

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

NEVADA COLLECTORS'  
ASSOCIATION, a Nevada non-  
profit corporation,

Appellant,

vs.

SANDY O'LAUGHLIN, in her  
official capacity as Commissioner of  
the 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 ENTITY DEFENDANTS 1  
through 20,

Respondents.

Case No. 81930

Appeal from Eighth Judicial District  
Court, State of Nevada, County of  
Clark Case No. A-19-805334-C

The Honorable Nancy L. Allf,  
District Judge

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**STATE RESPONDENTS' ANSWERING BRIEF**

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State Respondents, Sandy O’Laughlin in her official capacity as the Commissioner of, State of Nevada, Department of Business and Industry, Financial Institutions Division (“FID”), by and through counsel, Aaron D. Ford, Nevada Attorney General, and Michelle D. Briggs, Chief Deputy Attorney General, hereby submits its Answering Brief.

### **ISSUES PRESENTED FOR REVIEW**

1. Did the district court abuse its discretion by dismissing Plaintiff’s case against FID?
2. Does Plaintiff have standing to maintain its complaint against FID?
3. Can Plaintiff maintain 42 U.S.C. § 1983 claims against FID and its Commissioner?

### **STATEMENT OF THE CASE**

Plaintiff is a non-profit entity whose members collect debt on behalf of others.<sup>1</sup> Nev. R. Stat. 97B (NRS 97B), enacted in 2019,<sup>2</sup> is a consumer protection law governing consumer debt. Plaintiff asserts (on behalf of its members) constitutional challenges primarily to NRS 97B.160 because it limits attorney’s fees to the consumer debt creditor. Plaintiff alleges it has no access to the courts

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<sup>1</sup> Plaintiff produced declarations to support its motion for a preliminary injunction. The only members of Plaintiff identified in those declarations are two collection agencies who are hired by consumer debt creditors to enforce their small dollar debt. Joint Appendix (JA) 0607 Vol. IV (Declaration of Tim Meyers) and JA0594 Vol. IV (Declaration of Mary Hobbs).

<sup>2</sup> Plaintiff refers to the law as its bill number Assembly Bill 477.

because the attorney's fees are capped too low for small dollar consumer debt to be pursued and small claims court, where an attorney is not required, is not an adequate option.

According to the declarations produced by Plaintiff, consumer debts owed to the businesses (who are not members of Plaintiff) will not be referred to a collection agency or attorney to enforce in court.<sup>3</sup> While collection agencies may or may not be hired by consumer debt businesses to collect consumer debt, the provisions of NRS 97B do not apply to collection agencies. The limit on attorney's fees applies to the consumer debt creditor's right to an attorney fee award, not to collection agencies.

Plaintiff lacks associational standing as its case asserts the rights of consumer debt creditors who are not members of Plaintiff. Additionally, Plaintiff lacks standing to bring its case against the Financial Institutions Division and its Commissioner (collectively "FID"), because FID does not regulate NRS 97B and no case or controversy exists. Plaintiff's constitutional claims fail as a matter of law against FID. The district court properly dismissed Plaintiff's complaint.

## **STATEMENT OF FACTS**

FID sought dismissal of Plaintiff's case against it because FID does not enforce NRS 97B. FID has no regulatory authority under NRS 97B. FID regulates

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<sup>3</sup> JA0625 – JA0683 Vol IV.



*collection agencies* defined by NRS 649.020 pursuant to NRS 649. Plaintiff does not allege any enforcement action by FID of NRS 97B since it became effective in 2019. In fact, FID has not taken any action to enforce the provisions of NRS 97B. FID's motion to dismiss was based on NRCP 12(b)(1) and (5), and the Justice Court's motion to dismiss was based on NRCP 12(b)(5).

Plaintiff included in its Statement of Facts (not in its first amended complaint) a tenuous connection between FID, NRS 97B and NRS 649. Plaintiff's hypothetical scenario misstates the law and is contradicted by the evidence Plaintiff put forward.

Three of the declarations provided by Plaintiff are from attorneys.<sup>4</sup> Each of them say they will no longer accept small dollar consumer debt due to NRS 97B.<sup>5</sup> Twenty-four of the declarations are from businesses saying they will no longer pursue a judgment at all as it is cost prohibitive.<sup>6</sup> Regardless, Plaintiff makes the argument that attorneys filing complaints for small dollar debt on behalf of collection agencies will request attorney's fees contrary to NRS 97B and then be in violation of the Fair Debt Collection Practices Act (FDCPA) and NRS 649. As further detailed below, this scenario is entirely unreasonable and unsupported by Plaintiff's own evidence.

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<sup>4</sup> JA0615 – 624 Vol IV.

<sup>5</sup> *Id.*

<sup>6</sup> JA0625 – 683 Vol IV.

NRS 97B applies to “consumer debt.” NRS 97B.060. Collection agencies licensed under NRS 649 may be hired by a business who offers goods or services to consumers, but NRS 97B does not apply to collection agencies. To the extent the collection agency purchases consumer debt and pursues collection of that debt – those actions are not regulated by FID. FID regulates collection agencies who collect debt on behalf of another, not when they collect their own debt. NRS 649.020(1) defines *collection agency* as “persons engaging, directly or indirectly, and as a primary or a secondary object, business or pursuit, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to another.”

Plaintiff’s complaint against FID is not viable and the district court properly dismissed it.

## **SUMMARY OF ARGUMENT**

The district court properly granted FID’s motion to dismiss, because Plaintiff failed to show any actual controversy exists between FID and Plaintiff’s collection agency members. The Nevada Legislature enacted NRS 97B for the express purpose of protecting consumers. NRS 97B.020. NRS 97B applies to consumer debt and businesses that offer goods or services to consumers. Plaintiff alleges its members are denied access to the courts due to the limit on an award of attorney’s fees in a civil action to enforce consumer debt. Plaintiff’s members are

collection agencies who may or may not be *hired* to pursue small dollar debt. Plaintiff's members are not being denied access to the courts. Whether a business that provides goods or services to consumers wants to hire a collection agency to enforce an unpaid consumer debt has nothing to do with FID. The Nevada Legislature decided it is the public policy of this State to prohibit consumer debt creditors from using NRS 18.010(2) to receive attorney's fees in court and to limit the amount of attorney's fees possible. Plaintiff alleges potential harm to businesses that provide consumers with goods or services. Those businesses are not members of Plaintiff. Plaintiff lacks associational standing to bring its case

FID regulates collection agencies to the extent they are attempting to collect debt on behalf of another under NRS 649. FID has no jurisdiction under NRS 97B and does not regulate an award of attorney's fees ordered by the court. Plaintiff's constitutional challenges to NRS 97B fail as a matter of law and its request for declaratory relief cannot be maintained against FID without a case or controversy with FID.

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## ARGUMENT

### **I. THE DISTRICT COURT PROPERLY GRANTED FID’S MOTION TO DISMISS AS PLAINTIFF’S COMPLAINT ASSERTS NO CASE OR CONTROVERSY WITH FID.**

Subject matter jurisdiction is “the court's authority to render a judgment in a particular category of case.”<sup>7</sup> The burden is on the Plaintiff to show that the allegations are sufficient to invoke the court’s jurisdiction.<sup>8</sup> The Court “is confined to controversies in the true sense. The parties must be adverse and the issues ripe for determination.”<sup>9</sup> The Nevada Constitution does not allow the Court to render advisory opinions.<sup>10</sup>

Standing requires an “actual justiciable controversy as a predicate to judicial relief... not merely the prospect of a future problem.”<sup>11</sup> A justiciable controversy is a controversy “in which a claim of right is asserted against one who has an interest in contesting it.”<sup>12</sup> Thus, for a case or controversy to exist and invoke jurisdiction, the parties must be adverse, there must be a controversy, and the issues must be ripe for determination.<sup>13</sup> Ripeness is similar to standing, except ripeness looks at

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<sup>7</sup> *Landreth v. Malik*, 127 Nev. 175, 183, 251 P.3d 163, 168 (2011) (*quoting J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249, 253 (Mo.2009)).

<sup>8</sup> *Castillo v. United Federal Credit Union*, 134 Nev. 13, 15, 409 P.3d 54, 57 (2018).

<sup>9</sup> *City of N. Las Vegas v. Cluff*, 85 Nev. 200, 201, 452 P.2d 461, 462 (1969).

<sup>10</sup> *See id.* (*citing Nev. Const. Art. 6, § 4*).

<sup>11</sup> *Doe v. Bryon*, 102 Nev. 523, 525, 728 P.2d 443, 444 (1986).

<sup>12</sup> *Id.*

<sup>13</sup> *Kress v. Cory*, 65 Nev. 1, 26, 189 P. 2d 352 (1948).

the timing of the action.<sup>14</sup>

Plaintiff's First Amended Complaint claims it has associational standing under *Warth v. Seldin*, 95 S. Ct. 2197 (1975).<sup>15</sup> "The possibility of such representational standing, however, does not eliminate or attenuate the constitutional requirement of a case or controversy. The association must allege that its members, or any one of them, are suffering immediate or threatened injury as a result of the challenged action of the sort that would make out a justiciable case had the members themselves brought suit."<sup>16</sup>

Plaintiff is a non-profit company whose members may include collection agencies.<sup>17</sup> Plaintiff's complaint does not allege any controversy between FID and the members of Plaintiff. FID has no connection to NRS 97B or its enforcement. FID has not taken any action to enforce NRS 97B and has no authority under NRS 97B. FID has no jurisdiction over an award of attorney's fees under NRS 97B, and FID is not responsible for the enactment of NRS 97B.

FID enforces the provisions of NRS 649 as to collection agencies. Collection agencies under NRS 649 are in the business of collecting debt of another. NRS 649.020. Plaintiff incorrectly claims that there is *undisputed evidence* that its

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<sup>14</sup> *In re. T.R.*, 119 Nev. 646, 651, 80 P.3d 1276 (2003).

<sup>15</sup> First Amended Complaint ¶2, JA0752 Vol. V.

<sup>16</sup> *Warth*, 95 S. Ct. at 2211–12 (internal citations omitted).

<sup>17</sup> Only two members of Plaintiff are identified in the declarations it provided and both companies are collection agencies. JA0607 Vol. IV (Declaration of Tim Meyers) and JA0594 Vol. IV (Declaration of Mary Hobbs).

case is ripe for judicial review and the court has subject matter jurisdiction. AOB 24.

**A. None of Plaintiff's *Evidence* Establishes a Case or Controversy with FID.**

Plaintiff provided 29 declarations in support of its motion for a preliminary injunction and attached five of those declarations to its opposition to FID's motion to dismiss. Two declarations are from officers of Plaintiff who work for collection agencies, Clark County Collection Service, LLC ("CCCS") and National Business Factors, Inc ("NBF").<sup>18</sup> CCCS and NBF are the only identified members of Plaintiff in all 29 declarations.

In 24 of the declarations, business owners say they would normally be awarded "attorneys' fees under NRS 18.010(2)(a), as the unpaid dollar amount is always less than \$20,000."<sup>19</sup> But due to the Nevada Legislature enacting NRS 97B, those business owners state they can no longer use NRS 18.010 for an award of attorney's fees and they will not pursue a judgment for outstanding debt.<sup>20</sup> Assuming the decision not to go to small claims court for a judgment is reasonable, Plaintiff only shows potential harm to the providers of consumer goods or services, not to collection agencies. The collection agencies may not be hired to pursue

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<sup>18</sup> *Id.*

<sup>19</sup> JA0625 – JA0683 Vol IV.

<sup>20</sup> *Id.*

small dollar consumer debt or there may be less small dollar credit extended by providers of consumer goods or services, but that does not amount to evidence that the members of Plaintiff are *suffering immediate or threatened injury*. Such injury is not alleged or shown in the declarations.

The other 3 declarations are given by attorneys.<sup>21</sup> A declaration is given by Michael Aisen who is an attorney handling small debt collection cases for CCCS.<sup>22</sup> Mr. Aisen states that he handles hundreds of cases for CCCS and that “to make it economically feasible for a law firm to represent a creditor in a Small Dollar Debt case, **the law firm must average \$450 in attorney’s fees per case.**”<sup>23</sup> Based on Plaintiff’s evidence of the average hourly rates for all attorneys in Las Vegas,<sup>24</sup> the time spent on any particular case averaging \$450 is less than 1½ hours’ worth of work. In other words, these cases are not complicated and do not involve discovery or a jury trial. Ideal for small claims court. Plaintiff’s allegations that small claims court is inadequate for small dollar debts is another example of Plaintiff asserting potential rights of consumer debt creditors, not to members of Plaintiff.

Decisions to loan money or front costs is up to the consumer business. It is also a business decision whether they get a judgment from the small claims court.

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<sup>21</sup> JA0615 – 624 Vol IV. They are not members of Plaintiff.

<sup>22</sup> JA0615 Vol IV.

<sup>23</sup> JA0618 Vol. IV (emphasis added). Attorney Adam Gill provided the same statement. JA0622 Vol. IV.

<sup>24</sup> JA0104 – 526 Vol. II and III. The average rate for Las Vegas, Nevada attorneys is \$420 per hour. JA0399 Vol. III.

The businesses allege a potential financial harm by not being able to use NRS 18.010, but none of them are members of Plaintiff. The members of Plaintiff are not owed the consumer debt. The business that provides the goods or services are owed the consumer debt. To the extent the declarations show *any* potential harm caused by the limit to attorney's fees, it is to the consumer debt creditors, not the members of Plaintiff.

None of the declarations reference any enforcement action by FID or any potential case or controversy with FID. The three attorneys' declarations do not say they plan to represent their collection agency clients by filing a complaint requesting attorney's fees contrary to NRS 97B.<sup>25</sup> Actually, they say they will no longer represent clients involving small dollar debt.<sup>26</sup> Even the consumer businesses say they will not pursue a judgment in court due to the limit on attorney's fees in NRS 97B. In other words, based on the evidence Plaintiff provided, its collection agency members will not be hired to pursue a judgment for consumer debt making the connection to FID even more tenuous. The district court correctly found FID and Plaintiff are not adverse, and FID does not regulate the activities of the Justice Court.

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<sup>25</sup> JA0615 – 624 Vol. IV.

<sup>26</sup> *Id.*



**B. FID is not an *Appropriate State Agency* to be Named as a Defendant.**

Plaintiff argues that FID “is the only appropriate state agency to name as a defendant” (AOB 24, 40) as if the State *must* be a party. Plaintiff cites to NRS 41.031 saying it requires a state agency be named. NRS 41.031 refers to litigation against the State, it does not require the State be sued in a particular case. NRS 41.031 provides for the State’s waiver of immunity in certain civil actions and requires that the action be in the name of the State’s “particular department, commission, board or other agency of the State *whose actions are the basis for the suit.*” NRS 41.031(2) (emphasis added). There is no action taken by FID that is the basis for Plaintiff’s suit. FID is not being sued for actions it took or could take.

Moreover, the State does not need to be sued to challenge the constitutionality of a statute. NRS 30.130 requires the Attorney General be notified if “the statute, ordinance or franchise is alleged to be unconstitutional” in a declaratory relief action. There is no obligation for the Attorney General to participate. In *Moldon v. County of Clark*,<sup>27</sup> the district court dismissed a case finding in part that the plaintiff failed to serve the Attorney General of their constitutional challenge to NRS 355.210 under NRS 30.130.<sup>28</sup> On appeal, this Court found that finding improper as the case was not for declaratory relief and

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<sup>27</sup> 124 Nev. 507, 188 P.3d 76 (2008).

<sup>28</sup> *Id.* at n. 23.

notice to the Attorney General was not required by law.<sup>29</sup> In *City of Reno v. Saibini*,<sup>30</sup> the Court found that the Attorney General is to be notified of a constitutional challenge, but does not need to be made a party and is not required to appear. This coupled with the fact that the Court must consider actual controversies, FID is not a proper party.

As part of this argument Plaintiff restates its allegation first discussed in the statement of facts of its brief that “by simply requesting attorney’s fees above and beyond the 15 percent allowed under A.B. 477 subjects collection agencies to possible discipline” under NRS 649. Appellant’s Opening Brief (AOB) at 42.

Plaintiff states that the Fair Debt Collection Practices Act (FDCPA) “prohibits a debt collector from using ‘any false, deceptive, or misleading representation or means in connection with the collection of any debt.’” AOB at 6 and 41. A violation of the FDCPA is punishable by FID as a violation of NRS 649. Plaintiff concludes “by simply requesting attorney’s fees in a complaint that are not authorized by law, collection agencies may be violating the FDCPA.” AOB at 7 and 42. Plaintiff’s scenario misstates the law regarding attorney’s fees under NRS 97B.

NRS 97B provides for attorney’s fees to the prevailing party in an action to collect consumer debt. NRS 97B.160 provides a cap for attorney’s fees to the

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<sup>29</sup> *Id.*

<sup>30</sup> 83 Nev. 315, 429 P.2d 559 (1967).

plaintiff, as the prevailing party. NRS 97B.160 does not prohibit a collection agency or anyone else from requesting attorney's fees in a complaint. *Simply requesting attorney's fees* is not a violation of NRS 97B. NRS 97B.160 governs a court order for attorney's fees. FID has no jurisdiction over court ordered attorney's fees and no jurisdiction over a collection agency that files a complaint for debt it owns.

Plaintiff provided three declarations of attorneys who represent collection agencies.<sup>31</sup> None of the attorneys say they will file complaints requesting attorney's fees in violation of NRS 97B as Plaintiff alleges. Rather, they say they will no longer be able to pursue judgments at all for small dollar claims as they are cost prohibitive.<sup>32</sup>

Moreover, an attorney filing a complaint in an action to collect consumer debt must comply with a number of Nevada Rules of Professional Conduct, i.e. Rules 1.1, 3.1, 3.3, and 3.4, as well as Nevada Rule of Civil Procedure 11. An attorney, hired by a collection agency, who files a complaint that would violate the FDCPA by using "false, deceptive or misleading representations" would be subject to sanctions by the court and/or discipline by the State Bar, not FID. Such

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<sup>31</sup> JA0615-624 Vol IV.

<sup>32</sup> *Id.*

attorneys are not subject to licensure by FID. *See* NRS 649.020(2)(g).<sup>33</sup> Additionally, twenty-four of the declarations are from consumer businesses saying they will no longer pursue a civil action to enforce the debt as the process is cost prohibitive.

Plaintiff's hypothetical is contrary to the declarations it provided and assumes an attorney would risk discipline by the State Bar and exposure to civil liability for violating the FDCPA. It is wholly unsupported and unreasonable. Plaintiff fails to allege any *plausible* situation where FID could discipline its members for violations of NRS 97B. The district court properly granted FID's motion to dismiss.

## **II. THE DISTRICT COURT PROPERLY GRANTED FID'S MOTION TO DISMISS AS PLAINTIFF'S § 1983 CLAIMS CANNOT BE MAINTAINED AGAINST FID.**

Plaintiff's complaint alleges five claims for relief. Four of them are constitutional claims for due process and equal protection under 42 U.S.C. § 1983. Such claims may not be brought against FID or its Commissioner in her official capacity.

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<sup>33</sup> "Collection Agency" does not include "Attorneys and counselors at law licensed to practice in this State, so long as they are retained by their clients to collect or to solicit or obtain payment of such clients' claims in the usual course of the practice of their profession," unless they are conducting collection agencies.

**A. FID is not a person subject to § 1983 due process and equal protection claims.**

Plaintiff alleges that its due process and equal protection claims are brought under 42 U.S.C. §1983.<sup>34</sup> The provisions of 42 U.S.C. § 1983 provide access to court when any person, under the color of state law, deprives any person of the rights, privileges or immunities secured by the Constitution and laws. The § 1983 claims against FID, including its Commissioner, must be dismissed because neither the State of Nevada nor its agencies are “persons” under § 1983.<sup>35</sup> *Will v. Michigan Dep’t of State Police*,<sup>36</sup> the United States Supreme Court looked at the legislative history of § 1983 and determined that Congress did not intend for the state itself to be the subject of liability.<sup>37</sup> Plaintiff’s § 1983 claims against FID fail as a matter of law.

**B. Commissioner O’Laughlin in her official capacity is not a *person* subject to § 1983 due process and equal protection claims.**

The United States Supreme Court held that a suit against officers or employees in their official capacity are really another way of pleading a lawsuit against the State.<sup>38</sup> Thus, when a person sues state employees or officers in their

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<sup>34</sup> JA0752-765 Vol. V (First Amended Complaint ¶¶ 45, 58, 69, 80).

<sup>35</sup> *Maldonado v. Harris*, 370 F.3d 945, 951 (9th Cir. 2004); *Wolfe v. Strankman*, 392 F.3d 358, 364 (“[S]tate agencies are also protected from suit under § 1983.”); *see also Will v. Michigan Dept. of State Police*, 491 U.S. 58, 69 (1989).

<sup>36</sup> 491 U.S. 58, 69 (1989).

<sup>37</sup> *Will*, 491 U.S. at 68-69.

<sup>38</sup> *Hafer v. Melo*, 502 U.S. 21, 25 (1991); *Will*, 491 U.S. at 71.

official capacities, the suit is actually against the state and not the individual.<sup>39</sup>

In *Hafer*, the United States Supreme Court discussed the differences between when an individual is sued in his or her individual capacity verses when he or she is sued in an official capacity.<sup>40</sup> The *Hafer* Court held that treating claims brought in an official capacity as claims against a state permits an official's successor to assume his or her role in litigation if an individual sued in an official capacity dies or leaves office.<sup>41</sup> Damages in an official capacity suit are imposed on the government entity and not on the individual.<sup>42</sup>

Just like FID, Commissioner O'Laughlin in her official capacity is not a *person* under § 1983.<sup>43</sup> Thus, because an official-capacity suit against a state official is a suit against his or her office and the state itself, all § 1983 claims for due process and equal protection against Commissioner O'Laughlin fail as a matter of law.

## CONCLUSION

The district court properly dismissed the Plaintiff's complaint against FID as no case or controversy exists and the constitutional claims fail as a matter of law.

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<sup>39</sup> *Craig v. Donnelly*, 135 Nev. 37, 40-41, 439 P.3d 413, 415-16 (2019); *see also Kentucky v. Graham*, 473 U.S. 159, 166 (1985) (an official capacity suit is “*not* a suit against the official personally, for the real party in interest is the entity.”) (emphasis in original).

<sup>40</sup> *Hafer*, 502 U.S. at 25-30.

<sup>41</sup> *Id.*

<sup>42</sup> *Kentucky*, 473 U.S. at 166.

<sup>43</sup> *Will*, 492 U.S. at 71.

FID respectfully requests that this Court affirm the district court's decision.

Respectfully submitted November 8, 2021.

AARON D. FORD  
Nevada Attorney General

By: /s/ Michelle D. Briggs  
MICHELLE D. BRIGGS (Bar No. 7617)  
Chief Deputy Attorney General

## **CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2013 14 pt. Times New Roman type style.

I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more and contains 3,756 words.

Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found.



I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated: November 8, 2021.

AARON D. FORD  
Attorney General

By: /s/ Michelle D. Briggs  
Michelle D. Briggs (Bar. No. 7617)  
Chief Deputy Attorney General

## **CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of the State of Nevada, Office of the Attorney General and that on November 8, 2021 I served the foregoing **STATE RESPONDENTS' ANSWERING BRIEF** via this Court's Electronic Filing System. Parties registered with the EFS will be served electronically.

/s/ Michele Caro

Michele Caro, an employee of the Office of the Attorney General