allows the FID to regulate attorney fees in a contract  
2 between a creditor and a debtor.

3 10. Judicial notice of facts outside of the complaint is only applicable to facts  
4 not subject to reasonable dispute or facts that are capable of verification from a reliable  
5 source. NRS 47.130, *Mack .v Estate of Mack*, 125 Nev. 80, 92, 206 P.3d 98 (2009).  
6 Plaintiff's declarations do not fit the criteria for judicial notice.

7 11. Neither the FID nor its commissioner sued in her official capacity is a  
8 person subject to section 1983. *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 69  
9 (1989). Therefore all official capacity 42 USC § 1983 claims against the FID must be  
10 dismissed.

11 12. Claims for denial of access to the courts may arise from the frustration or  
12 hindrance of “a litigating opportunity yet to be gained” (forward-looking access claim)  
13 or from the loss of a meritorious suit that cannot now be tried (backward-looking claim).  
14 *Christopher v. Harbury*, 536 U.S. 403, 412–415, 122 S.Ct. 2179 (2002). For access to the  
15 court's claims, the plaintiff must show: (1) the loss of a ‘nonfrivolous’ or ‘arguable’  
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19 13. LVJC Rule 16 and A.B. 477 do not unduly infringe any identified  
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25 14. To prevail on a rational basis challenge, Plaintiff therefore must “negate  
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5 15. Also, A.B. 477's “cap on attorney’s fees is not a barrier to court access, but  
6 a limitation on relief.” *Boivin v. Black*, 225 F.3d 36, 45 (1st Cir. 2000). LVJC Rule 16  
7 thus does not deny litigants “a reasonably adequate opportunity to present” their case  
8 to the Justice Court. *Lewis v. Casey*, 518 U.S. 343, 351, 116 S.Ct. 2174 (1996) (quoting  
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10 16. The Nevada Supreme Court has held long before the enactment of LVJC  
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13 *In re: Discipline of Schaefer*, 117 Nev. 496, 509 (2001); *see also Rowland v. California*  
14 *Men's Colony*, 506 U.S. 194, 201–02, 113 S.Ct. 716 (1993) (“It has been the law for the  
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23 order enjoys absolute immunity from liability for a suit challenging the propriety of that  
24 court order. *See Turney v. O’Toole*, 898 F.2d 1470, 1472 (10th Cir. 1990); *see also*  
25 *Engbretson v. Mahoney*, 724 F.3d 1034, 1038 (9th Cir. 2013) (“[P]ublic officials who  
26 ministerially enforce facially valid court orders are entitled to absolute immunity.”).

27 18. The Justice Court appropriately followed that law when enacting and  
28 publishing LVJC 16 in accordance with controlling law from the Nevada Supreme

1 Court. Plaintiff cannot prevail then against the Justice Court as a matter of law that is  
2 solely based on the propriety of that valid and controlling case law. The Justice Court  
3 effectively is immune from Plaintiff's suit by virtue of quasi-judicial immunity for  
4 following the extant law announced by the Nevada Supreme Court.

5 19. A temporary injunction is an extraordinary remedy "must balance the  
6 competing claims of injury and must consider the effect on each party of the granting or  
7 withholding of the requested relief." *Winter*, 555 U.S. at 24 (citation omitted). As a  
8 threshold inquiry, when a plaintiff fails to show the likelihood of success on the merits,  
9 the court need not consider the remaining factors. *Garcia v. Google, Inc.*, 786 F.3d 733,  
10 740 (9th Cir. 2015). Plaintiff is not likely to succeed on the merits and has failed to  
11 show that they are subject to irreparable harm if a temporary injunction is not issued.  
12 Balancing the competing claims, along with the effect on each party does not weigh in  
13 favor of the Plaintiff.

14 20. Plaintiff has failed to provide a basis to issue a writ of mandamus or a writ  
15 of prohibition. *Nevada Restaurant Services, Inc. v. Clark County*, 2018 WL 1077279\*7,  
16 *Stearns v. Eighth Judicial District Court in and for Clark County*, 62, Nev. 102,112, 12  
17 P.2d 206 (1943).

18 21. NRS 73.010(1) provides that "[a] justice of the peace has jurisdiction and  
19 may proceed as provided in this chapter and by rules of court in all cases arising in the  
20 justice court for the recovery of money only, where the amount claimed does not exceed  
21 \$10,000. Plaintiff's members have not been denied access to court for their small  
22 collection cases; it is only that Plaintiff's members chose not to use the court with  
23 jurisdiction for their claims that will allow them to appear without an attorney.

24 22. An injury does not take place when the Plaintiffs have access to another  
25 court with jurisdiction for their claims and does not require an entity to appear with an  
26 attorney.

27 ///

28 ///

**ORDER**

This Court being fully apprised in the premises, and good cause appearing to the Court ORDERS as follows:

1. Plaintiff's Motion for a Preliminary Injunction or, alternatively for a writ of mandamus or prohibition is denied. The Plaintiff is not likely to succeed on the merits and has not suffered irreparable harm. The balance of the hardships do not weigh in favor of the Plaintiff.
2. Defendants FID and Justice Court's Motions to Dismiss are granted with prejudice.

DATED this \_\_\_\_ day of July, 2020.

Dated this 20th day of July, 2020

By: Nancy L Alf  
DISTRICT COURT JUDGE

FA8 3C2 F559 72AD JD  
Nancy Alf  
District Court Judge

Submitted by:  
AARON D. FORD  
Attorney General

Approved as to form only:

By: /s/ VIVIENNE RAKOWSKY  
VIVIENNE RAKOWSKY  
Deputy Attorney General  
555 E. Washington Ave. Ste 3900  
Las Vegas, Nevada 89101  
Attorneys for State Defendants

By: \_\_\_\_\_  
PATRICK J. REILLY, ESQ.  
Brownstein Farber Hyatt Schreck  
100 N. City Pkwy., Ste. 1600  
Las Vegas, Nevada 89106  
Attorneys for Plaintiff

OLSON CANNON GORMLEY  
& STOBERSKI

By: /s/THOMAS D. DILLARD, JR., ESQ  
THOMAS D. DILLARD, JR., ESQ.  
9950 W. Cheyenne Avenue  
Las Vegas, Nevada 89129  
Attorney for Defendant  
Justice Court of Las Vegas  
Township

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Nevada Collectors Association,  
7 Plaintiff(s)

CASE NO: A-19-805334-C

8 vs.

DEPT. NO. Department 27

9 State of Nevada Department of  
10 Business and Industry Financial  
11 Institutions Div., Defendant(s)

12 **AUTOMATED CERTIFICATE OF SERVICE**

13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the  
15 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
16 case as listed below:

Service Date: 7/20/2020

17 Tom Dillard	tdillard@ocgas.com
18 Melissa Burgener	mburgener@ocgas.com
19 Wendy Fiore	wfiore@ocgas.com
20 Vivienne Rakowsky	vrakowsky@ag.nv.gov
21 Michele Caro	mcaro@ag.nv.gov
22 Debra Turman	dturman@ag.nv.gov
23 David Pope	dpope@ag.nv.gov
24 Patrick Reilly	preilly@bhfs.com
25 Susan Roman	sroman@bhfs.com

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Mary Barnes

mabarnes@bhfs.com

**ORDR**

AARON D. FORD  
Attorney General  
VIVIENNE RAKOWSKY (Bar No. 9160)  
Deputy Attorney General  
State of Nevada  
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555 E. Washington Avenue, Suite 3900  
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(702) 486-3103  
(702) 486-3416 (fax)  
vrakowsky@ag.nv.gov  
*Attorneys for State Defendant*

THOMAS D. DILLARD, JR., ESQ.  
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Las Vegas, Nevada 89129  
(702) 384-4012 - telephone  
(702) 383-0701 - facsimile  
*Attorney for Defendant*  
*Justice Court of Las Vegas*  
*Township*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NEVADA COLLECTORS ASSOCIATION, a  
Nevada non-profit corporation,

Plaintiff,

v.

SANDY O'LAUGHLIN, in her official  
capacity as Commissioner of State of  
Nevada Department of Business and  
Industry and Financial Institutions  
Division; STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND  
INDUSTRY FINANCIAL INSTITUTIONS  
DIVISION; JUSTICE COURT OF LAS  
VEGAS TOWNSHIP; DOE DEFENDANTS  
1 through 20; and ROE ENTITIY  
DEFENDANTS 1 through 20,  
Defendants.

Case No.: A-19-805334-C  
Dept. No.: XXVII

**ORDER GRANTING IN PART  
AND DENYING IN PART  
PLAINTIFF'S MOTION TO  
AMEND FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

1 This matter came on for hearing on September 9, 2020, (the "Hearing") with the  
2 Plaintiff filing their Motion to Amend Findings of Fact and Conclusions of Law and to  
3 Alter or Amend Judgment on August 3, 2020, Defendant Justice Court of Las Vegas  
4 Township filing its Opposition on August 14, 2020, State Defendant filing its Opposition  
5 on August 17, 2020 and Plaintiff filing its Reply thereto on September 2, 2020.

6 The Court hearing arguments from the parties and reviewed the pleadings  
7 therto,

8 IT IS HEREBY ORDERED that the Motion is GRANTED IN PART AND  
9 DENIED IN PART. The Court has GRANTED the Motion as to removing the last  
10 sentence of paragraph five (5) of the previous order that states:

11  
12 Plaintiff's claim of possible future injury if the Plaintiffs  
13 do not have access to the court of their choice is not ripe  
14 because the Plaintiff has not been denied access to court  
15 and there has not been any enforcement activities or  
16 threat of enforcement of AB477.

17 IT IS FURTHER ORDERED that the Motion is denied as to all other respects.

18 DATED this \_\_\_\_ day of September, 2020.

Dated this 10th day of September, 2020

19 By: Nancy L Alif  
DISTRICT COURT JUDGE

20 Submitted by:  
21 AARON D. FORD  
22 Attorney General

D79 742 9B6B 8278  
Nancy Alif  
District Court Judge

23 By: /s/ Vivienne Rakowsy  
24 VIVIENNE RAKOWSKY  
25 Deputy Attorney General  
26 555 E. Washington Ave. Ste 3900  
27 Las Vegas, Nevada 89101  
28 Attorneys for State Defendants

///

1 OLSON CANNON GORMLEY  
& STOBERSKI

2 By: /s/ Thomas D. Dillard, Jr.  
3 THOMAS D. DILLARD, JR., ESQ.  
4 9950 W. Cheyenne Avenue  
5 Las Vegas, Nevada 89129  
6 Attorney for Defendant  
Justice Court of Las Vegas  
Township

7 Approved as to form and content by:

8 BROWNSTEIN HYATT  
9 FARBER SCHRECK, LLP

10 By: /s/ Patrick J. Reilly  
11 Patrick J. Reilly, Esq.  
12 Marckia L. Hayes, Esq.  
13 100 N. City Parkway, Ste. 1600  
14 Las Vegas, Nevada 89106-4614  
15 P: 702-382-2101  
F: 702-382-8135  
preilly@bhfs.com  
mhayes@bhfs.com  
Attorneys for Plaintiff

## Melissa Burgener

---

**From:** Reilly, Patrick J. <preilly@bhfs.com>  
**Sent:** Wednesday, September 9, 2020 1:09 PM  
**To:** Vivienne Rakowsky; Melissa Burgener  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Approved as to form on my end as well. You may use my electronic signature.

Thank you.

**Patrick J. Reilly**  
**Brownstein Hyatt Farber Schreck, LLP**  
100 North City Parkway, Suite 1600  
Las Vegas, NV 89106  
702.464.7033 tel  
702.882.0112 cell  
[preilly@bhfs.com](mailto:preilly@bhfs.com)

---

**From:** Vivienne Rakowsky [mailto:VRakowsky@ag.nv.gov]  
**Sent:** Wednesday, September 09, 2020 12:48 PM  
**To:** 'Melissa Burgener'; Reilly, Patrick J.  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Thank you. I am fine with the Amended Order and the Order on the hearing today. You may use my electronic signature.

Sincerely,  
Vivienne

**Vivienne Rakowsky, Deputy Attorney General**  
**State of Nevada**  
**Office of the Attorney General**  
555 East Washington Avenue, Suite 3900  
Las Vegas, Nevada 89101  
[vrakowsky@ag.nv.gov](mailto:vrakowsky@ag.nv.gov)  
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**Fax:** (702) 486-3416

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---

**From:** Melissa Burgener <mburgener@ocgas.com>  
**Sent:** Wednesday, September 9, 2020 11:52 AM  
**To:** Vivienne Rakowsky <VRakowsky@ag.nv.gov>; Reilly, Patrick J. <preilly@bhfs.com>  
**Cc:** Tom Dillard <tdillard@ocgas.com>  
**Subject:** NV Collectors v. LVJC, et al.

Good Morning,

Please find the attached orders in the above mentioned matter for your review.

Thank you,  
Melissa Burgener  
Assistant to Thomas D. Dillard, Jr., Esq.  
and Michael Mccloughlin, Esq.  
Olson Cannon Gormley & Stoberski  
9950 W. Cheyenne Ave.,  
Las Vegas, Nevada 89129  
Phone: (702) 384-4012 ext. 158  
Fax: (702) 383-0701

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1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Nevada Collectors Association,  
7 Plaintiff(s)

CASE NO: A-19-805334-C

8 vs.

DEPT. NO. Department 27

9 State of Nevada Department of  
10 Business and Industry Financial  
11 Institutions Div., Defendant(s)

12 **AUTOMATED CERTIFICATE OF SERVICE**

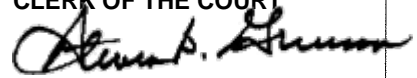
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order was served via the court's electronic eFile system to all  
15 recipients registered for e-Service on the above entitled case as listed below:

16 Service Date: 9/10/2020

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THOMAS D. DILLARD, JR., ESQ.  
Nevada Bar No. 006270  
OLSON CANNON GORMLEY  
& STOBERSKI  
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(702) 383-0701 - facsimile  
Attorney for Defendant  
Justice Court of Las Vegas  
Township

DISTRICT COURT

CLARK COUNTY, NEVADA

NEVADA COLLECTORS  
ASSOCIATION, a Nevada non-profit  
corporation,

Plaintiff,

vs.

STATE OF NEVADA DEPARTMENT  
OF BUSINESS AND INDUSTRY  
FINANCIAL INSTITUTIONS DIVISION;  
JUSTICE COURT OF LAS VEGAS  
TOWNSHIP; DOE DEFENDANTS 1  
through 20; and ROE ENTITY  
DEFENDANTS 1 through 20,

Defendants.

CASE NO. A-19-805334-C  
DEPT. NO. 27

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that the **ORDER GRANTING IN PART AND DENYING  
IN PART PLAINTIFF'S MOTION TO AMEND FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**, was filed on September 10, 2020, in the above-captioned matter.

A copy of said Order is attached hereto.

DATED this 10th day of September, 2020.

OLSON CANNON GORMLEY  
& STOBERSKI

BY: /s/ Thomas D. Dillard  
THOMAS D. DILLARD, JR., ESQ.  
9950 W. Cheyenne Avenue  
Las Vegas, Nevada 89129  
Attorney for Defendant  
Justice Court of Las Vegas  
Township

**CERTIFICATE OF MAILING**

On the 10<sup>th</sup> day of September, 2020, the undersigned, an employee of Olson, Cannon, Gormley, Angulo & Stoberski, hereby served a true copy of **NOTICE OF ENTRY OF ORDER**, to the parties listed below via the EFP Program, pursuant to the Court's Electronic Filing Service Order effective June 1, 2014, or mailed to the following:

Patrick J. Reilly, Esq.  
Marckia L. Hayes, Esq.  
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FARBER SCHRECK, LLP  
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[preilly@bhfs.com](mailto:preilly@bhfs.com)  
[mhayes@bhfs.com](mailto:mhayes@bhfs.com)  
Attorneys for Plaintiff

Aaron D. Ford, Esq.  
Vivienne Rakowsky, Esq.  
David J. Pope, Esq.  
State of Nevada  
Office of the Attorney General  
555 E. Washington Ave., Ste. 3900  
Las Vegas, Nevada 89101  
P: 702-486-3103  
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[vrakowsky@ag.nv.gov](mailto:vrakowsky@ag.nv.gov)  
[dpope@ag.nv.gov](mailto:dpope@ag.nv.gov)  
Attorneys for State Defendant

/s/ Melissa Burgener  
An employee of OLSON CANNON  
GORMLEY & STOBERSKI

**ORDR**

AARON D. FORD

Attorney General

VIVIENNE RAKOWSKY (Bar No. 9160)

Deputy Attorney General

State of Nevada

Office of the Attorney General

555 E. Washington Avenue, Suite 3900

Las Vegas, Nevada 89101

(702) 486-3103

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vrakowsky@ag.nv.gov

*Attorneys for State Defendant*

THOMAS D. DILLARD, JR., ESQ.

Nevada Bar No. 006270

OLSON CANNON GORMLEY

& STOBERSKI

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Las Vegas, Nevada 89129

(702) 384-4012 - telephone

(702) 383-0701 - facsimile

*Attorney for Defendant*

*Justice Court of Las Vegas*

*Township*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NEVADA COLLECTORS ASSOCIATION, a  
Nevada non-profit corporation,

Plaintiff,

v.

SANDY O'LAUGHLIN, in her official  
capacity as Commissioner of State of  
Nevada Department of Business and  
Industry and Financial Institutions  
Division; STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND  
INDUSTRY FINANCIAL INSTITUTIONS  
DIVISION; JUSTICE COURT OF LAS  
VEGAS TOWNSHIP; DOE DEFENDANTS  
1 through 20; and ROE ENTITIY  
DEFENDANTS 1 through 20,  
Defendants.

Case No.: A-19-805334-C  
Dept. No.: XXVII

**ORDER GRANTING IN PART  
AND DENYING IN PART  
PLAINTIFF'S MOTION TO  
AMEND FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

1 This matter came on for hearing on September 9, 2020, (the "Hearing") with the  
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6 The Court hearing arguments from the parties and reviewed the pleadings  
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12 Plaintiffs claim of possible future injury if the Plaintiffs  
13 do not have access to the court of their choice is not ripe  
14 because the Plaintiff has not been denied access to court  
and there has not been any enforcement activities or  
threat of enforcement of AB477.

15 IT IS FURTHER ORDERED that the Motion is denied as to all other respects.

16 DATED this \_\_\_\_ day of September, 2020.

17 Dated this 10th day of September, 2020

18 By: Nancy L Alf  
19 DISTRICT COURT JUDGE

20 Submitted by:  
21 AARON D. FORD  
Attorney General

D79 742 9B6B 8278  
Nancy Alf  
District Court Judge

22  
23 By: /s/ Vivienne Rakowsy  
24 VIVIENNE RAKOWSKY  
25 Deputy Attorney General  
26 555 E. Washington Ave. Ste 3900  
Las Vegas, Nevada 89101  
Attorneys for State Defendants

27 ///  
28

1 OLSON CANNON GORMLEY  
& STOBERSKI

2 By: /s/ Thomas D. Dillard, Jr.  
3 THOMAS D. DILLARD, JR., ESQ.  
4 9950 W. Cheyenne Avenue  
5 Las Vegas, Nevada 89129  
6 Attorney for Defendant  
Justice Court of Las Vegas  
Township

7 Approved as to form and content by:

8 BROWNSTEIN HYATT  
9 FARBER SCHRECK, LLP

10 By: /s/ Patrick J. Reilly  
11 Patrick J. Reilly, Esq.  
12 Marckia L. Hayes, Esq.  
13 100 N. City Parkway, Ste. 1600  
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17 preilly@bhfs.com  
18 mhayes@bhfs.com  
19 Attorneys for Plaintiff  
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27  
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## Melissa Burgener

---

**From:** Reilly, Patrick J. <preilly@bhfs.com>  
**Sent:** Wednesday, September 9, 2020 1:09 PM  
**To:** Vivienne Rakowsky; Melissa Burgener  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Approved as to form on my end as well. You may use my electronic signature.

Thank you.

**Patrick J. Reilly**  
Brownstein Hyatt Farber Schreck, LLP  
100 North City Parkway, Suite 1600  
Las Vegas, NV 89106  
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702.882.0112 cell  
[preilly@bhfs.com](mailto:preilly@bhfs.com)

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**From:** Vivienne Rakowsky [mailto:[VRakowsky@ag.nv.gov](mailto:VRakowsky@ag.nv.gov)]  
**Sent:** Wednesday, September 09, 2020 12:48 PM  
**To:** 'Melissa Burgener'; Reilly, Patrick J.  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Thank you. I am fine with the Amended Order and the Order on the hearing today. You may use my electronic signature.

Sincerely,  
Vivienne

**Vivienne Rakowsky, Deputy Attorney General**  
State of Nevada  
Office of the Attorney General  
555 East Washington Avenue, Suite 3900  
Las Vegas, Nevada 89101  
[vrakowsky@ag.nv.gov](mailto:vrakowsky@ag.nv.gov)  
Phone: (702) 486-3103  
Fax: (702) 486-3416

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**Sent:** Wednesday, September 9, 2020 11:52 AM  
**To:** Vivienne Rakowsky <[VRakowsky@ag.nv.gov](mailto:VRakowsky@ag.nv.gov)>; Reilly, Patrick J. <[preilly@bhfs.com](mailto:preilly@bhfs.com)>  
**Cc:** Tom Dillard <[tdillard@ocgas.com](mailto:tdillard@ocgas.com)>  
**Subject:** NV Collectors v. LVJC, et al.

Good Morning,

Please find the attached orders in the above mentioned matter for your review.

Thank you,  
Melissa Burgener  
Assistant to Thomas D. Dillard, Jr., Esq.  
and Michael Mcloughlin, Esq.  
Olson Cannon Gormley & Stoberski  
9950 W. Cheyenne Ave.,  
Las Vegas, Nevada 89129  
Phone: (702) 384-4012 ext. 158  
Fax: (702) 383-0701

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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Nevada Collectors Association,  
Plaintiff(s)

CASE NO: A-19-805334-C

7 vs.

DEPT. NO. Department 27

8  
9 State of Nevada Department of  
Business and Industry Financial  
10 Institutions Div., Defendant(s)

11  
12 **AUTOMATED CERTIFICATE OF SERVICE**

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14 Court. The foregoing Order was served via the court's electronic eFile system to all  
15 recipients registered for e-Service on the above entitled case as listed below:

16 Service Date: 9/10/2020

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25 Susan Roman	sroman@bhfs.com
26 Mary Barnes	mabarnes@bhfs.com

**ORDR**

AARON D. FORD  
Attorney General  
VIVIENNE RAKOWSKY (Bar No. 9160)  
Deputy Attorney General  
State of Nevada  
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*Attorneys for State Defendant*

THOMAS D. DILLARD, JR., ESQ.  
Nevada Bar No. 006270  
OLSON CANNON GORMLEY  
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*Attorney for Defendant*  
*Justice Court of Las Vegas*  
*Township*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NEVADA COLLECTORS ASSOCIATION, a  
Nevada non-profit corporation,

Plaintiff,

v.

SANDY O'LAUGHLIN, in her official  
capacity as Commissioner of State of  
Nevada Department of Business and  
Industry and Financial Institutions  
Division; STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND  
INDUSTRY FINANCIAL INSTITUTIONS  
DIVISION; JUSTICE COURT OF LAS  
VEGAS TOWNSHIP; DOE DEFENDANTS  
1 through 20; and ROE ENTITIY  
DEFENDANTS 1 through 20,  
Defendants.

Case No.: A-19-805334-C  
Dept. No.: XXVII

**AMENDED FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER**

1 This matter came on for hearing on July 1, 2020, (the "Hearing"). Plaintiff,  
2 Nevada Collectors Association, represented by Patrick J. Reilly of the law firm of  
3 Brownstein Hyatt Farber Schreck, LLP appeared at the Hearing. Thomas D. Dillard,  
4 Jr. of Olson Cannon Gormley & Stoberski appeared for Defendant Justice Court and  
5 Vivienne Rakowsky, Deputy Attorney General with the Nevada Attorney General's  
6 Office, appeared on behalf of Sandy O'Laughlin in her official capacity as Commissioner  
7 of the Financial Institutions Division and the State of Nevada Department of Business  
8 and Industry Financial Institutions Division ("FID").

9 At the hearing, the Court heard the Justice Court's and the FID's separate  
10 Motions to Dismiss and the Plaintiff's Motion for a Temporary Injunction and  
11 Alternative Motion for a Writ of Mandamus or Prohibition. After considering the briefs  
12 and the respective arguments, and having considered the evidence introduced by the  
13 parties and being fully advised, this Court enters the following Findings of Fact,  
14 Conclusions of Law, and Order.

### 15 **FINDINGS OF FACT**

16 Based upon the papers filed and arguments at the time of the hearing, this Court  
17 finds that by a preponderance of the evidence in the record the following facts have been  
18 proven.

19 1. The current version of Las Vegas Justice Court Rule 16 ("LVJC Rule 16") was  
20 made effective on January 1, 2007. LVJC Rule 16 states:

21 Unless appearing by an attorney regularly admitted to practice law in  
22 Nevada and in good standing, no entry of appearance or subsequent  
23 document purporting to be signed by any party to an action shall be  
24 recognized or given any force or effect unless the same shall be notarized,  
25 or signed with an unsworn declaration pursuant to NRS 53.045, by the  
26 party signing the same. Corporations and limited liability corporations  
(LLC) shall be represented by an attorney. [Added; effective January 1,  
2007.]

26 2. The Nevada State Legislature unanimously passed A.B. 477 (entitled the  
27 "Consumer Protection from the Accrual of Predatory Interest After Default Act") in the  
28 2019 Nevada State Legislative Session.

1           3.       On November 13 2019, Plaintiff, on behalf of its members, filed a complaint  
2 in the Eighth Judicial District Court naming the FID and Justice Court as Defendants  
3 alleging that sections 18 and 19 of AB 477, codified as NRS 97B.160 and NRS 97B.170,  
4 violate the due process and equal protection guarantees of the State and federal  
5 constitutions. Plaintiff further alleged that these sections when combined with LVJC  
6 Rule 16 denied it access to the courts because the legislation limited attorney fees  
7 recovery to 15% of the underlying judgment involving consumer debt contract cases of  
8 less than \$5,000 (for which there is concurrent jurisdiction in the Justice Courts and  
9 the Small Claims Courts). Plaintiff also requested declaratory and injunctive relief.

10           4.       On January 2, 2020, Defendant Justice Court removed the case to the U.S.  
11 District Court based on federal question jurisdiction (Case No. 2:20-CV-0007-JCM-  
12 EJY).

13           5.       Based on a motion to dismiss filed by the FID and a motion for judgment  
14 on the pleadings filed by Justice Court, on February 3, 2020, Plaintiff successfully  
15 sought leave to file an Amended Complaint. Amongst other changes, Plaintiff amended  
16 the Complaint to add the Commissioner of the FID in her official capacity.

17           6.       On April 13, 2020, the U.S. District Court *sua sponte* applied *Burford*  
18 abstention and remanded the matter back to State Court, finding that it would be  
19 “intervening in Nevada’s efforts to establish a coherent policy if it were to adjudicate  
20 the instant action.” ECF No. 39, p. 7:3-4.

21           7.       Upon remand, the FID and Justice Court each filed Motions to Dismiss,  
22 and Plaintiff filed a motion for a Preliminary Injunction or, Alternatively for a Writ of  
23 Mandamus or Prohibition along with exhibits including declarations and exemplar  
24 small dollar collections. The motions were fully briefed by all parties. A hearing was  
25 held for all motions on July 1, 2020.

26           8.       Plaintiff claims that its members are primarily concerned with collecting  
27 small debts under \$5,000, and argued that the limitations on attorney fees codified in  
28 AB 477 is unconstitutional. Plaintiff moved for a temporary injunction, writ of

1 mandamus or writ or prohibition claiming: (1) a creditor will not be able to hire an  
2 attorney to represent them in Justice Court; (2) attorneys may refuse to represent  
3 creditor entities; and (3) that credit may be tightened for all consumers.

4 9. Defendant Justice Court argued Plaintiff did not plausibly allege that Las  
5 Vegas Justice Court Rule 16 caused Plaintiff to suffer an actual injury relating to its  
6 right to have access to the courts protected by the First Amendment and/or the  
7 Fourteenth Amendment Due Process Clause; and the Justice Court relied upon well-  
8 established and controlling law from the U.S. Supreme Court and the Nevada Supreme  
9 Court when enacting, years prior to this suit, Rule 16 and therefore possessed immunity  
10 from suit for simply following the law.

11 10. The FID argued that dismissal is justified pursuant to NRCP 12(b)(1) and  
12 NRCP 12(b)(5). Plaintiff lacks standing because there is no justiciable controversy. The  
13 case is not ripe for adjudication because ripeness cannot be based on speculative or  
14 hypothetical prospect of a future harm. The Nevada Legislature did not designate the  
15 FID to administer AB 477 and the FID does not regulate many of the Plaintiffs members  
16 including attorneys and businesses that extend credit to their own customers. An  
17 agency cannot expand the powers delegated by the legislature through regulations.  
18 Plaintiffs 42 USC § 1983 claims for violations of due process and equal protection do  
19 not apply to the FID and its Commissioner because neither the agency nor its  
20 commissioner in her official capacity are persons subject to section 1983.

21 11. Plaintiff failed to provide facts to establish that it was substantially denied  
22 access to the Justice Courts in Nevada or negate all plausible justifications for the  
23 Nevada Legislature to pass AB 477 and LVJC Rule 16.

24 12. Plaintiff in the FAC further failed to allege that it or any affiliated  
25 company took any matter to Justice Court and received an order reducing requested  
26 attorney fees pursuant to the 2019 Legislative Act.

27 13. Plaintiff's allegations fail to detail official acts foreseeably frustrating  
28 litigation and foreclosing relief in a future suit.

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1 *Dist. Court ex rel County of Clark*, 124 Nev. 36 n.1, 175 P.3d 906 (2008). Speculative or  
2 hypothetical future harm is not sufficient to invoke jurisdiction. *Doe v. Bryan*, 102 Nev.  
3 523, 525, 728 P.2d 443, (1986).

4 6. In considering the ripeness doctrine in pre-enforcement cases, the court  
5 looks to see if there is a “credible threat,” or an “actual and well-founded fear” that  
6 enforcement action would be taken against the plaintiff by the defendant. *Holder v.*  
7 *Humanitarian Law Project*, 561 U.S. 1, 15 (2010); *Virginia v. American Booksellers*  
8 *Assn. Inc.*, 484 U.S. 383, 393 (1988); *see also Delew v. Wagner*, 143 F.3d 1219, 1223 (9th  
9 Cir. 1988). In the nine months since AB 477 went into effect, there has not been any  
10 imminent threat that the FID will or even can enforce Sections 18 or 19 of AB 477  
11 against Plaintiff’s members.

12 7. Plaintiff failed to provide a set of facts which would entitle Plaintiff to  
13 relief, pursuant to NRCP 12(b)(5). The FID’s regulatory ability is limited to the powers  
14 provided in NRS chapter 649. The Nevada Legislature did not delegate the authority to  
15 enforce AB 477 to the FID, nor does the FID regulate activities of the Justice Court  
16 including the amount of attorney fees it can award to a prevailing party or the  
17 requirement that an entity must appear with counsel. *See State of Nevada v. Nevada*  
18 *Association Services*, 128 Nev. 362, 294 P.3d 1223 (2012).

19 8. NRS 41.031 requires that the agency’s action must provide the *basis* for  
20 the lawsuit, Plaintiff has not shown that the FID has taken any action that can be  
21 interpreted as a basis for declaratory, injunctive or any relief against the FID. The FID  
22 enforces the law with respect to its licensees, but not with respect to a small business  
23 that extend credit to its own customers or with respect to attorneys.

24 9. The FID has the power to adopt regulations, as long as the regulations do  
25 not broaden the powers of the FID past the limitations found in statutes. There is no  
26 statute in Chapter 649 that allows the FID to regulate attorney fees in a contract  
27 between a creditor and a debtor.

28 10. Judicial notice of facts outside of the complaint is only applicable to facts

1 not subject to reasonable dispute or facts that are capable of verification from a reliable  
2 source. NRS 47.130, *Mack .v Estate of Mack*, 125 Nev. 80, 92, 206 P.3d 98 (2009).  
3 Plaintiff's declarations do not fit the criteria for judicial notice.

4 11. Neither the FID nor its commissioner sued in her official capacity is a  
5 person subject to section 1983. *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 69  
6 (1989). Therefore all official capacity 42 USC § 1983 claims against the FID must be  
7 dismissed.

8 12. Claims for denial of access to the courts may arise from the frustration or  
9 hindrance of “a litigating opportunity yet to be gained” (forward-looking access claim)  
10 or from the loss of a meritorious suit that cannot now be tried (backward-looking claim).  
11 *Christopher v. Harbury*, 536 U.S. 403, 412–415, 122 S.Ct. 2179 (2002). For access to the  
12 court's claims, the plaintiff must show: (1) the loss of a ‘nonfrivolous’ or ‘arguable’  
13 underlying claim; (2) the official acts frustrating the litigation; and (3) a remedy that  
14 may be awarded as recompense but that is not otherwise available in a future suit. *Id.*  
15 at 413–14.

16 13. LVJC Rule 16 and A.B. 477 do not unduly infringe any identified  
17 fundamental right and also does not target or impose a disparate impact on a protected  
18 class; therefore, the Justice Court Rule as well as the subject legislation imposed by the  
19 State are subject to only a rational basis type of review. *See Romer v. Evans*, 517 U.S.  
20 620, 631–32, 116 S.Ct. 1620 (1996); *FCC v. Beech Communications, Inc.*, 508 U.S. 307,  
21 313-14, 113 S.Ct. 2096 (1993).

22 14. To prevail on a rational basis challenge, Plaintiff therefore must “negate  
23 every conceivable basis” that could support a rational basis for the alleged regulation.  
24 *Medina Tovar v. Zuchowski*, 950 F.3d 581, 593 (9th Cir. 2020); *Fournier v. Sebelius*, 718  
25 F.3d 1110, 1123 (9th Cir. 2013); *see also Armour v. City of Indianapolis, Ind.*, 566 U.S.  
26 673, 681, 132 S.Ct. 2073 (2012). Plaintiff certainly has not in this case negated all the  
27 conceivable rationale regarding the corporate representation rule codified by LVJC Rule  
28 16 or, for that matter, the consumer protection rationale for A.B. 477. *See* Sec. 3 (stating

1 “[t]he purpose of this chapter is to protect consumers”).

2 15. Also, A.B. 477's “cap on attorney’s fees is not a barrier to court access, but  
3 a limitation on relief.” *Boivin v. Black*, 225 F.3d 36, 45 (1st Cir. 2000). LVJC Rule 16  
4 thus does not deny litigants “a reasonably adequate opportunity to present” their case  
5 to the Justice Court. *Lewis v. Casey*, 518 U.S. 343, 351, 116 S.Ct. 2174 (1996) (quoting  
6 *Bounds v. Smith*, 430 U.S. 817, 825, 97 S.Ct. 1491 (1977)).

7 16. The Nevada Supreme Court has held long before the enactment of LVJC  
8 Rule 16 that a legal entity such as a corporation cannot appear except through counsel,  
9 and non-lawyer principals are prohibited from representing these types of entities. *See*  
10 *In re: Discipline of Schaefer*, 117 Nev. 496, 509 (2001); *see also Rowland v. California*  
11 *Men's Colony*, 506 U.S. 194, 201–02, 113 S.Ct. 716 (1993) (“It has been the law for the  
12 better part of two centuries ... that a corporation may appear in the federal courts only  
13 through licensed counsel.”)(citing *Commercial & R.R. Bank of Vicksburg v. Slocomb,*  
14 *Richards & Co.*, 39 U.S. (14 Pet.) 60, 65, 10 L.Ed. 354 (1840) (“[A] corporation cannot  
15 appear but by attorney ....”) *overruled in part by* 43 U.S. (2 How.) 497, 11 L.Ed. 353  
16 (1844); and *Osborn v. Bank of the United States*, 22 U.S. (9 Wheat.) 738, 830, 6 L.Ed.  
17 204 (1824) (“A corporation, it is true, can appear only by attorney, while a natural person  
18 may appear for himself.”)).

19 17. A defendant that is charged with the duty of executing a facially valid court  
20 order enjoys absolute immunity from liability for a suit challenging the propriety of that  
21 court order. *See Turney v. O'Toole*, 898 F.2d 1470, 1472 (10th Cir. 1990); *see also*  
22 *Engebretson v. Mahoney*, 724 F.3d 1034, 1038 (9th Cir. 2013) (“[P]ublic officials who  
23 ministerially enforce facially valid court orders are entitled to absolute immunity.”).

24 18. The Justice Court appropriately followed that law when enacting and  
25 publishing LVJC 16 in accordance with controlling law from the Nevada Supreme  
26 Court. Plaintiff cannot prevail then against the Justice Court as a matter of law that is  
27 solely based on the propriety of that valid and controlling case law. The Justice Court  
28 effectively is immune from Plaintiff's suit by virtue of quasi-judicial immunity for

1 following the extant law announced by the Nevada Supreme Court.

2 19. A temporary injunction is an extraordinary remedy “must balance the  
3 competing claims of injury and must consider the effect on each party of the granting or  
4 withholding of the requested relief.” *Winter*, 555 U.S. at 24 (citation omitted). As a  
5 threshold inquiry, when a plaintiff fails to show the likelihood of success on the merits,  
6 the court need not consider the remaining factors. *Garcia v. Google, Inc.*, 786 F.3d 733,  
7 740 (9th Cir. 2015). Plaintiff is not likely to succeed on the merits and has failed to  
8 show that they are subject to irreparable harm if a temporary injunction is not issued.  
9 Balancing the competing claims, along with the effect on each party does not weigh in  
10 favor of the Plaintiff.

11 20. Plaintiff has failed to provide a basis to issue a writ of mandamus or a writ  
12 of prohibition. *Nevada Restaurant Services, Inc. v. Clark County*, 2018 WL 1077279\*7,  
13 *Stearns v. Eighth Judicial District Court in and for Clark County*, 62, Nev. 102,112, 12  
14 P.2d 206 (1943).

15 21. NRS 73.010(1) provides that “[a] justice of the peace has jurisdiction and  
16 may proceed as provided in this chapter and by rules of court in all cases arising in the  
17 justice court for the recovery of money only, where the amount claimed does not exceed  
18 \$10,000. Plaintiff’s members have not been denied access to court for their small  
19 collection cases; it is only that Plaintiff’s members chose not to use the court with  
20 jurisdiction for their claims that will allow them to appear without an attorney.

21 22. An injury does not take place when the Plaintiffs have access to another  
22 court with jurisdiction for their claims and does not require an entity to appear with an  
23 attorney.

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1. Plaintiff's Motion for a Preliminary Injunction or, alternatively for a writ of mandamus or prohibition is denied. The Plaintiff is not likely to succeed on the merits and has not suffered irreparable harm. The balance of the hardships do not weigh in favor of the Plaintiff.
2. Defendants FID and Justice Court's Motions to Dismiss are granted with prejudice.

**Dated this 10th day of September, 2020**

Submitted by:  
AARON D. FORD  
Attorney General

56A D48 D9D3 9D4A N  
Nancy Allf  
District Court Judge

By: /s/ Vivienne Rakowsky  
VIVIENNE RAKOWSKY  
Deputy Attorney General  
555 E. Washington Ave. Ste 3900  
Las Vegas, Nevada 89101  
Attorneys for State Defendants

OLSON CANNON GORMLEY  
& STOBERSKI

By: /s/ Thomas D. Dillard, Jr.  
THOMAS D. DILLARD, JR., ESQ.  
9950 W. Cheyenne Avenue  
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Attorney for Defendant  
Justice Court of Las Vegas  
Township

///

1 Approved as to form and content by:

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3 FARBER SCHRECK, LLP

4 By: /s/ Patrick J. Reilly  
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## Melissa Burgener

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**From:** Reilly, Patrick J. <preilly@bhfs.com>  
**Sent:** Wednesday, September 9, 2020 1:09 PM  
**To:** Vivienne Rakowsky; Melissa Burgener  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Approved as to form on my end as well. You may use my electronic signature.

Thank you.

**Patrick J. Reilly**  
**Brownstein Hyatt Farber Schreck, LLP**  
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---

**From:** Vivienne Rakowsky [mailto:VRakowsky@ag.nv.gov]  
**Sent:** Wednesday, September 09, 2020 12:48 PM  
**To:** 'Melissa Burgener'; Reilly, Patrick J.  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Thank you. I am fine with the Amended Order and the Order on the hearing today. You may use my electronic signature.

Sincerely,  
Vivienne

**Vivienne Rakowsky, Deputy Attorney General**  
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---

**From:** Melissa Burgener <mburgener@ocgas.com>  
**Sent:** Wednesday, September 9, 2020 11:52 AM  
**To:** Vivienne Rakowsky <VRakowsky@ag.nv.gov>; Reilly, Patrick J. <preilly@bhfs.com>  
**Cc:** Tom Dillard <tdillard@ocgas.com>  
**Subject:** NV Collectors v. LVJC, et al.

Good Morning,

Please find the attached orders in the above mentioned matter for your review.

Thank you,  
Melissa Burgener  
Assistant to Thomas D. Dillard, Jr., Esq.  
and Michael Mccloughlin, Esq.  
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1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Nevada Collectors Association,  
7 Plaintiff(s)

CASE NO: A-19-805334-C

8 vs.

DEPT. NO. Department 27

9 State of Nevada Department of  
10 Business and Industry Financial  
11 Institutions Div., Defendant(s)

12 **AUTOMATED CERTIFICATE OF SERVICE**

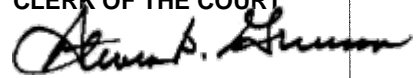
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order was served via the court's electronic eFile system to all  
15 recipients registered for e-Service on the above entitled case as listed below:

16 Service Date: 9/10/2020

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Justice Court of Las Vegas  
Township

DISTRICT COURT

CLARK COUNTY, NEVADA

NEVADA COLLECTORS  
ASSOCIATION, a Nevada non-profit  
corporation,

Plaintiff,

vs.

STATE OF NEVADA DEPARTMENT  
OF BUSINESS AND INDUSTRY  
FINANCIAL INSTITUTIONS DIVISION;  
JUSTICE COURT OF LAS VEGAS  
TOWNSHIP; DOE DEFENDANTS 1  
through 20; and ROE ENTITY  
DEFENDANTS 1 through 20,

Defendants.

CASE NO. A-19-805334-C  
DEPT. NO. 27

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that the **AMENDED FINDINGS OF FACT AND  
CONCLUSIONS OF LAW AND ORDER**, was filed on September 10, 2020, in the above-  
captioned matter. A copy of said Order is attached hereto.

DATED this 10th day of September, 2020.

OLSON CANNON GORMLEY  
& STOBERSKI

BY: /s/ Thomas D. Dillard  
THOMAS D. DILLARD, JR., ESQ.  
9950 W. Cheyenne Avenue  
Las Vegas, Nevada 89129  
Attorney for Defendant  
Justice Court of Las Vegas  
Township

**CERTIFICATE OF MAILING**

On the 10<sup>th</sup> day of September, 2020, the undersigned, an employee of Olson, Cannon, Gormley, Angulo & Stoberski, hereby served a true copy of **NOTICE OF ENTRY OF ORDER**, to the parties listed below via the EFP Program, pursuant to the Court's Electronic Filing Service Order effective June 1, 2014, or mailed to the following:

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Attorneys for State Defendant

/s/ Melissa Burgener  
An employee of OLSON CANNON  
GORMLEY & STOBERSKI

**ORDR**

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*Township*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

NEVADA COLLECTORS ASSOCIATION, a  
Nevada non-profit corporation,

Plaintiff,

v.

SANDY O'LAUGHLIN, in her official  
capacity as Commissioner of State of  
Nevada Department of Business and  
Industry and Financial Institutions  
Division; STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND  
INDUSTRY FINANCIAL INSTITUTIONS  
DIVISION; JUSTICE COURT OF LAS  
VEGAS TOWNSHIP; DOE DEFENDANTS  
1 through 20; and ROE ENTITIY  
DEFENDANTS 1 through 20,  
Defendants.

Case No.: A-19-805334-C  
Dept. No.: XXVII

**AMENDED FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER**

1 This matter came on for hearing on July 1, 2020, (the "Hearing"). Plaintiff,  
2 Nevada Collectors Association, represented by Patrick J. Reilly of the law firm of  
3 Brownstein Hyatt Farber Schreck, LLP appeared at the Hearing. Thomas D. Dillard,  
4 Jr. of Olson Cannon Gormley & Stoberski appeared for Defendant Justice Court and  
5 Vivienne Rakowsky, Deputy Attorney General with the Nevada Attorney General's  
6 Office, appeared on behalf of Sandy O'Laughlin in her official capacity as Commissioner  
7 of the Financial Institutions Division and the State of Nevada Department of Business  
8 and Industry Financial Institutions Division ("FID").

9 At the hearing, the Court heard the Justice Court's and the FID's separate  
10 Motions to Dismiss and the Plaintiff's Motion for a Temporary Injunction and  
11 Alternative Motion for a Writ of Mandamus or Prohibition. After considering the briefs  
12 and the respective arguments, and having considered the evidence introduced by the  
13 parties and being fully advised, this Court enters the following Findings of Fact,  
14 Conclusions of Law, and Order.

### 15 FINDINGS OF FACT

16 Based upon the papers filed and arguments at the time of the hearing, this Court  
17 finds that by a preponderance of the evidence in the record the following facts have been  
18 proven.

19 1. The current version of Las Vegas Justice Court Rule 16 ("LVJC Rule 16") was  
20 made effective on January 1, 2007. LVJC Rule 16 states:

21 Unless appearing by an attorney regularly admitted to practice law in  
22 Nevada and in good standing, no entry of appearance or subsequent  
23 document purporting to be signed by any party to an action shall be  
24 recognized or given any force or effect unless the same shall be notarized,  
25 or signed with an unsworn declaration pursuant to NRS 53.045, by the  
26 party signing the same. Corporations and limited liability corporations  
(LLC) shall be represented by an attorney. [Added; effective January 1,  
2007.]

26 2. The Nevada State Legislature unanimously passed A.B. 477 (entitled the  
27 "Consumer Protection from the Accrual of Predatory Interest After Default Act") in the  
28 2019 Nevada State Legislative Session.

1           3.       On November 13 2019, Plaintiff, on behalf of its members, filed a complaint  
2 in the Eighth Judicial District Court naming the FID and Justice Court as Defendants  
3 alleging that sections 18 and 19 of AB 477, codified as NRS 97B.160 and NRS 97B.170,  
4 violate the due process and equal protection guarantees of the State and federal  
5 constitutions. Plaintiff further alleged that these sections when combined with LVJC  
6 Rule 16 denied it access to the courts because the legislation limited attorney fees  
7 recovery to 15% of the underlying judgment involving consumer debt contract cases of  
8 less than \$5,000 (for which there is concurrent jurisdiction in the Justice Courts and  
9 the Small Claims Courts). Plaintiff also requested declaratory and injunctive relief.

10           4.       On January 2, 2020, Defendant Justice Court removed the case to the U.S.  
11 District Court based on federal question jurisdiction (Case No. 2:20-CV-0007-JCM-  
12 EJY).

13           5.       Based on a motion to dismiss filed by the FID and a motion for judgment  
14 on the pleadings filed by Justice Court, on February 3, 2020, Plaintiff successfully  
15 sought leave to file an Amended Complaint. Amongst other changes, Plaintiff amended  
16 the Complaint to add the Commissioner of the FID in her official capacity.

17           6.       On April 13, 2020, the U.S. District Court *sua sponte* applied *Burford*  
18 abstention and remanded the matter back to State Court, finding that it would be  
19 “intervening in Nevada’s efforts to establish a coherent policy if it were to adjudicate  
20 the instant action.” ECF No. 39, p. 7:3-4.

21           7.       Upon remand, the FID and Justice Court each filed Motions to Dismiss,  
22 and Plaintiff filed a motion for a Preliminary Injunction or, Alternatively for a Writ of  
23 Mandamus or Prohibition along with exhibits including declarations and exemplar  
24 small dollar collections. The motions were fully briefed by all parties. A hearing was  
25 held for all motions on July 1, 2020.

26           8.       Plaintiff claims that its members are primarily concerned with collecting  
27 small debts under \$5,000, and argued that the limitations on attorney fees codified in  
28 AB 477 is unconstitutional. Plaintiff moved for a temporary injunction, writ of

1 mandamus or writ or prohibition claiming: (1) a creditor will not be able to hire an  
2 attorney to represent them in Justice Court; (2) attorneys may refuse to represent  
3 creditor entities; and (3) that credit may be tightened for all consumers.

4 9. Defendant Justice Court argued Plaintiff did not plausibly allege that Las  
5 Vegas Justice Court Rule 16 caused Plaintiff to suffer an actual injury relating to its  
6 right to have access to the courts protected by the First Amendment and/or the  
7 Fourteenth Amendment Due Process Clause; and the Justice Court relied upon well-  
8 established and controlling law from the U.S. Supreme Court and the Nevada Supreme  
9 Court when enacting, years prior to this suit, Rule 16 and therefore possessed immunity  
10 from suit for simply following the law.

11 10. The FID argued that dismissal is justified pursuant to NRCP 12(b)(1) and  
12 NRCP 12(b)(5). Plaintiff lacks standing because there is no justiciable controversy. The  
13 case is not ripe for adjudication because ripeness cannot be based on speculative or  
14 hypothetical prospect of a future harm. The Nevada Legislature did not designate the  
15 FID to administer AB 477 and the FID does not regulate many of the Plaintiffs members  
16 including attorneys and businesses that extend credit to their own customers. An  
17 agency cannot expand the powers delegated by the legislature through regulations.  
18 Plaintiffs 42 USC § 1983 claims for violations of due process and equal protection do  
19 not apply to the FID and its Commissioner because neither the agency nor its  
20 commissioner in her official capacity are persons subject to section 1983.

21 11. Plaintiff failed to provide facts to establish that it was substantially denied  
22 access to the Justice Courts in Nevada or negate all plausible justifications for the  
23 Nevada Legislature to pass AB 477 and LVJC Rule 16.

24 12. Plaintiff in the FAC further failed to allege that it or any affiliated  
25 company took any matter to Justice Court and received an order reducing requested  
26 attorney fees pursuant to the 2019 Legislative Act.

27 13. Plaintiff's allegations fail to detail official acts foreseeably frustrating  
28 litigation and foreclosing relief in a future suit.

///



1 *Dist. Court ex rel County of Clark*, 124 Nev. 36 n.1, 175 P.3d 906 (2008). Speculative or  
2 hypothetical future harm is not sufficient to invoke jurisdiction. *Doe v. Bryan*, 102 Nev.  
3 523, 525, 728 P.2d 443, (1986).

4 6. In considering the ripeness doctrine in pre-enforcement cases, the court  
5 looks to see if there is a “credible threat,” or an “actual and well-founded fear” that  
6 enforcement action would be taken against the plaintiff by the defendant. *Holder v.*  
7 *Humanitarian Law Project*, 561 U.S. 1, 15 (2010); *Virginia v. American Booksellers*  
8 *Assn. Inc.*, 484 U.S. 383, 393 (1988); *see also Delew v. Wagner*, 143 F.3d 1219, 1223 (9th  
9 Cir. 1988). In the nine months since AB 477 went into effect, there has not been any  
10 imminent threat that the FID will or even can enforce Sections 18 or 19 of AB 477  
11 against Plaintiff’s members.

12 7. Plaintiff failed to provide a set of facts which would entitle Plaintiff to  
13 relief, pursuant to NRCP 12(b)(5). The FID’s regulatory ability is limited to the powers  
14 provided in NRS chapter 649. The Nevada Legislature did not delegate the authority to  
15 enforce AB 477 to the FID, nor does the FID regulate activities of the Justice Court  
16 including the amount of attorney fees it can award to a prevailing party or the  
17 requirement that an entity must appear with counsel. *See State of Nevada v. Nevada*  
18 *Association Services*, 128 Nev. 362, 294 P.3d 1223 (2012).

19 8. NRS 41.031 requires that the agency’s action must provide the *basis* for  
20 the lawsuit, Plaintiff has not shown that the FID has taken any action that can be  
21 interpreted as a basis for declaratory, injunctive or any relief against the FID. The FID  
22 enforces the law with respect to its licensees, but not with respect to a small business  
23 that extend credit to its own customers or with respect to attorneys.

24 9. The FID has the power to adopt regulations, as long as the regulations do  
25 not broaden the powers of the FID past the limitations found in statutes. There is no  
26 statute in Chapter 649 that allows the FID to regulate attorney fees in a contract  
27 between a creditor and a debtor.

28 10. Judicial notice of facts outside of the complaint is only applicable to facts

1 not subject to reasonable dispute or facts that are capable of verification from a reliable  
2 source. NRS 47.130, *Mack v. Estate of Mack*, 125 Nev. 80, 92, 206 P.3d 98 (2009).  
3 Plaintiff's declarations do not fit the criteria for judicial notice.

4 11. Neither the FID nor its commissioner sued in her official capacity is a  
5 person subject to section 1983. *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 69  
6 (1989). Therefore all official capacity 42 USC § 1983 claims against the FID must be  
7 dismissed.

8 12. Claims for denial of access to the courts may arise from the frustration or  
9 hindrance of "a litigating opportunity yet to be gained" (forward-looking access claim)  
10 or from the loss of a meritorious suit that cannot now be tried (backward-looking claim).  
11 *Christopher v. Harbury*, 536 U.S. 403, 412–415, 122 S.Ct. 2179 (2002). For access to the  
12 court's claims, the plaintiff must show: (1) the loss of a 'nonfrivolous' or 'arguable'  
13 underlying claim; (2) the official acts frustrating the litigation; and (3) a remedy that  
14 may be awarded as recompense but that is not otherwise available in a future suit. *Id.*  
15 at 413–14.

16 13. LVJC Rule 16 and A.B. 477 do not unduly infringe any identified  
17 fundamental right and also does not target or impose a disparate impact on a protected  
18 class; therefore, the Justice Court Rule as well as the subject legislation imposed by the  
19 State are subject to only a rational basis type of review. *See Romer v. Evans*, 517 U.S.  
20 620, 631–32, 116 S.Ct. 1620 (1996); *FCC v. Beech Communications, Inc.*, 508 U.S. 307,  
21 313-14, 113 S.Ct. 2096 (1993).

22 14. To prevail on a rational basis challenge, Plaintiff therefore must "negate  
23 every conceivable basis" that could support a rational basis for the alleged regulation.  
24 *Medina Tovar v. Zuchowski*, 950 F.3d 581, 593 (9th Cir. 2020); *Fournier v. Sebelius*, 718  
25 F.3d 1110, 1123 (9th Cir. 2013); *see also Armour v. City of Indianapolis, Ind.*, 566 U.S.  
26 673, 681, 132 S.Ct. 2073 (2012). Plaintiff certainly has not in this case negated all the  
27 conceivable rationale regarding the corporate representation rule codified by LVJC Rule  
28 16 or, for that matter, the consumer protection rationale for A.B. 477. *See* Sec. 3 (stating

1 "[t]he purpose of this chapter is to protect consumers").

2 15. Also, A.B. 477's "cap on attorney's fees is not a barrier to court access, but  
3 a limitation on relief." *Boivin v. Black*, 225 F.3d 36, 45 (1st Cir. 2000). LVJC Rule 16  
4 thus does not deny litigants "a reasonably adequate opportunity to present" their case  
5 to the Justice Court. *Lewis v. Casey*, 518 U.S. 343, 351, 116 S.Ct. 2174 (1996) (quoting  
6 *Bounds v. Smith*, 430 U.S. 817, 825, 97 S.Ct. 1491 (1977)).

7 16. The Nevada Supreme Court has held long before the enactment of LVJC  
8 Rule 16 that a legal entity such as a corporation cannot appear except through counsel,  
9 and non-lawyer principals are prohibited from representing these types of entities. *See*  
10 *In re: Discipline of Schaefer*, 117 Nev. 496, 509 (2001); *see also Rowland v. California*  
11 *Men's Colony*, 506 U.S. 194, 201–02, 113 S.Ct. 716 (1993) ("It has been the law for the  
12 better part of two centuries ... that a corporation may appear in the federal courts only  
13 through licensed counsel.")(citing *Commercial & R.R. Bank of Vicksburg v. Slocumb,*  
14 *Richards & Co.*, 39 U.S. (14 Pet.) 60, 65, 10 L.Ed. 354 (1840) ("[A] corporation cannot  
15 appear but by attorney ....") *overruled in part* by 43 U.S. (2 How.) 497, 11 L.Ed. 353  
16 (1844); and *Osborn v. Bank of the United States*, 22 U.S. (9 Wheat.) 738, 830, 6 L.Ed.  
17 204 (1824) ("A corporation, it is true, can appear only by attorney, while a natural person  
18 may appear for himself.")).

19 17. A defendant that is charged with the duty of executing a facially valid court  
20 order enjoys absolute immunity from liability for a suit challenging the propriety of that  
21 court order. *See Turney v. O'Toole*, 898 F.2d 1470, 1472 (10th Cir. 1990); *see also*  
22 *Engbretson v. Mahoney*, 724 F.3d 1034, 1038 (9th Cir. 2013) ("[P]ublic officials who  
23 ministerially enforce facially valid court orders are entitled to absolute immunity.").

24 18. The Justice Court appropriately followed that law when enacting and  
25 publishing LVJC 16 in accordance with controlling law from the Nevada Supreme  
26 Court. Plaintiff cannot prevail then against the Justice Court as a matter of law that is  
27 solely based on the propriety of that valid and controlling case law. The Justice Court  
28 effectively is immune from Plaintiff's suit by virtue of quasi-judicial immunity for

1 following the extant law announced by the Nevada Supreme Court.

2 19. A temporary injunction is an extraordinary remedy “must balance the  
3 competing claims of injury and must consider the effect on each party of the granting or  
4 withholding of the requested relief.” *Winter*, 555 U.S. at 24 (citation omitted). As a  
5 threshold inquiry, when a plaintiff fails to show the likelihood of success on the merits,  
6 the court need not consider the remaining factors. *Garcia v. Google, Inc.*, 786 F.3d 733,  
7 740 (9th Cir. 2015). Plaintiff is not likely to succeed on the merits and has failed to  
8 show that they are subject to irreparable harm if a temporary injunction is not issued.  
9 Balancing the competing claims, along with the effect on each party does not weigh in  
10 favor of the Plaintiff.

11 20. Plaintiff has failed to provide a basis to issue a writ of mandamus or a writ  
12 of prohibition. *Nevada Restaurant Services, Inc. v. Clark County*, 2018 WL 1077279\*7,  
13 *Stearns v. Eighth Judicial District Court in and for Clark County*, 62, Nev. 102,112, 12  
14 P.2d 206 (1943).

15 21. NRS 73.010(1) provides that “[a] justice of the peace has jurisdiction and  
16 may proceed as provided in this chapter and by rules of court in all cases arising in the  
17 justice court for the recovery of money only, where the amount claimed does not exceed  
18 \$10,000. Plaintiff’s members have not been denied access to court for their small  
19 collection cases; it is only that Plaintiff’s members chose not to use the court with  
20 jurisdiction for their claims that will allow them to appear without an attorney.

21 22. An injury does not take place when the Plaintiffs have access to another  
22 court with jurisdiction for their claims and does not require an entity to appear with an  
23 attorney.

24 ///

25 ///

26 ///

27 ///

28

1 ORDER

2 This Court being fully apprised in the premises, and good cause appearing to  
3 the Court ORDERS as follows:

- 4 1. Plaintiff's Motion for a Preliminary Injunction or, alternatively for a writ of  
5 mandamus or prohibition is denied. The Plaintiff is not likely to succeed on  
6 the merits and has not suffered irreparable harm. The balance of the  
7 hardships do not weigh in favor of the Plaintiff.  
8 2. Defendants FID and Justice Court's Motions to Dismiss are granted with  
9 prejudice.

10 DATED this 9 day of September, 2020.

Dated this 10th day of September, 2020

11 By: Nancy L Alif  
12 DISTRICT COURT JUDGE  
13

14 Submitted by:  
15 AARON D. FORD  
16 Attorney General

56A D48 D9D3 9D4A N  
Nancy Alif  
District Court Judge

17 By: /s/ Vivienne Rakowsky  
18 VIVIENNE RAKOWSKY  
19 Deputy Attorney General  
20 555 E. Washington Ave. Ste 3900  
Las Vegas, Nevada 89101  
Attorneys for State Defendants

21 OLSON CANNON GORMLEY  
22 & STOBERSKI

23 By: /s/ Thomas D. Dillard, Jr.  
24 THOMAS D. DILLARD, JR., ESQ.  
25 9950 W. Cheyenne Avenue  
26 Las Vegas, Nevada 89129  
27 Attorney for Defendant  
Justice Court of Las Vegas  
Township

28 ///

1 Approved as to form and content by:

2 BROWNSTEIN HYATT  
3 FARBER SCHRECK, LLP

4 By: /s/ Patrick J. Reilly  
5 Patrick J. Reilly, Esq.  
6 Marckia L. Hayes, Esq.  
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28

## Melissa Burgener

---

**From:** Reilly, Patrick J. <preilly@bhfs.com>  
**Sent:** Wednesday, September 9, 2020 1:09 PM  
**To:** Vivienne Rakowsky; Melissa Burgener  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Approved as to form on my end as well. You may use my electronic signature.

Thank you.

**Patrick J. Reilly**  
**Brownstein Hyatt Farber Schreck, LLP**  
100 North City Parkway, Suite 1600  
Las Vegas, NV 89106  
702.464.7033 tel  
702.882.0112 cell  
[preilly@bhfs.com](mailto:preilly@bhfs.com)

---

**From:** Vivienne Rakowsky [mailto:VRakowsky@ag.nv.gov]  
**Sent:** Wednesday, September 09, 2020 12:48 PM  
**To:** 'Melissa Burgener'; Reilly, Patrick J.  
**Cc:** Tom Dillard  
**Subject:** RE: NV Collectors v. LVJC, et al.

Thank you. I am fine with the Amended Order and the Order on the hearing today. You may use my electronic signature.

Sincerely,  
Vivienne

**Vivienne Rakowsky, Deputy Attorney General**  
**State of Nevada**  
**Office of the Attorney General**  
555 East Washington Avenue, Suite 3900  
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---

**From:** Melissa Burgener <mburgener@ocgas.com>  
**Sent:** Wednesday, September 9, 2020 11:52 AM  
**To:** Vivienne Rakowsky <VRakowsky@ag.nv.gov>; Reilly, Patrick J. <preilly@bhfs.com>  
**Cc:** Tom Dillard <tdillard@ocgas.com>  
**Subject:** NV Collectors v. LVJC, et al.

Good Morning,

Please find the attached orders in the above mentioned matter for your review.

Thank you,  
Melissa Burgener  
Assistant to Thomas D. Dillard, Jr., Esq.  
and Michael McLoughlin, Esq.  
Olson Cannon Gormley & Stoberski  
9950 W. Cheyenne Ave.,  
Las Vegas, Nevada 89129  
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1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5  
6 Nevada Collectors Association,  
7 Plaintiff(s)

CASE NO: A-19-805334-C

8 vs.

DEPT. NO. Department 27

9 State of Nevada Department of  
10 Business and Industry Financial  
11 Institutions Div., Defendant(s)

12 **AUTOMATED CERTIFICATE OF SERVICE**

13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order was served via the court's electronic eFile system to all  
15 recipients registered for e-Service on the above entitled case as listed below:

16 Service Date: 9/10/2020

17 Tom Dillard	tdillard@ocgas.com
18 Melissa Burgener	mburgener@ocgas.com
19 Wendy Fiore	wfiore@ocgas.com
20 Vivienne Rakowsky	vrakowsky@ag.nv.gov
21 Michele Caro	mcaro@ag.nv.gov
22 Debra Turman	dturman@ag.nv.gov
23 David Pope	dpope@ag.nv.gov
24 Patrick Reilly	preilly@bhfs.com
25 Susan Roman	sroman@bhfs.com
26 Mary Barnes	mabarnes@bhfs.com

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**June 16, 2020**

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A-19-805334-C	Nevada Collectors Association, Plaintiff(s) vs. State of Nevada Department of Business and Industry Financial Institutions Div., Defendant(s)
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**June 16, 2020**

**3:00 AM**

**Minute Order**

**Minute Order:  
Telephonic  
Appearance**

**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Department 27 Formal Request to Appear Telephonically

Re Defendant's Motion to Dismiss and Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition

Set: June 17, 2020 at 10:00 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 494 224 909

Meeting URL: <https://bluejeans.com/494224909>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the Blue Jeans app and join the meeting by entering the meeting ID

PLEASE NOTE the following protocol each participant will be required to follow:

Place your phone on MUTE while waiting for your matter to be called.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

Please be mindful of where your camera is pointing.

We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/16/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**June 30, 2020**

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A-19-805334-C	Nevada Collectors Association, Plaintiff(s) vs. State of Nevada Department of Business and Industry Financial Institutions Div., Defendant(s)
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**June 30, 2020**

**3:00 AM**

**Minute Order**

**Minute Order:  
BlueJeans  
Appearances**

**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- Department 27 Formal Request to Appear Telephonically

Re: Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition &  
Defendant's Motion to Dismiss

Set: July 1, 2020 at 9:30 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court  
hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to  
appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 356 362 567

Meeting URL: <https://bluejeans.com/356362567>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the Blue Jeans app and join the meeting by entering the meeting ID

PLEASE NOTE the following protocol each participant will be required to follow:

Place your phone on MUTE while waiting for your matter to be called.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

Please be mindful of where your camera is pointing.

We encourage you to visit the [Bluejeans.com](https://bluejeans.com) website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/30/2020

CLERK'S NOTE: Minute order AMENDED to correct Meeting ID number and Meeting URL. This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/30/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**July 01, 2020**

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A-19-805334-C	Nevada Collectors Association, Plaintiff(s) vs. State of Nevada Department of Business and Industry Financial Institutions Div., Defendant(s)
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**July 01, 2020**

**9:30 AM**

**All Pending Motions**

**HEARD BY:** Allf, Nancy

**COURTROOM:** RJC Courtroom 03A

**COURT CLERK:** Nicole McDevitt

**RECORDER:** Brynn White

**REPORTER:**

**PARTIES**

<b>PRESENT:</b>	Dillard Jr, Thomas D.	Attorney
	RAKOWSKY, VIVienne, ESQ	Attorney
	Reilly, Patrick J.	Attorney

**JOURNAL ENTRIES**

- All counsel present via the BlueJeans Videoconferencing Application.

Arguments by counsel regarding the merits of and opposition to the motions. Court stated its findings and ORDERED, Motion for Preliminary Injunction or, Alternatively, for a Writ of Mandamus or Prohibition DENIED;

Defendant's Motion to Dismiss GRANTED. Defendant's counsel to prepare the order, including findings of fact and conclusions of law, and provide the order to Plaintiff's counsel one week prior to Court.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**July 21, 2020**

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A-19-805334-C	Nevada Collectors Association, Plaintiff(s) vs. State of Nevada Department of Business and Industry Financial Institutions Div., Defendant(s)
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**July 21, 2020**

**3:00 AM**

**Minute Order**

**Minute Order:  
Mkotin to Dismiss on  
7/22/2020 VACATED**

**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the State Defendant s Motion to Dismiss Amended Complaint is set for hearing for July 22, 2020 at 10:00 a.m. on Motions Calendar.

THEREFORE, COURT ORDERS for good cause appearing and after review in light of the decision on this matter at the July 1, 2020 hearing, the hearing set for July 22, 2020 at 10:00 a.m. shall be VACATED.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 7/21/2020.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**September 04, 2020**

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A-19-805334-C	Nevada Collectors Association, Plaintiff(s) vs. State of Nevada Department of Business and Industry Financial Institutions Div., Defendant(s)
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<b>September 04, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>	<b>Minute Order: BlueJeans Appearance</b>
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**HEARD BY:** Alf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Department 27 Formal Request to Appear Telephonically

Re: Matter set on September 9, 2020 at 9:00 a.m.

Please be advised that due to the COVID-19 pandemic, Department 27 will continue to conduct Court hearings REMOTELY using the Blue Jeans Video Conferencing system. You have the choice to appear either by phone or computer/video.

Dial the following number: 1-408-419-1715

Meeting ID: 897 138 369

Meeting URL: <https://bluejeans.com/897138369>

To connect by phone dial the number provided and enter the meeting ID followed by #

To connect by computer if you do NOT have the app, copy the URL link into a web browser. Google Chrome is preferred but not required. Once you are on the BlueJeans website click on Join with Browser which is located on the bottom of the page. Follow the instructions and prompts given by BlueJeans.

You may also download the Blue Jeans app and join the meeting by entering the meeting ID

PLEASE NOTE the following protocol each participant will be required to follow:

Place your phone on MUTE while waiting for your matter to be called.

Do NOT place the call on hold since some phones may play wait/hold music.

Please do NOT use speaker phone as it causes a loud echo/ringing noise.

Please state your name each time you speak so that the court recorder can capture a clear record.

Please be mindful of rustling papers, background noise, and coughing or loud breathing.

Please be mindful of where your camera is pointing.

We encourage you to visit the Bluejeans.com website to get familiar with the Blue Jeans phone/videoconferencing system before your hearing.

If your hearing gets continued to a different date after you have already received this minute order please note a new minute order will issue with a different meeting ID since the ID number changes with each meeting/hearing.

Please be patient if you call in and we are in the middle of oral argument from a previous case. Your case should be called shortly. Again, please keep your phone or computer mic on MUTE until your case is called.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 9/4/2020.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**September 09, 2020**

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A-19-805334-C      Nevada Collectors Association, Plaintiff(s)  
vs.  
State of Nevada Department of Business and Industry Financial Institutions  
Div., Defendant(s)

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**September 09, 2020      9:00 AM      Motion to Amend  
Judgment**

**HEARD BY:** Allf, Nancy      **COURTROOM:** RJC Courtroom 03A

**COURT CLERK:** Nicole McDevitt

**RECORDER:** Brynn White

**REPORTER:**

**PARTIES**

**PRESENT:**      Dillard Jr, Thomas D.      Attorney  
                 RAKOWSKY, VIVIENNE, ESQ      Attorney  
                 Reilly, Patrick J.      Attorney

**JOURNAL ENTRIES**

- All appearances made via the BlueJeans Videoconferencing Application

Arguments by counsel regarding the merits of and opposition to the motion. COURT ORDERED, Motion to Amend Findings of Fact and Conclusions of Law and to Alter or Amend Judgment GRANTED IN PART as to last sentence in the fifth paragraph, DENIED IN PART as to the balance of the motion. Mr. Dillard to prepare the revised judgment and submit it to opposing counsel for approval as to form. Mr. Reilly stated there is no motion before the Court to alter or amend the order in that regard. Court stated that because the motion was to alter or amend, Court is granting it in regard to that concession made by Justice Court



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE  
**NOTICE OF DEFICIENCY**  
ON APPEAL TO NEVADA SUPREME COURT

**PATRICK J. REILLY**  
**100 N. CITY PKWY., SUITE 1600**  
**LAS VEGAS, NV 89106-4614**

**DATE: October 12, 2020**  
**CASE: A-19-805334-C**

**RE CASE:** NEVADA COLLECTORS ASSOCIATION vs. STATE OF NEVADA DEPARTMENT OF BUSINESS  
AND INDUSTRY FINANCIAL INSTITUTIONS DIVISION; JUSTICE COURT OF LAS VEGAS TOWNSHIP

NOTICE OF APPEAL FILED: October 8, 2020

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

**PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:**

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
  - *Previously paid Bonds are not transferable between appeals without an order of the court.*
- ☐ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

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**NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:**

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

***Please refer to Rule 3 for an explanation of any possible deficiencies.***

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***\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF ENTRY OF ORDER OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER; ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S MOTION TO AMEND FINDINGS OF FACT AND CONCLUSIONS OF LAW; NOTICE OF ENTRY OF ORDER; AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

NEVADA COLLECTORS ASSOCIATION,

Plaintiff(s),

vs.

STATE OF NEVADA DEPARTMENT OF  
BUSINESS AND INDUSTRY FINANCIAL  
INSTITUTIONS DIVISION; JUSTICE COURT  
OF LAS VEGAS TOWNSHIP,

Defendant(s),

Case No: A-19-805334-C

Dept No: XXVII

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 12 day of October 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk