

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

JANE WHIPPLE, CO-TRUSTEE OF THE
KENT AND JANE WHIPPLE TRUST et al

App.

vs

WANRER WHIPPLE CO-TRUSTEE OF THE
KENT AND JANE WHIPPLE TRUST et al

Resp.

No. 81972

DOCKETING STATEMENT
CIVIL APPEALS

Electronically Filed
Dec 08 2020 03:56 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See KDI Sylvan Pools v. Workman*, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Seventh Department 1
County Lincoln Judge Dobrescu
District Ct. Case No. CV0930015

2. Attorney filing this docketing statement:

Attorney Bret O. Whipple Esq Telephone 7027310000
Firm Justice Law Center
Address 1100 South Tenth Street

Client(s) Jane Whipple as Co Trustee of Kent and Jane Whipple Trust / Jane Whipple

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Bo Bingham Telephone 702-346-7300
Firm Bingham Snow & Caldwell
Address 840 Pinnacle Ct #202 Mesquite, NV

Client(s) _____

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input checked="" type="checkbox"/> Other disposition (specify): <u>Denial Sum. Judg.</u> |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Case No. 69945 In Re: Whipple Trust

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Seventh Judicial District Court CV0930015

8. Nature of the action. Briefly describe the nature of the action and the result below:

Appeal from Denial of Motion for Summary Judgment

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Whether the District Court erred in denying Appellant's Motion for Summary Judgment

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Case 69945 In Re: Whipple Trust

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This matter is not presumptively retained by the Supreme Court under any of the categories of NRAP 17(a)(1) through (12) and as such should be assigned to the Court of Appeals.

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from 2/14/2020

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served 2/14/2020

Was service by:

☒ Delivery

☐ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed

3/5/2020

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(A)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☐ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☒ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify)

(b) Explain how each authority provides a basis for appeal from the judgment or order: Appellant sought summary judgment from the District Court which would essentially dissolve the underlying arbitration which had previously been ordered, as this requests relief similar to injunctive relief, and was denied, it is appealable under NRAP 3(b)(3).

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Jane Whipple as Co-Trustee
Jane Whipple
Warner Whipple as Co-Trustee
Betsy Whipple

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Parties dispute whether arbitration should
continue based upon evidence in discovery.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☐ Yes

☒ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

all claims other than summary judgment
remain pending.

(b) Specify the parties remaining below:

Jane Whipple as Co-Trustee

Jane Whipple

Warner Whipple as Co-Trustee

Betsy Whipple

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

Appellant believes the order is appealable as it pertains to relief which is essentially injunctive relief, i.e. whether arbitration can proceed or if summary judgment should resolve arbitration.

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Jane Whipple
Name of appellant

Bret Whipple
Name of counsel of record

12/8/2020
Date

Signature of counsel of record

Clark
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 8th day of December, 2020, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

840 Pinnacle Ct. #202
Mesquite, NV 89027

Dated this 8th day of December, 2020

Jm M
Signature

No. 81972

RECEIVED
3/5/20

FILED

Bret O. Whipple, Esq.
Nevada Bar No. 6168
JUSTICE LAW CENTER
1100 South Tenth Street
Las Vegas, Nevada 89104
Tel: (702) 731-0000
Fax: (702) 974-4008
Attorney for Defendants

2020 MAR -5 PM 1:44

LISA C. LLOYD
LINCOLN COUNTY CLERK
AC
DEPUTY

**IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF LINCOLN**

In re THE KENT AND JANE WHIPPLE
TRUST, dated March 17, 1969, Jane Whipple,
Co-Trustee (erroneously named as Trustee), and
amendments thereto, JANE WHIPPL,

Case No.: CV-0930015

Dept. No.: 01

FILED

OCT 21 2020

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

Petitioner

NOTICE OF APPEAL

Please take notice that Petitioners, by and through their attorneys of record, hereby appeal
to the Supreme Court of Nevada the Order Denying Motion for Summary Judgment signed by
this Court on February 10, 2020 and entered by this Court on Feb. 14, 2020.

DATED this second day of March, 2020.

JUSTICE LAW CENTER

BRET O. WHIPPLE, ESQ.
Nevada Bar No. 6168
1100 S. Tenth Street
Las Vegas, Nevada 89104
(702) 731-0000
Attorney for Petitioner

RECEIVED
OCT 15 2020
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

JUSTICE LAW CENTER
1100 S. Tenth Street, Las Vegas, NV 89104
702-731-0000

JUSTICE LAW CENTER
1100 S. Tenth Street, Las Vegas, NV 89104
702-731-0000

CERTIFICATE OF SERVICE

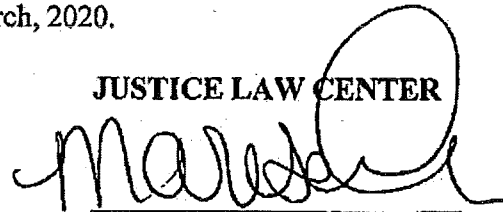
A copy of the foregoing NOTICE OF APPEAL has been served upon the following:

Bo Bingham, Esq.
Counsel for Warner Whipple Co-Trustee
<bo@binghamsnow.com>

Steven E. Alfieris
Counsel for Betsy Whipple
<Steven@diaslaw.com>

DATED this 2nd day of March, 2020.

JUSTICE LAW CENTER


Employee of Justice Law Center

FILED

2020 FEB 14 AM 11:42

Case No. CV-0930015

Dept. No. 01

LISA C. LLOYD
LINCOLN COUNTY CLERK
DEPUTY

IN THE SEVENTH JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA, IN AND FOR THE COUNTY OF LINCOLN

In re THE KENT AND JANE WHIPPLE
TRUST, dated March 17, 1969, Jane
Whipple, Co-Trustee (erroneously named as
Trustee), and amendments thereto, JANE
WHIPPLE,

Petitioner

ORDER DENYING MOTION FOR
SUMMARY JUDGMENT

FACTUAL AND PROCEDURAL HISTORY

On March 17, 1969, Kent Whipple ("Kent") and petitioner Jane Whipple ("Jane"), husband and wife, created The Kent and Jane Whipple Trust ("the Trust"). Kent and Jane amended the Trust on January 30, 1977. Upon Kent's death, the Trust assets were to be divided into two sub-trusts, Sub-trust A and Sub-trust B. Sub-trust A was designated the survivor's trust to provide income to Jane, to be funded with Jane's share of the trustors' community property. Sub-trust B was to provide for the trustors' children and was to be funded with all Trust property not transferred into Sub-trust A. The Trust required that if one of the trustors died before the other, both sub-trusts were to be jointly administered by Co-Trustees, one of whom was to be the surviving spouse, the second co-trustee to be Keith Whipple. The Trust also included provisions regarding the

SEVENTH JUDICIAL DISTRICT COURT
STEVE L. DOBRESCU
DISTRICT JUDGE
DEPARTMENT 1
WHITE PINE, LINCOLN AND EUREKA COUNTIES
STATE OF NEVADA





1 cooperation of the Co-Trustees in the management of all Trust assets and included arbitration of
2 disputes between the Co-Trustees.

3
4 Kent subsequently died, leaving Jane and Keith as Co-Trustees of the Trust. After Kent's
5 death, the Trust acquired water rights permits from the State Engineer, several of which were later
6 conveyed to the Kent Whipple Ranch, LLC ("Kent Whipple Ranch"). In January 2015, the Kent
7 Whipple Ranch applied to the State Engineer to change the point of diversion, place of use, and
8 manner of use of a portion of one of the water permits. Betsy Whipple ("Betsy"), a remainder
9 beneficiary of Sub-trust B, protested the application, claiming that the ownership was questionable
10 and that the assets belonged to the Trust, not Kent Whipple Ranch. Betsy also claimed that Jane
11 Whipple, as Co-Trustee of the Trust, did not have authority to make the application, and that the
12 assets acquired were a part of Sub-trust B. Based on the protest, the State Engineer stayed
13 consideration of the Kent Whipple Ranch application pending determination of the ownership
14 rights in the water right permits.

15 On August 28, 2015, Keith Whipple formally resigned as Co-Trustee. Pursuant to the terms
16 of the Trust, respondent Warner Whipple ("Warner") was appointed to be the successor, an
17 appointment which he confirmed in an affidavit dated October 7, 2015. On September 11, 2015,
18 Jane filed a petition for declaratory relief with this Court requesting a declaration that the Trust
19 was the owner of the water right permits and that Jane has the absolute authority to manage and
20 sell them. In two letters sent to Jane by Warner's counsel, dated October 8, 2015, and November
21 6, 2015, respectively, Warner notified Jane that he disagreed with and disputed the contents of her
22 petition for declaratory relief.

23 On November 24, 2015, Warner filed a motion to dismiss the petition, or in the alternative,
24 to stay the petition, and to compel arbitration, based on the arbitration provision in the Trust. This
25 Court denied Warner's motion, finding that Warner's disagreements concerned actions taken before
26 resignation of Warner's predecessor Co-Trustee and that a trustee's authority under a trust is a



1 question of law and is not subject to arbitration under the terms of the Trust. On appeal, the Nevada
2 Supreme Court reversed and remanded, holding that due to the extremely broad language of the
3 arbitration provision in the Trust, it encompasses the issues in the present case and that this Court
4 erred by denying the motion to compel arbitration. Pursuant to the remand order, this Court granted
5 Warner's motion to stay the petition and compel arbitration on August 7, 2017. On September 19,
6 2017, the parties were ordered to meet and confer regarding the selection of an arbitrator. An
7 arbitrator was agreed upon and appointed by the court and the case was ordered to arbitration in
8 2018.

9
10 On September 18, 2019, Jane filed a motion for summary judgment on all claims currently
11 pending in this case and in the court-ordered arbitration. Specifically, Jane asserts that she has the
12 authority to transfer water rights belonging to the Trust; that the "B Trust" or "Sub-trust B" could
13 not legally be, and in fact never was, created; that because Sub-trust B was never created, Jane (as
14 the sole beneficiary of Sub-trust A) is the only party with a legal interest in the Trust's assets; and
15 that Jane owes no fiduciary duty to Betsy because Betsy is not a beneficiary of the Trust.

16 On October 18, 2019, Warner filed a "Motion to Strike or in the Alternative, Opposition to
17 Motion for Summary Judgment".¹ He contends this Court lacks jurisdiction to hear the summary
18 judgment motion because the case has been stayed pending arbitration, the Nevada Supreme
19 Court's remand order instructed this Court to order the case into arbitration, and the district court
20 cannot hear any issues that are currently before the arbitrator unless the court determines an
21 arbitration result was procured by fraud or corruption. On November 1, 2019, Jane filed an
22 "Opposition to Motion to Strike or in the Alternative, Reply to Opposition to Motion for Summary
23 Judgment".² She asserts that, due to newly discovered evidence that arose from discovery and the

24
25 ¹ The court notes that a motion to strike an opposing party's motion is improper and the correct response to a motion
26 would be an opposition. Thus, the court will treat the October 18, 2019, motion as only an opposition to the motion
for summary judgment. *See Afriat v. Afriat*, 61 Nev. 321, 323, 117 P.2d 83, 84 (1941).

² The court will treat this motion as only a reply to Warner's opposition.



1 arbitration proceedings, the case should be resolved dispositively by this Court rather than the
2 court-appointed arbitrator. On November 22, 2019, Betsy filed an Opposition to Motion for
3 Summary Judgment.
4

5 DISCUSSION

6 I. Jurisdiction of the District Court

7 The Nevada Supreme Court's Order of Reversal and Remand, filed June 28, 2017, makes
8 clear that this case is subject to arbitration because of the broad arbitration clause in the trust
9 document, which states that arbitration is required "in the event of a disagreement at any time
10 when there are only two (2) Co-Trustees".³ The Supreme Court held that this arbitration clause
11 was "not limited in terms of legal versus factual disputes, nor is it limited to acts performed by the
12 trustees." ⁴ Pursuant to the remand order, this Court ordered the matter into arbitration in early
13 2018, and arbitration has been proceeding with arbitrator Eleissa Lavelle.
14

15 A. Uniform Arbitration Act of 2000

16 Arbitration agreements are governed by the Uniform Arbitration Act of 2000 ("Uniform
17 Arbitration Act"), which was enacted by Nevada at NRS 38.206 to NRS 38.248, inclusive.⁵ NRS
18 38.221(2) states that once a court finds that there is an enforceable agreement to arbitrate, the court
19 shall order the parties to arbitrate. NRS 38.221(4) states that a court may not refuse to order
20 arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not
21 been established. NRS 38.221(7) states that after arbitration is ordered, the court shall stay any
22 judicial proceeding that involves a claim subject to the arbitration. NRS 38.239 – 38.243 lay out
23 how a district court should handle an award after it is issued by an arbitrator. However, the Uniform
24 Arbitration Act does not specifically address the authority and jurisdiction of the district court once
25

26 ³ Motion for Summary Judgment, Ex. A, filed September 18, 2019.

⁴ Order of Reversal and Remand, p. 7, filed June 28, 2017.

⁵ NRS 38.216(3)



1 the parties enter arbitration, but before an award is issued.^{6,7}

2 Under NRS 38.231(3), the district court may direct an arbitrator to conduct a hearing.
3 Under NRS 38.224, the district court may entertain and rule on a motion for consolidation of
4 separate arbitration proceedings while the parties are still in arbitration. This authority is expressly
5 withheld from the arbitrator in those proceedings except by the parties' consent. The district court
6 thus retains jurisdiction and some authority over a case in arbitration proceedings, even after an
7 arbitrator has been appointed and the case has been stayed in the district court, and in some
8 instances may have authority to take actions that an arbitrator may not take.

9 *Exber, Inc. v. Sletten Constr. Co.*, is perhaps the best Nevada Supreme Court case
10 discussing the authority of both the district court and the arbitrator while a case is in arbitration
11 under Nevada's Uniform Arbitration Act.⁸ In *Exber*, the parties entered into arbitration with the
12 American Arbitration Association pursuant to the terms of their contract. After *Exber* declined to
13 participate because it was being forced to arbitrate jointly with two other parties besides Sletten,
14 Sletten and the other parties brought a summary judgment motion before the district court, seeking
15 to have the court order *Exber* to participate in the consolidated arbitration proceedings.⁹ *Exber* also
16 contested the timeliness of the demand for arbitration in the district court. The court stayed the
17 arbitration proceedings and assumed jurisdiction to decide the issues. The district court found that
18 the demand for arbitration was timely and granted the parties' motions for summary judgment to
19

20 ⁶ The court notes that there is substantial case law in Nevada regarding a district court's authority to amend or vacate
21 an arbitration award; however, in the current case, there has not yet been an arbitration award and there is a dearth of
22 case law that addresses a district court's authority while arbitration is still pending.

23 ⁷ American Jurisprudence 2d (AMJUR) on Alternative Dispute Resolution states that the Uniform Arbitration Act
24 "requires the court to step back and take a hands-off attitude during the arbitration proceeding, reentering the dispute
25 to confirm, modify, deny, or vacate the arbiter's award. The court at no time loses jurisdiction, but must not interfere
26 with the arbitration proceeding during the hands-off period." However, this interpretation is based off a single North
Carolina case that, in the 19 years since its publication, has not been cited once in a published opinion by a court
outside of its own state. See *Henderson v. Herman*, 104 N.C. App. 482, 409 S.E.2d 739 (1991). This case further
cited no authority other than North Carolina cases and statutes. While this Court has read that court's reasoning, it
finds the case to be of little persuasive value in determining the current issue.

⁸ 92 Nev. 721, 558 P.2d 517 (1976).

⁹ *Exber* at 723.



consolidate the arbitration hearings.¹⁰

On appeal, the Nevada Supreme Court held that the district court should not have stayed the arbitration to decide the timeliness of the demand for arbitration, holding that procedural questions should be left to the arbitrator once the matter enters arbitration. The Supreme Court recognized, however, that an arbitrator's discretion is not unfettered on these issues. "In determining a question under an arbitration agreement, an arbitrator enjoys a broad discretion, but that discretion is not without limits. He is confined to interpreting and applying the agreement, and his award need not be enforced if it is arbitrary, capricious, or unsupported by the agreement."¹¹ The Supreme Court then affirmed the district court's grant of summary judgment to consolidate the arbitration proceedings. Thus, the Supreme Court recognized that a district court retains the jurisdiction and authority to consider certain summary judgment motions while a case is proceeding in arbitration and the district courts retain inherent authority over certain matters in a case, even after an arbitrator has been appointed.

In this case, the agreement is the Trust and therefore the arbitrator's authority under the Uniform Arbitration Act is limited to the scope of the Trust. Further, the arbitration is limited to the parties subject to the trust agreement: Jane Whipple and Warner Whipple as co-trustees. Any third parties not subject to the trust agreement, or property that is not currently owned by the Trust, would be outside the arbitrator's authority.¹² The main issue in this case concerns property that was transferred from the Trust to Kent Whipple Ranch and is currently owned by Kent Whipple Ranch, which is not a party to the arbitration and over which the arbitrator has no authority.¹³

¹⁰ *Id.* at 730-34.

¹¹ *Id.* at 731

¹² *Truck Ins. Exch. v. Swanson*, 124 Nev. 629, 634, 189 P.3d 656, 660 (2008) ("Generally, arbitration is a matter of contract and 'a party cannot be required to submit to arbitration any dispute which he has not agreed so to submit.'") (quoting *Steelworkers v. Warrior & Gulf Co.*, 363 U.S. 574, 582 (1960)).

¹³ See NRS 38.221(1) (court shall order parties to arbitration "on motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement"); NRS 38.219(2) ("[t]he court shall decide whether an agreement to arbitrate exists"). The court's order compelling arbitration on August 2, 2017, granted Warner's motion to "compel the arbitration of the disagreements between Co-Trustee Jane and Co-Trustee



1 Therefore, any attempt by the arbitrator to issue an award relating to Kent Whipple Ranch or its
2 property would likely exceed her authority, and it seems that at some point this Court will have to
3 address those issues that relate to the water rights and the Kent Whipple Ranch, which are
4 inextricably intertwined with the issues currently in arbitration.
5

6 B. Nevada Arbitration Rules

7 Slightly different from the Uniform Arbitration Act, the Nevada Arbitration Rules govern
8 how cases are handled when they are entered into the Court-Annexed Arbitration Program (CAAP)
9 under NRS 38.250. CAAP is a mandatory, non-binding arbitration proceeding for certain civil
10 cases filed in Nevada and much like the Uniform Arbitration Act, its purpose is for the speedy
11 resolution of disputes between parties without the cost of extensive litigation.¹⁴ Therefore, even
12 though the Uniform Arbitration Act and CAAP are separate and distinct processes, this court finds
13 the procedure under CAAP and the Nevada Arbitration Rules to be relevant when considering the
14 extent of the court's authority while a case is proceeding in arbitration, and the legislature's intent
15 for the role of the district court during arbitration proceedings.

16 Under the Nevada Arbitration Rules ("NAR"), the case remains under the jurisdiction of
17 this Court for all phases of the proceedings, including arbitration.¹⁵ However, during the pendency
18 of arbitration proceedings, "no motion may be filed in the district court by any party, except
19 motions that are dispositive of the action, or any portion thereof, motions to amend, consolidate,
20 withdraw, intervene, or motions made pursuant to Rule 3(C), requesting a settlement conference,
21

22 Warner regarding their disputes..." (Motion to Dismiss/Stay Petition Pending Mandatory Arbitration, p. 13, l. 6-8,
23 filed November 25, 2015). The court later allowed Betsy to intervene and consolidated her into the arbitration. At no
24 point, however, did Warner or Betsy request arbitration against Kent Whipple Ranch, nor did the court order Kent
25 Whipple Ranch into arbitration. Kent Whipple Ranch is therefore not a party to the current arbitration proceeding.

26 ¹⁴ See Nevada Arbitration Rules (NAR) 2(A) ("The purpose of the program is to provide a simplified procedure for
obtaining a prompt and equitable resolution of certain civil matters"); NAR 2(C) ("Arbitration hearings are intended
to be informal, expeditious and consistent with the purposes and intent of these rules"); see also NRS 38.233(3)
("desirability of making the proceeding fair, expeditious and cost effective")
¹⁵ NAR 4(A).



1 mediation proceeding or other appropriate settlement technique.”¹⁶ The Nevada Supreme Court
2 has held that a motion for summary judgment is one such dispositive motion that can be considered
3 and ruled upon by a district court during the pendency of arbitration proceedings.¹⁷
4

5 In *United States Design*, the Nevada Supreme Court explicitly held that “[w]hile NAR 4(E)
6 prevents non-dispositive motions from being brought before the district court when arbitration is
7 pending, the district court may still dispose of a case by hearing and ruling upon a motion for
8 summary judgment.”¹⁸ The Supreme Court affirmed this in a published opinion in 2004¹⁹ and
9 again in an unpublished opinion in 2011, stating, “we conclude that the district court had the
10 authority to grant summary judgment while the case was pending in the CAAP.”²⁰

11 This Court recognizes the differences between the Uniform Arbitration Act and CAAP.
12 The Uniform Arbitration Act is bargained for, and agreed to, in a contract between the parties and
13 is binding on both parties. CAAP is legislatively mandated, even upon parties who did not agree
14 to its use, but is non-binding on the parties. However, they share a common purpose and there are
15 many similarities between the two processes. Both processes allow for discovery, for the parties
16 to put forth witnesses, and for the arbitrator to swear in those witnesses.²¹ The arbitrator must be
17 qualified, neutral, and unbiased.²² In both processes, the arbitrator determines all of the issues
18 raised in the pleadings and issues a written, signed award, including findings of fact and
19 conclusions of law.²³ The prevailing party may submit the arbitration award to the district court
20

21 ¹⁶ NAR 4(E).

22 ¹⁷ *United States Design & Constr. Corp. v. I.B.E.W. Local 357 Joint Trust Funds*, 118 Nev. 458, 464, 50 P.3d 170,
174 (2002).

23 ¹⁸ *United States Design* at 464.

¹⁹ *Trs. of the Plumbers & Pipefitters Union Local 525 Health & Welfare Trust Plan v. Developers Sur. & Indem. Co.*, 120 Nev. 56, fn. 3, 84 P.3d 59, fn. 3 (2004).

²⁰ *Ferhat v. TLC Holdings, LLC*, 2011 Nev. Unpub. LEXIS 499, p. 5, 2011 WL 3273867 (Unpublished 2011) (cited for persuasive value).

²¹ NRS 38.231; NRS 38.233; NAR 8; NAR 11.

²² NRS 38.226; NRS 38.227; NAR 7

²³ NRS 38.236; NAR 16



1 for a final judgment.²⁴ While there are certainly some procedural differences between arbitration
2 under the Uniform Arbitration Act and under CAAP, they are essentially two ways of attempting
3 to accomplish the same goal: a prompt, fair, and cost-effective resolution.
4

5 With that in mind, and given the lack of information on this issue in the Uniform
6 Arbitration Act, the NAR is good evidence of legislative intent regarding the role of the district
7 courts during arbitration. Not only did the legislature give the district courts authority to hear non-
8 dispositive motions, the Nevada Supreme Court expressly held that a district court could consider
9 and rule on motions for summary judgment while arbitration is pending.
10

11 C. Public Policy for Arbitration
12

13 Public policy regarding arbitration of disputes is usually in favor of arbitration. "All doubts
14 concerning the arbitrability of the subject matter of the dispute are to be resolved in favor of
15 arbitration. Once it is determined that an arbitrable issue exists, the parties are not to be deprived
16 by the courts of the benefits of arbitration, for which they bargained -- *speed in the resolution of*
17 *the dispute*, and the employment of the specialized knowledge and competence of the arbitrator."²⁵
18 The Nevada legislature, in adopting the Uniform Arbitration Act and Nevada Arbitration Rules,
19 desired to make a non-court proceeding that was fair, expeditious, and cost-effective.²⁶ The main
20 concern for courts removing cases from arbitration or denying arbitration has been the delay and
21 expenses typically associated with court proceedings. "[S]uch delay may entirely eliminate the
22 prospect of a speedy arbitrated settlement of the dispute, to the disadvantage of the parties (who,
23 in addition, will have to bear increased costs)..."²⁷ In *Exber*, the court warned:

24 The evils incident to bifurcating the adjudication process
25 (procedural issues being judiciable, and substantive issues being
26

²⁴ NRS 38.239; NRS 38.243; NAR 19

²⁵ *Exber* at 729 (emphasis added).

²⁶ NRS 38.233(3) ("desirability of making the proceeding fair, expeditious and cost effective"); NRS 38.233(7) ("to make the arbitral proceeding fair, expeditious and cost effective"); NAR 2(A) ("purpose of the program is to provide a simplified procedure for obtaining a prompt and equitable resolution").

²⁷ *John Wiley & Sons, Inc. v. Livingston*, 376 U.S. 543, 358 (1964).



1 arbitrable) are manifest, as in the present case. The parties,
2 obviously aware of congestion and delay in our court system, sought
3 to protect themselves *by providing for a quick and ready forum for*
4 *resolution of any disputes that might arise between them.* On June
5 4, 1973, such a dispute arose. Sletten made a demand for arbitration.
6 Three and a half years later, because the court assumed jurisdiction
7 to decide a question of procedural irregularity in presenting the
8 demand, the dispute is still not resolved.²⁸

9 Thus, the concern the *Exber* court had with a court interfering with an arbitration proceeding was
10 that the court would stay arbitration and then take longer to decide an issue than the arbitration
11 process would have taken.

12 In the current case, it has now been almost two years since the matter entered arbitration
13 and there has still not been a disposition of the case. This seems contrary to the intent of both the
14 legislature and the grantors of the Trust when arbitration was bargained for in the Trust document.
15 At this point, the court's ruling on a summary judgment motion may actually expedite the process.
16 Further, though there was a motion for summary judgment filed in this Court, this Court has not
17 stayed the arbitration proceedings, which are presumably still ongoing. In fact, the court could
18 decide the summary judgment motion without ever staying arbitration. If the motion was denied,
19 the case would proceed in arbitration as it had been. If the motion was granted and some issues
20 remained for arbitration, the arbitrator would simply no longer considers those issues that had been
21 decided by summary judgment. Finally, if the motion was granted and no more issues remained
22 for arbitration, the court would remove the case from arbitration.

23 D. Conclusion

24 The court finds that it is neither expressly prohibited nor permitted to rule on a motion for
25 summary judgment under the Uniform Arbitration Act, any other statute, or existing case law. The
26 court further finds that the Nevada legislature and Nevada Supreme Court have given district
courts the authority to decide motions for summary judgment while arbitration is ongoing under

²⁸ *Exber.* at 730 (emphasis added).



1
2 CAAP, which the court finds is analogous to the Uniform Arbitration Act. The court further finds
3 that, especially under the specific facts of this case, there is a strong public policy in favor of the
4 court exercising authority to hear and decide a motion for summary judgment, and it would be
5 appropriate and serve the underlying interests driving arbitration to rule on the summary judgment
6 motion.

7
8 However, since the court has found no statute or case law to support its authority to rule
9 on a summary judgment motion while a case is pending in arbitration, this Court finds that due to
10 the Supreme Court's previous remand order and the lack of case law on this issue, the court must
11 find that it lacks jurisdiction to entertain the motion for summary judgment and denies the motion
12 on that ground alone.²⁹

13 Good Cause Appearing,

14 **IT IS HEREBY ORDERED** that the Motion for Summary Judgment is **DENIED**.

15 DATED this 10 day of February, 2020.

16
17 
18 DISTRICT JUDGE
19
20
21
22
23
24
25
26

²⁹ As previously stated, this Court after extensive research could not find a single opinion, published or unpublished, in this state that addresses the issue of a court's jurisdiction or authority while a case is pending in arbitration.

DISTRICT COURT CIVIL COVER SHEET

Lincoln County, Nevada
Case No. CN 0930015
(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): <u>Jane Whipple</u> <u>4004 Whipple Ranch Rd.</u> <u>Hiko, NV 89017</u> <u>(702) 419-7330</u>	Defendant(s) (name/address/phone):
Attorney (name/address/phone): <u>Matthew Carling</u> <u>1100 S. Tenth St.</u> <u>Las Vegas, NV 89101</u> <u>(702) 419-7330</u>	Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <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 Probate <small>(select case type and estate value)</small> <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 Estate Value <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	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <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	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant </div> <div> <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ </div> </div>		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters <u>Petition for Declaratory Relief</u>

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

9-11-2015

Date

Matthew D. Carling
Signature of Initiating party or representative

See other side for family-related case filings.

Case No.: W 0930015

2015 SEP 11 PM 1:08

Dept. No.: 2

LINCOLN COUNTY, NEVADA
WCL

IN THE SEVENTH JUDICIAL DISTRICT COURT
LINCOLN COUNTY, NEVADA

In Re THE KENT AND JANE WHIPPLE
TRUST dated March 17, 1969, Jane Whipple,
Trustee, and amendments thereto, JANE
WHIPPLE,
Petitioner.

PETITION FOR DECLARATORY RELIEF

(NRS 30.010 *et seq.*)

COMES NOW, the Trustee, JANE WHIPPLE, by and through her attorney of record,
MATTHEW D. CARLING, ESQ., of the Carling Law Office, PC, and moves this Honorable
Court for a Decree declaring the following:

1. That the Kent & Jane Whipple Trust dated March 17, 1969, remained in effect
in 1976 after the death of Kent Whipple;
2. That Jane Whipple is a trustee of the Kent & Jane Whipple Trust dated March
17, 1969;

1 3. That the "A" and "B" trusts of the Kent & Jane Whipple Trust dated March 17,
2 1969, were never partitioned and funded;

3 4. That water right Permit 79132 was transferred to the Kent & Jane Whipple
4 Trust dated March 17, 1969, and the transfer is valid and said permit is an asset of said Trust;

5 5. That water right Permits 28599, 55918, 55919, 55920, 79132 and Claim of
6 Vested right V-01394 were transferred to the Kent Whipple Ranch, LLC, by the Kent & Jane
7 Whipple Trust dated March 17, 1969, and the transfers are valid and said permits and claim are
8 assets of the Kent Whipple Ranch, LLC.
9

10 6. That this Court confirm the appraisal (in 1976 dollars) of the Kent & Jane
11 Whipple Trust dated March 17, 1969;
12

13 7. That the A trust (dba Jane Whipple Family Trust; Jane Whipple Trustee and/or
14 Kent Whipple Trust; Jane Whipple Trustee) is the rightful owner of the Kent Whipple Ranch,
15 LLC and that Jane Whipple has an absolute right to manage, sell; water right Permits 28599,
16 55918, 55919, 55920, 79132 and Claim of Vested right V-01394.
17

18 8. Therefore that the Kent & Jane Whipple Trust dated March 17, 1969, as the sole
19 owner of the Kent Whipple Ranch, LLC has and continues to have authority to manage, sell, to
20 otherwise convey water right Permits 28599, 55918, 55919, 55920, 79132 and Claim of Vested
21 right V-01394
22

23 This Petition is made and based on the pleadings and papers on file herein, the attached
24 exhibits and any arguments as may be presented at the hearing in this matter.

25 ///

26 ///

27 ///

28

I.

STATEMENT OF FACTS

1. Kent Whipple died on February 5, 1977.

2. Prior to Kent Whipple's demise he and his wife, Jane Whipple, transferred their assets into the Kent and Jane Whipple Trust dated March 17, 1969 (hereinafter "the Trust"). (Exhibit "1")

3. The Trust required that upon the death of either Kent Whipple or Jane Whipple, the assets of the Trust be valued and partitioned into an A and B trust under the terms of the trust.

4. The assets of the Trust were never valued nor was any transfer or partition of the Trust made as of the date of death of Kent Whipple pursuant to NRS 163.002 *et seq.* To date, the A and B trusts have not been partitioned.

5. An appraisal of the Trust assets has been requested with a value date of February 5, 1977 by the American Real Estate Appraisal. (Exhibit "2")

6. In March of 1991, approximately 15 years after the passing of Kent Whipple, the Trust filed applications with the State of Nevada, Division of Water Resources, Office of the State Engineer (hereinafter "State Engineer") for ground water in the common name of Kent Whipple Ranch (Applications 55918, 55919 and 55920). The Trust paid the application, permit and water right surveyor fees appurtenant to these applications. Prior to approval by the State Engineer these applications were conveyed to the misnamed Kent Whipple Trust pursuant to an unrecorded quit claim deed. (Exhibit "3")

7. On January 1, 2006, the Trust applied to the State Engineer for a change in the point of diversion and place of use of a portion of water right Permit 55919 (Application

1 73719) in the misnamed Kent Whipple Trust. Application 73719 was permitted by the State
2 Engineer on November 1, 2006. On December 28, 2009, the Trust applied to the State
3 Engineer for a change of point diversion and place of use of water right Permit 73719
4 (Application 79132) in the properly named Kent and Jane Whipple Trust dated March 17,
5 1969. An Affidavit of Identity was filed with the State Engineer's Office acknowledging that
6 the Kent and Jane Whipple Trust, Kent Whipple Trust, and Kent Whipple Ranch, LLC, are one
7 and the same. (Exhibit "4") The State Engineer's Office accepted said Affidavit of Identity
8 and water right Permits 55918, 55919, 55920 and 73719 became vested to the Trust and
9 Application 79132 was subsequently permitted by the State Engineer on November 18, 2010,
10 in the name of the Trust, abrogating Permit 73719. (Exhibit "5") Permit 79312 remains vested
11 in the Trust.
12

13
14 8. On July 1, 2010, the Trust conveyed water right Permits 28599, 55918, 55919,
15 55920, 79312 and Claim of Vested right V01394 to the Kent Whipple Ranch, LLC. (Exhibit
16 "6")
17

18 9. On January 12, 2015, the Kent Whipple Ranch, LLC, applied to the State
19 Engineer for a change in the point of diversion, place of use and manner of use of a portion of
20 water right Permit 55918 (Application 84692).

21 10. On or about March 6, 2015, Betsy Whipple filed a Protest to Application 84692
22 stating that the "ownership of the well is questionable" and "all the assets are supposed to be in
23 the Kent Whipple Ranch Trust." Additionally, through verbal communication with personnel
24 of the Division of Water Resources, Betsy Whipple claims that assets acquired (apparently
25 even if acquired 15 years after the passing of Kent Whipple) would be part of the "B" trust, of
26 which she was a remaindermen beneficiary. (Exhibit "7")
27
28

11. On June 3, 2015, pursuant to NRS 533.386, the Division of Water Resources issued a letter to the parties informing them that the Kent Whipple Ranch, LLC's, application (84692) was being held from further consideration and that the ownership of water right Permits 28599, 55918, 55919, 55920, 79132 and Claim of Vested right V-01394 are considered questionable transfers of title of water rights until a court of competent jurisdiction determines the conflicting claims to ownerships of the water rights.

II.

FIRST CAUSE OF ACTION

(DECLARATORY RELIEF NRS 30.030 and 30.040(1))

12. Petitioner incorporates paragraphs 1-11 above as if fully set forth herein.

13. NRS 30.030 states, "Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree."

14. NRS 30.040(1) states, "Any person interested under a deed, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

///

///

15. NRS 163.008 states that a trust created in relation to real property is not valid unless it is created by operation of law or is evidenced by a written instrument signed by the trustee, or by the agent of the trustee.

16. The Kent Whipple Ranch, LLC, has made application for a change in usage of certain Permits. Betsy Whipple has challenged that Application alleging that the Kent Whipple Ranch, LLC, or Jane Whipple, as trustee of the Trust, does not have the authority to make such an application.

17. The State Engineer refuses to proceed with Application 84692 and that the ownership of water Permits 28599, 55918, 55919, 55930, 79132 and Claim of Vested right V-01394 are considered questionable transfers of title of water rights until a court of competent jurisdiction adjudicates that claims set forth herein.

18. Jane Whipple, the Petitioner, has never executed any documents creating an A or B trust pursuant to the Trust.

19. Jane Whipple, the Petitioner, has never executed any written instruments conveying any of the Trust assets to an A or B trust.

III.

PRAYER FOR RELIEF

WHEREFORE, the Petitioner prays that this Court declare the following:

1. That the Kent & Jane Whipple Trust dated March 17, 1969, remained in effect in 1976 after the death of Kent Whipple;

2. That Jane Whipple is a trustee of the Kent & Jane Whipple Trust dated March 17, 1969;

///

1 3. That the "A" and "B" trusts of the Kent & Jane Whipple Trust dated March 17, 1969,
2 were never partitioned and funded;

3 4. That water right Permit 79132 was transferred to the Kent & Jane Whipple Trust dated
4 March 17, 1969, and the transfer is valid and said permit is an asset of said Trust;

5 5. That water right Permits 28599, 55918, 55919, 55920, 79132 and Claim of Vested
6 right V-01394 were transferred to the Kent Whipple Ranch, LLC, by the Kent & Jane Whipple
7 Trust dated March 17, 1969, and the transfers are valid and said permits and claim are assets of
8 the Kent Whipple Ranch, LLC.
9

10 6. That this Court confirm the appraisal (in 1976 dollars) of the Kent & Jane Whipple
11 Trust dated March 17, 1969;
12

13 7. That the A trust (d/b/a Jane Whipple Family Trust; Jane Whipple Trustee and/or Kent
14 Whipple Trust; Jane Whipple Trustee) is the rightful owner of the Kent Whipple Ranch, LLC
15 and that Jane Whipple has an absolute right to manage, sell; water right Permits 28599, 55918,
16 55919, 55920, 79132 and Claim of Vested right V-01394.
17

18 8. Therefore that the Kent & Jane Whipple Trust dated March 17, 1969, as the sole
19 owner of the Kent Whipple Ranch, LLC has and continues to have authority to manage, sell, to
20 otherwise convey water right Permits 28599, 55918, 55919, 55920, 79132 and Claim of Vested
21 right V-01394
22

23 ///

24 ///

25 ///

26 ///

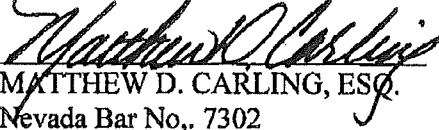
27 ///

28

1 9. For any other relief deemed necessary by this Court

2 DATED this 31st day of August, 2015.

3 CARLING LAW OFFICE, PC

4 
MATTHEW D. CARLING, ESQ.

5 Nevada Bar No., 7302

6 1100 S. Tenth Street

7 Las Vegas, NV 89101

8 (702) 419-7330 (Office)

9 (702) 446-8065 (Fax)

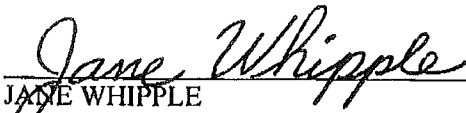
10 *Attorney for Petitioner,*

11 JANE WHIPPLE


VERIFICATION

STATE OF NEVADA)
) ss:
COUNTY OF LINCOLN)

That under penalties of perjury the undersigned, JANE WHIPPLE, declares that she is the Petitioner named in the foregoing Petition for Declaratory Relief, that he knows the contents thereof, and that the same are true of her own knowledge, except as to those matters therein alleged on information and belief, and as to those matters, she believes them to be true.


JANE WHIPPLE

SUBSCRIBED and SWORN to me
this 27th day of August, 2015


NOTARY PUBLIC

