

Electronically Filed
Jan 14 2021 01:52 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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Telephone: (702) 262-6899

Facsimile: (702) 597-5503

Attorneys for Plaintiff

Nevada Policy Research Institute

DISTRICT COURT

CLARK COUNTY, NEVADA

NEVADA POLICY RESEARCH INSTITUTE, a
Nevada domestic nonprofit corporation,

Plaintiff,

vs.

NICOLE J. CANNIZZARO, an individual engaging
in dual employment with the Nevada State Senate
and Clark County District Attorney; KASINA
DOUGLASS-BOONE, an individual engaging in
dual employment with the Nevada State Assembly
and Clark County School District; JASON
FRIERSON, an individual engaging in dual
employment with the Nevada State Assembly and
Clark County Public Defender; OSVALDO FUMO,
an individual engaging in dual employment with the
Nevada State Assembly and University of Nevada,
Las Vegas; HEIDI SEEVERS GANSERT, an
individual engaging in dual employment with the
Nevada State Senate and University of Nevada
Reno; GLEN LEAVITT, an individual engaging in
dual employment with the Nevada State Assembly
and Regional Transportation Commission;
BRITTNEY MILLER, an individual engaging in
dual employment with the Nevada State Assembly
and Clark County School District; DINA NEAL, an

Case No.: A-20-817757-C
Dept. No.: VIII

NOTICE OF APPEAL

individual engaging in dual employment with the Nevada State Assembly and Nevada State College; JAMES OHRENSCHALL, an individual engaging in dual employment with the Nevada State Senate and Clark County Public Defender; MELANIE SCHEIBLE an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; TERESA BENITEZ-THOMPSON, an individual engaging in dual employment with the Nevada State Assembly and University of Nevada, Reno; JILL TOLLES, an individual engaging in dual employment with the Nevada State Assembly and University of Nevada, Reno; and SELINA TORRES, an individual engaging in dual employment with the Nevada State Assembly and Clark County School District,

Defendants.

NOTICE IS HEREBY GIVEN that Plaintiff Nevada Policy Research Institute (“NPRI”), by and through its attorneys of record, Deanna L. Forbush, Esq. and Colleen E. McCarty, Esq., of Fox Rothschild LLP, hereby appeals to the Supreme Court of Nevada from the Omnibus Order Granting Motions to Dismiss, entered in this action on December 8, 2020, the Order Granting Nevada Legislature’s Motion to Intervene as Defendant, entered in this action on December 8, 2020, the Order Denying Plaintiff’s Motion to Disqualify Official Attorneys, entered on December 9, 2020, and the Order Denying Plaintiff’s Motion for Clarification, Granting Joint Countermotion to Dismiss All Remaining Defendants Based on Plaintiff’s Lack of Standing, and Entering Final Judgment in Favor of All Defendants Based on Plaintiff’s Lack of Standing entered in this action on December 28, 2020.

Dated this 8th day of January, 2021.

FOX ROTHSCHILD LLP

By: /s/ Deanna L. Forbush
DEANNA L. FORBUSH
Nevada Bar No. 6646
COLLEEN E. MCCARTY
Nevada Bar No. 13186
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Fox Rothschild LLP and that on this 8th day of January, 2021, I caused the foregoing document entitled **NOTICE OF APPEAL** to be served upon each of the parties, listed below, via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

Berna L. Rhodes-Ford, General Counsel
Nevada State College
1300 Nevada State Drive, RSC 374
Henderson, Nevada 89002
Email: berna.rhodes-ford@nsc.edu
*Attorneys for Defendants Osvaldo Fumo,
Heidi Seevers Gansert and Dina Neal*

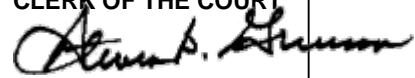
Gary A. Cardinal, Assistant General Counsel
University of Nevada, Reno
1664 North Virginia Street/MS 0550
Reno, Nevada 89557-0550
Email: gcardinal@unr.edu
*Attorneys for Defendants Osvaldo Fumo,
Heidi Seevers Gansert and Dina Neal*

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Daniel Bravo, Esq.
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Email: bschrager@wrslawyers.com
Email: dbravo@wrslawyers.com
*Attorneys for Defendants Brittney Miller and
Selena Torres*

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Las Vegas, Nevada 89145
Email: jblum@wileypetersenlaw.com
*Attorneys for Defendant Jason Frierson and
Nicole Cannizzaro*

Kevin C. Powers, General Counsel
Legislative Counsel Bureau, Legal Division
401 S. Carson Street
Carson City, Nevada 89701
Email: kpowers@lcb.state.nv.us
Attorneys for Nevada Legislature

/s/ Natasha Martinez
An Employee of Fox Rothschild LLP



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Las Vegas, Nevada 89135

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Facsimile: (702) 597-5503

Attorneys for Plaintiff

Nevada Policy Research Institute

DISTRICT COURT

CLARK COUNTY, NEVADA

NEVADA POLICY RESEARCH INSTITUTE, a
Nevada domestic nonprofit corporation,

Plaintiff,

vs.

NICOLE J. CANNIZZARO, an individual engaging
in dual employment with the Nevada State Senate
and Clark County District Attorney; KASINA
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and Clark County School District; JASON
FRIERSON, an individual engaging in dual
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Clark County Public Defender; OSVALDO FUMO,
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Nevada State Assembly and University of Nevada,
Las Vegas; HEIDI SEEVERS GANSERT, an
individual engaging in dual employment with the
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Reno; GLEN LEAVITT, an individual engaging in
dual employment with the Nevada State Assembly
and Regional Transportation Commission;
BRITTNEY MILLER, an individual engaging in
dual employment with the Nevada State Assembly
and Clark County School District; DINA NEAL, an

Case No.: A-20-817757-C

Dept. No.: VIII

CASE APPEAL STATEMENT

individual engaging in dual employment with the Nevada State Assembly and Nevada State College; JAMES OHRENSCHALL, an individual engaging in dual employment with the Nevada State Senate and Clark County Public Defender; MELANIE SCHEIBLE an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; TERESA BENITEZ-THOMPSON, an individual engaging in dual employment with the Nevada State Assembly and University of Nevada, Reno; JILL TOLLES, an individual engaging in dual employment with the Nevada State Assembly and University of Nevada, Reno; and SELENA TORRES, an individual engaging in dual employment with the Nevada State Assembly and Clark County School District,

Defendants.

Plaintiff Nevada Policy Research Institute (“NPRI” or “Appellant”), by and through its attorneys of record, Deanna L. Forbush, Esq. and Colleen E. McCarty, Esq., of Fox Rothschild LLP, hereby submits its Case Appeal Statement, pursuant to Rule 3(f) of the Nevada Rules of Appellate Procedure, as follows:

(A) The district court case number and caption showing the names of all parties to the proceeding below:

The district court case number and caption are stated above.

(B) Identify the judge issuing the decision, judgment, or order appealed from:

The Honorable Jim Crockett.

(C) Identify each appellant and the name and address of counsel for each appellant:

Nevada Policy Research Institute
Deanna L. Forbush, Esq.
Colleen E. McCarty, Esq.
Fox Rothschild LLP
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135
Attorneys for Appellant

(D) Identify of each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):

The Respondents are Nicole J. Cannizzaro, Jason Frierson, Heidi Seevers Gansert, Glen Leavitt, Brittney Miller, Dina Neal, James Ohrenschall, Melanie Scheible, Jill Tolles, and Selena Torres. Defendants Teresa Benitez-Thompson, Osvaldo Fumo, and Kasina Douglas-Boone were voluntarily dismissed below.

Berna L. Rhodes-Ford, General Counsel
Nevada State College
1300 Nevada State Drive, RSC 374
Henderson, Nevada 89002
Attorneys for Defendants Heidi Seevers Gansert,
Dina Neal and Jill Tolles

Gary A. Cardinal, Assistant General Counsel
University of Nevada, Reno
1664 North Virginia Street/MS 0550
Reno, Nevada 89557-0550
Attorneys for Defendants Heidi Seevers Gansert,
Dina Neal and Jill Tolles

Bradley Schrager, Esq.
Daniel Bravo, Esq.
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP
3556 E. Russell Road, Second Floor
Las Vegas, Nevada 89120
Attorneys for Defendants Brittney Miller and Selena Torres

Jonathan D. Blum, Esq.
Wiley Petersen
1050 Indigo Drive, Suite 200B
Las Vegas, Nevada 89145
Attorneys for Defendant Jason Frierson, Nicole Cannizzaro,
and Melanie Scheible

Kevin C. Powers, General Counsel
Legislative Counsel Bureau, Legal Division
401 S. Carson Street
Carson City, Nevada 89701
Attorney for Nevada Legislature

1 **(E) Indicate whether any attorney identified above in response to question 3 or 4 is**
2 **not licensed to practice law in Nevada and, if so, whether the district court granted that**
3 **attorney permission to appear under SCR 42 (attach a copy of any district court order**
4 **granting such permission):**

5 Not applicable.

6 **(F) Indicate whether appellant was represented by appointed or retained counsel in**
7 **the district court, and whether appellant is represented by appointed or retained counsel on**
8 **appeal:**

9 Appellant was represented by retained counsel in the district court and is represented by the
10 same retained counsel on appeal.

11 **(G) Indicate whether appellant was granted leave to proceed in forma pauperis, and**
12 **the date of entry of the district court order granting such leave:**

13 Not applicable.

14 **(H) Indicate the date the proceedings commenced in the district court (e.g., date**
15 **complaint, indictment, information, or petition was filed):**

16 NPRI commenced proceedings in the district court by filing its Complaint on July 9, 2020.
17 NPRI filed the operative Amended Complaint thereafter on July 23, 2020.

18 **(I) Provide a brief description of the nature of the action and result in the district**
19 **court, including the type of judgment or order being appealed and the relief granted by the**
20 **district court:**

21 On July 23, 2020, NPRI filed the operative Amended Complaint for Declaratory and
22 Injunctive Relief in the public interest to address the ongoing constitutional violations, pursuant to
23 Nevada Const. Art. 3, §1, ¶1, by Defendants, and each of them, for engaging in dual employment by
24 simultaneously holding elected offices in the Nevada State Legislature and paid positions with
25 Nevada State or local governments. The Amended Complaint alleges that Defendants' dual
26 employment expressly violates the Separation of Powers requirement of Nevada Const. Art. 3, §1, ¶1
27 and undermines the ethics of their legislative service by creating conflicts, concentrating power, and
28 diluting the separation of powers.

1 On September 18, 2020, Defendant Brittney Miller filed a Motion to Dismiss Complaint
2 (“Miller MTD”). On September 24, 2020, Defendants Osvaldo Fumo, Heidi Seevers Gansert and
3 Dina Neal filed a Motion to Dismiss Pursuant to NRCP 12(b)(5) and NRCP 12(b)(6) (“NSHE
4 Defendants’ MTD”). On October 5, 2020, Defendant Jason Frierson filed a Motion to Dismiss
5 (“Frierson MTD”). On October 19, 2020, Defendant Nicole Cannizzaro filed a Motion to Dismiss
6 (“Cannizzaro MTD,” and with the Miller MTD, the NSHE Defendants’ MTD and the Frierson
7 MTD, collectively, the “Motions to Dismiss”). The Motions to Dismiss argued in pertinent part that
8 NPRI lacked standing to bring its claims because it failed to meet the public importance exception
9 set forth by this Court in *Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894 (2016) or to
10 articulate its own particularized injury.

11 Thereafter, Defendants Fumo, Gansert and Neal joined the Miller MTD on September 24,
12 2019. On October 5, 2020, Defendant Frierson joined the Miller MTD and the NSHE Defendants’
13 MTD. On October 6, 2020, Defendant Torres joined the Miller MTD and Defendants Torres and
14 Miller collectively joined the NSHE Defendants’ MTD and the Frierson MTD. And, on October 19,
15 2020, Defendant Cannizzaro joined the Miller MTD and the NSHE Defendants’ MTD.

16 On September 25, 2020, following the appearance of in-house counsel with the Nevada
17 System of Higher Education (“NSHE”) on behalf of Defendants Osvaldo Fumo, Heidi Seevers
18 Gansert and Dina Neal (“NSHE Defendants”), NPRI filed Plaintiff’s Motion to Disqualify the
19 Official Attorneys from Representing Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina
20 Neal (“Motion to Disqualify”). NPRI argued that the NSHE Defendants were sued solely because of
21 their alleged individual actions to engage in dual employment in violation of Article 3 of the Nevada
22 Constitution, and not in any official capacity that would constitute a circumstance under which an
23 official government attorney is permitted to provide their defense at the State’s expense.

24 On September 30, 2020, the Nevada Legislature moved to intervene in the matter below and
25 filed Nevada Legislature’s Motion to Intervene as Defendant (“Motion to Intervene”). Attorneys for
26 the Legislative Counsel Bureau argued on behalf of the Legislature that the Legislature had an
27 unconditional right and standing to intervene pursuant to NRCP 24(a) and (b) and NRS 218F.720.

28 All of the above-referenced Motions and Joinders were fully briefed and set for hearing on

1 Order Shortening Time on November 19, 2020. On November 18, 2020, without a hearing, the
2 Court issued a Minute Order deciding all pending motions. The trial court specifically granted the
3 Motions to Dismiss, and although not referenced, presumably all joinders thereto, based on a finding
4 that, “Nevada Policy Research Institute clearly lacks standing to bring this suit and thus the
5 Motions[s] to Dismiss must be GRANTED.” The Court further found that “Nevada Policy Research
6 Institute ... does not make persuasive arguments regarding standing,” and that the Court “is not
7 persuaded that Nevada Policy Research Institute comes within the recent Schwartz [public
8 importance] exception.” The Court, however, did not indicate which factor or factors permitting
9 standing to sue under the public importance exception set forth in *Schwartz v. Lopez* that NPRI failed
10 to meet.

11 The trial court further denied the Motion to Disqualify on the same basis. And, the trial court
12 granted the Motion to Intervene finding that the Nevada Legislature was entitled to intervention as a
13 matter of right and that in the event it was only entitled to permissive intervention, the trial court
14 would exercise its discretion to allow it to intervene permissively. The trial court directed the
15 prevailing parties to prepare the Orders.

16 In light of the significant importance, for purposes of the instant appeal, of knowing the trial
17 court’s basis for denying the application of the public importance exception in the instant case, on
18 December 1, 2020, NPRI brought Plaintiff’s Motion for the Court’s Clarification of its Decision to
19 Grant Defendants’ Motions to Dismiss Based on Plaintiff’s Lack of Standing on Order Shortening
20 Time (“Motion for Clarification”). At the time of filing, no prevailing party had timely submitted a
21 proposed order for review by NPRI or the district court, and no future hearings were pending.
22 Further, the imminent retirement of the Honorable Jim Crockett prompted NPRI to move
23 expeditiously.

24 Defendants opposed NPRI’s effort to seek clarification of the trial court’s decision and filed
25 the Joint Opposition to Plaintiff’s Motion for the Court’s Clarification of its Decision to Grant
26 Defendants’ Motions to Dismiss Based on Plaintiff’s Lack of Standing and Countermotion to
27 Dismiss all Remaining Defendants Based on Plaintiff’s Lack of Standing (“Joint Opposition and
28 Countermotion”). Throughout the course of the litigation, Defendants Glen Leavitt, James

1 Orenschall and Melanie Scheible intentionally evaded service and were not included within the
2 district court's disposition in the November 18 Minute Order. Service by publication of all three was
3 effective on December 10, 2020, although Defendant Scheible retained counsel who accepted
4 service on her behalf on December 9, 2020. In the Joint Opposition and Countermotion, filed
5 December 7, 2020, Defendants argued that the Court could not clarify orders that had not yet been
6 entered.

7 The following day, on December 8, 2020, the trial court entered the Omnibus Order Granting
8 Motion to Dismiss, and on December 9, 2020, it entered the Order Denying Plaintiff's Motion to
9 Disqualify Official Attorneys and the Order Granting Legislature's Motion to Intervene as
10 Defendants. On December 14, 2020, NPRI referenced the Orders in Plaintiff Nevada Policy
11 Research Institute's: (1) Notice of Non-Opposition to Joint Countermotion to Dismiss All
12 Remaining Defendants Based on Plaintiff's Lack of Standing and (2) Limited Reply in Support of
13 Motion for the Court's Clarification of its Decision to Grant Defendants' Motions to Dismiss Based
14 on Plaintiff's Lack of Standing ("Non-Opposition and Reply"), which again sought clarification of
15 the trial court's decision and entry of a final judgment as to all remaining Defendants pursuant to
16 NRCP 54(b).

17 On December 15, 2020, the trial court entered a Minute Order denying the Motion for
18 Clarification on the incorrect basis that "there is no order that has been signed and filed yet and thus
19 the motion is premature since one cannot clarify what does not exist." In its letter of December 16,
20 2020, which was left-side filed into the case, NPRI reminded the trial court that it entered all pending
21 orders on December 8 and 9, 2020, and requested that it either place the Motion for Clarification
22 back on calendar or correct the record and provide the actual basis for its denial of NPRI's request.
23 The following day, again by Minute Order, the trial court revised its basis for denying the Motion for
24 Clarification and stated, "... the Court is of the view that the issue of Standing needs no further
25 clarification and is entirely dispositive of the arguments raised by Plaintiff." The Court entered a
26 final order on the Motion for Clarification and Countermotion on December 28, 2020.

27 This appeal follows seeking this Court's guidance on the pure questions of law of: (i)
28 whether NPRI has standing to challenge Defendants' dual employment pursuant to the Separation of

1 Powers requirement of Nevada Const. Art. 3, §1, ¶1; (ii) whether the NSHE Defendants were
2 entitled to representation by the Official Attorneys; and (iii) whether the Nevada Legislature
3 qualified for intervention, either as a matter of right or permissively.

4 **(J) Indicate whether the case has previously been the subject of an appeal to or**
5 **original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court**
6 **docket number of the prior proceeding:**

7 Not applicable.

8 **(K) Indicate whether this appeal involves child custody or visitation:**

9 Not applicable.

10 **(L) Indicate whether this appeal involves the possibility of settlement:**

11 No. This matter seeks the Court's decision regarding pure questions of law and is not likely
12 to benefit from a settlement conference.

13 Dated this 11th day of January, 2021.

14 **FOX ROTHSCHILD LLP**

15
16 By: /s/ Deanna L. Forbush

17 DEANNA L. FORBUSH

18 Nevada Bar No. 6646

19 COLLEEN E. MCCARTY

20 Nevada Bar No. 13186

21 1980 Festival Plaza Drive, Suite 700

22 Las Vegas, Nevada 89135

23 Telephone: (702) 262-6899

24 Attorneys for Plaintiff

25 Nevada Policy Research Institute
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Fox Rothschild LLP and that on this 11th day of January, 2021, I caused the foregoing document entitled **CASE APPEAL STATEMENT** to be served upon each of the parties, listed below, via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve system.

Berna L. Rhodes-Ford, General Counsel
Nevada State College
1300 Nevada State Drive, RSC 374
Henderson, Nevada 89002
Email: berna.rhodes-ford@nsc.edu
*Attorneys for Defendants Osvaldo Fumo,
Heidi Seevers Gansert and Dina Neal*

Gary A. Cardinal, Assistant General Counsel
University of Nevada, Reno
1664 North Virginia Street/MS 0550
Reno, Nevada 89557-0550
Email: gcardinal@unr.edu
*Attorneys for Defendants Osvaldo Fumo,
Heidi Seevers Gansert and Dina Neal*

Bradley Schrager, Esq.
Daniel Bravo, Esq.
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Las Vegas, Nevada 89120
Email: bschrager@wrslawyers.com
Email: dbravo@wrslawyers.com
*Attorneys for Defendants Brittney Miller and
Selena Torres*

Jonathan D. Blum, Esq.
Wiley Petersen
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Las Vegas, Nevada 89145
Email: jblum@wileypetersenlaw.com
*Attorneys for Defendant Jason Frierson and
Nicole Cannizzaro*

Kevin C. Powers, General Counsel
Legislative Counsel Bureau, Legal Division
401 S. Carson Street
Carson City, Nevada 89701
Email: kpowers@lcb.state.nv.us
Attorneys for Nevada Legislature

/s/ Natasha Martinez
An Employee of Fox Rothschild LLP

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. A-20-817757-C**

Nevada Policy Research Institute, Plaintiff(s)
 vs.
 Nicole Cannizzaro, Defendant(s)

§
 §
 §
 §
 §

Location: **Department 8**
 Judicial Officer: **Peterson, Jessica K.**
 Filed on: **07/09/2020**
 Case Number History:
 Cross-Reference Case Number: **A817757**

CASE INFORMATION**Statistical Closures**

12/28/2020 Involuntary Dismissal

Case Type: **Other Civil Matters**

Case Status: **12/28/2020 Dismissed**

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-20-817757-C
 Court Department 8
 Date Assigned 01/04/2021
 Judicial Officer Peterson, Jessica K.

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Nevada Policy Research Institute	Forbush, Deanna <i>Retained</i> 702-262-6899(W)
Defendant	Benitez-Thompson, Teresa Removed: 09/17/2020 Dismissed	
	Cannizzaro, Nicole J.	Blum, Jonathan D. <i>Retained</i> 702-910-3329(W)
	Douglass-Boone, Kasina Removed: 09/29/2020 Dismissed	
	Frierson, Jason Removed: 12/08/2020 Dismissed	Blum, Jonathan D. <i>Retained</i> 702-910-3329(W)
	Fumo, Osvaldo Removed: 11/16/2020 Dismissed	Rhodes-Ford, Berna L. <i>Retained</i> 702-680-1750(W)
	Gansert, Heidi Seevers Removed: 12/08/2020 Dismissed	Rhodes-Ford, Berna L. <i>Retained</i> 702-680-1750(W)
	Leavitt, Glen Removed: 12/28/2020 Dismissed	
	Miller, Brittney Removed: 12/08/2020 Dismissed	Schrager, Bradley S. <i>Retained</i> 702-341-5200(W)
	Neal, Dina Removed: 12/08/2020	Rhodes-Ford, Berna L. <i>Retained</i>

CASE SUMMARY**CASE NO. A-20-817757-C**

Dismissed

702-680-1750(W)

Ohrenschall, James

Removed: 12/28/2020

Dismissed

Scheible, Melanie

Removed: 12/28/2020

Dismissed

Seevers Gansert, Heidi

Removed: 12/08/2020

Dismissed

Tolles, Jill

Removed: 12/28/2020

Dismissed

Torres, Selena

Removed: 12/28/2020

Dismissed

Schrager, Bradley S.*Retained*









702-341-5200(W)

**Intervenor
Defendant****Nevada Legislature**

Removed: 12/28/2020


Dismissed

Powers, Kevin C.*Retained*

DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
07/09/2020	 Complaint Filed By: Plaintiff Nevada Policy Research Institute <i>Complaint for Declaratory and Injunctive Relief</i>	
07/09/2020	 Initial Appearance Fee Disclosure Filed By: Plaintiff Nevada Policy Research Institute <i>Initial Appearance Fee Disclosure</i>	
07/09/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>	
07/09/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>	
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CASE SUMMARY

CASE NO. A-20-817757-C

07/09/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>
07/09/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>
07/09/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>
07/28/2020	 Amended Complaint Filed By: Plaintiff Nevada Policy Research Institute <i>Amended Complaint for Declaratory and Injunctive Relief</i>
08/03/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>
08/03/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>
08/03/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>
08/03/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>
08/03/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>
08/03/2020	 Summons Electronically Issued - Service Pending <i>Summons</i>
08/03/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>
08/03/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute <i>Summons</i>
08/03/2020	 Summons Electronically Issued - Service Pending <i>Summons</i>
08/03/2020	 Summons Electronically Issued - Service Pending Party: Plaintiff Nevada Policy Research Institute

CASE SUMMARY

CASE NO. A-20-817757-C

Summons

08/03/2020



Summons Electronically Issued - Service Pending

Party: Plaintiff Nevada Policy Research Institute

Summons

08/03/2020



Summons Electronically Issued - Service Pending

Party: Plaintiff Nevada Policy Research Institute

Summons

08/03/2020



Summons Electronically Issued - Service Pending

Summons

09/16/2020



Notice of Appearance

Party: Defendant Miller, Brittney

Notice of Appearance of Counsel

09/16/2020



Initial Appearance Fee Disclosure

Filed By: Defendant Miller, Brittney

Initial Appearance Fee Disclosure

09/16/2020



Peremptory Challenge

Filed by: Defendant Miller, Brittney

Peremptory Challenge of Judge

09/16/2020



Affidavit of Service

Filed By: Plaintiff Nevada Policy Research Institute

Affidavit of Service

09/16/2020



Affidavit of Service

Affidavit of Service

09/16/2020



Affidavit of Service

Filed By: Plaintiff Nevada Policy Research Institute

Affidavit of Service

09/16/2020



Affidavit of Service

Filed By: Plaintiff Nevada Policy Research Institute

Affidavit of Service

09/17/2020



Notice of Voluntary Dismissal

Filed By: Plaintiff Nevada Policy Research Institute

Notice of Voluntary Dismissal of Defendant Teresa Benitez-Thompson

09/17/2020



Notice of Department Reassignment

Notice of Department Reassignment

09/18/2020



Motion to Dismiss

Filed By: Defendant Miller, Brittney

Defendant Brittney Miller's Motion to Dismiss Complaint

09/18/2020







Clerk's Notice of Hearing

Notice of Hearing

CASE SUMMARY

CASE NO. A-20-817757-C

09/22/2020	 Affidavit of Service Filed By: Plaintiff Nevada Policy Research Institute <i>Affidavit of Service</i>
09/22/2020	 Peremptory Challenge Filed by: Plaintiff Nevada Policy Research Institute <i>Peremptory Challenge of Judge</i>
09/22/2020	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
09/24/2020	 Notice of Appearance Party: Defendant Torres, Selena <i>Notice of Appearance of Counsel</i>
09/24/2020	 Initial Appearance Fee Disclosure Filed By: Defendant Torres, Selena <i>Initial Appearance Fee Disclosure</i>
09/24/2020	 Motion to Dismiss Filed By: Defendant Fumo, Osvaldo; Defendant Gansert, Heidi Seevers; Defendant Neal, Dina <i>Motion to Dismiss</i>
09/24/2020	 Joinder To Motion Filed By: Defendant Seevers Gansert, Heidi; Defendant Fumo, Osvaldo; Defendant Neal, Dina <i>NSHE Defendants Fumo, Gansert, and Neal's Joinder in Defendant Brittnew Miller's Motion to Dismiss Complaint</i>
09/25/2020	 Clerk's Notice of Nonconforming Document <i>Clerk's Notice of Nonconforming Document</i>
09/25/2020	 Motion to Disqualify Attorney Filed By: Plaintiff Nevada Policy Research Institute <i>Plaintiff's Motion to Disqualify the Official Attorneys from Representing Defendants Osvaldo Fumo, Heidi Seevers Gansert and Dina Neal on Order Shortening Time</i>
09/28/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
09/28/2020	 Motion to Dismiss Filed By: Defendant Seevers Gansert, Heidi; Defendant Fumo, Osvaldo; Defendant Neal, Dina <i>Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Motion to Dismiss Pursuant to NRCP 12(b)(5) and NRCP 12(b)(6)</i>
09/28/2020	 Notice of Voluntary Dismissal Filed By: Plaintiff Nevada Policy Research Institute <i>Notice of Voluntary Dismissal of Defendant Kasina Douglass-Boone</i>
09/29/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>

CASE SUMMARY

CASE NO. A-20-817757-C

09/29/2020	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
09/29/2020	 Clerk's Notice of Nonconforming Document <i>Clerk's Notice of Nonconforming Document</i>
09/29/2020	 Motion for Order Filed By: Plaintiff Nevada Policy Research Institute <i>Plaintiff's Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible</i>
09/29/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
09/30/2020	 Motion to Intervene Party: Intervenor Defendant Nevada Legislature <i>Nevada Legislature's Motion to Intervene as Defendant</i>
09/30/2020	 Clerk's Notice of Nonconforming Document and Curative Action <i>Clerk's Notice of Curative Action</i>
09/30/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
09/30/2020	 Motion to Dismiss <i>Conforming Filing</i>
10/02/2020	 Opposition to Motion to Dismiss Filed By: Plaintiff Nevada Policy Research Institute <i>Plaintiff's Opposition to Motion to Dismiss Filed by Defendant Brittney Miller, and the Joinder Thereto Filed by Defendants Osvaldo Fumo, Heidi Seevers Gansert, and DIna Neal</i>
10/02/2020	 Notice of Non Opposition <i>Notice of Non Opposition</i>
10/05/2020	 Motion to Dismiss Filed By: Defendant Frierson, Jason <i>Defendant Jason Frierson's Motion to Dismiss</i>
10/05/2020	 Initial Appearance Fee Disclosure Filed By: Defendant Frierson, Jason <i>Defendant Jason Frierson's Initial Appearance Fee Disclosure</i>
10/05/2020	 Notice of Non Opposition Filed By: Defendant Frierson, Jason <i>Defendant Jason Frierson's Notice of Non-Opposition to Defendant Nevada Legislature's Motion to Intervene as Defendant</i>
10/05/2020	 Joinder To Motion Filed By: Defendant Frierson, Jason <i>Defendant Jason Frierson's Joinder to Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Motion to Dismiss Pursuant to NRCP 12(b)(5) and NRCP 12(b)(6)</i>

CASE SUMMARY

CASE NO. A-20-817757-C

10/05/2020	 Joinder To Motion Filed By: Defendant Frierson, Jason <i>Defendant Jason Frierson's Joinder to Defendant Brittney Miller's Motion to Dismiss Complaint</i>
10/06/2020	 Joinder To Motion Filed By: Defendant Torres, Selena <i>Defendant Selena Torres's Joinder to Brittney Miller's Motion to Dismiss Complaint</i>
10/06/2020	 Joinder To Motion Filed By: Defendant Miller, Brittney <i>Defendants Brittney Miller and Selena Torres s Joinder to Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal s Motion to Dismiss</i>
10/06/2020	 Joinder To Motion Filed By: Defendant Miller, Brittney <i>Defendants Brittney Miller and Selena Torres s Joinder to Defendant Jason Frierson s Motion to Dismiss</i>
10/06/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
10/06/2020	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
10/08/2020	 Opposition to Motion to Dismiss Filed By: Plaintiff Nevada Policy Research Institute <i>Plaintiff's Opposition to Motion to Dismiss Filed by Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal and Joinders Thereto filed by Defendants Jason Frierson, Brittney Miller, and Selena Torres</i>
10/09/2020	 Opposition to Motion <i>Opposition to Plaintiff's Motion to Disqualify</i>
10/13/2020	 Peremptory Challenge Filed by: Plaintiff Nevada Policy Research Institute <i>Peremptory Challenge of Judge</i>
10/14/2020	 Notice of Department Reassignment <i>Notice of Department Reassignment</i>
10/14/2020	 Notice of Change of Hearing <i>Notice of Change of Hearings</i>
10/14/2020	 Notice of Non Opposition <i>Notice of Non-Opposition to Plaintiff's Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrehschall, and Melanie Scheible</i>
10/14/2020	 Opposition to Motion Filed By: Plaintiff Nevada Policy Research Institute <i>Plaintiff's Opposition to Nevada Legislature's Motion to Intervene as Defendant</i>
10/16/2020	 Reply to Opposition <i>NSHE'S REPLY TO NPRI'S OPPOSITION TO MOTION TO DISMISS</i>

CASE SUMMARY

CASE NO. A-20-817757-C

10/16/2020	 Affidavit of Service Filed By: Plaintiff Nevada Policy Research Institute <i>Affidavit of Service</i>
10/17/2020	 Ex Parte Order <i>Plaintiff's Ex Parte Application for Order and Order Shortening Time to Hear Motion to Disqualify-C2</i>
10/19/2020	 Opposition to Motion to Dismiss Filed By: Plaintiff Nevada Policy Research Institute <i>Plaintiff's Opposition to Motion to Dismiss Filed by Defendant Jason Frierson and Joinders Thereto Filed by Brittney Miller and Selena Torres</i>
10/19/2020	 Motion to Dismiss Filed By: Defendant Cannizzaro, Nicole J. <i>Defendant Nicole Cannizzaro's Motion to Dismiss</i>
10/19/2020	 Initial Appearance Fee Disclosure Filed By: Defendant Cannizzaro, Nicole J. <i>Defendant Nicole Cannizzaro's Initial Appearance Fee Disclosure</i>
10/19/2020	 Joinder To Motion Filed By: Defendant Cannizzaro, Nicole J. <i>Defendant Nicole Cannizzaro's Joinder to Defendant Brittney Miller's Motion to Dismiss Complaint</i>
10/19/2020	 Joinder To Motion Filed By: Defendant Cannizzaro, Nicole J. <i>Defendant Nicole Cannizzaro's Joinder to Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Motion to Dismiss Pursuant to NRCP 12(b)(5) and NRCP 12(b)(6)</i>
10/20/2020	 Ex Parte Motion for Enlargement of Time Filed By: Plaintiff Nevada Policy Research Institute <i>Plaintiff's Ex Parte Motion for Enlargement of Time to Serve Amended Complaint for Declaratory and Injunctive Relief and for an Order Allowing Service by Publication of Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible</i>
10/20/2020	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
10/20/2020	 Clerk's Notice of Hearing <i>Clerk's Notice of Hearing</i>
10/21/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
10/21/2020	 Opposition <i>DEFENDANTS OSVALDO FUMO, HEIDI SEEVERS GANSERT, AND DINA NEAL S OPPOSITION TO PLAINTIFF S EX PARTE APPLICATION FOR ORDER SHORTENING TIME TO HEAR MOTION TO DISQUALIFY OFFICIAL ATTORNEYS AND TO RE-SET ALL OTHER PENDING MATTERS</i>
10/21/2020	 Reply in Support <i>Nevada Legislature's Reply in Support of Motion to Intervene as Defendant</i>

CASE SUMMARY

CASE NO. A-20-817757-C

10/22/2020	 Errata Filed By: Plaintiff Nevada Policy Research Institute <i>Errata to Plaintiff's Opposition to Nevada Legislature's Motion to Intervene as Defendant</i>
11/02/2020	 Opposition to Motion to Dismiss Filed By: Plaintiff Nevada Policy Research Institute <i>Plaintiff's Opposition to Motion to Dismiss Filed by Defendant Nicole Cannizzaro</i>
11/02/2020	 Opposition <i>Plaintiff's Opposition to Joinders to Defendant Brittney Miller's Motion to Dismiss Complaint Filed by Defendants Jason Frierson, Selena Torres, and Nicole Cannizzaro</i>
11/02/2020	 Opposition Filed By: Plaintiff Nevada Policy Research Institute <i>Plaintiff's Opposition to Joinder to Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Motion to Dismiss Pursuant to NRCP 12(B)(5) and NRCP 12(B)(6) filed by Defendant Nicole Cannizzaro</i>
11/04/2020	 Notice of Non Opposition Filed By: Plaintiff Nevada Policy Research Institute <i>Notice of Non-Opposition to Plaintiff's Ex Parte Motion for Enlargement of Time to Serve Amended Complaint for Declaratory and Injunctive Relief and For an Order Allowing Service by Publication of Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible</i>
11/04/2020	 Order Granting Filed By: Plaintiff Nevada Policy Research Institute <i>Order Granting Plaintiff's Motion for Enlargment of Time to Serve Amended Complaint and Order to Serve Publication Defendants Glen Leavitt, James Ohrenschall and Melanie Scheible</i>
11/12/2020	 Reply Filed by: Defendant Frierson, Jason <i>Reply to Plaintiff's Opposition to Jason Frierson's Motion to Dismiss</i>
11/12/2020	 Reply Filed by: Defendant Cannizzaro, Nicole J. <i>Reply to Plaintiff's Opposition to Nicole Cannizzaro's Motion to Dismiss</i>
11/12/2020	 Reply in Support Filed By: Plaintiff Nevada Policy Research Institute <i>Plaintiff's Reply in Support of Motion to Disqualify the Official Attorneys from Representing Defendants Osvaldo Fumo, Heidi Seevers Gansert and Dina Neal</i>
11/12/2020	 Reply Filed by: Defendant Miller, Brittney; Defendant Torres, Selena <i>Defendant Brittney Miller's Reply in Support of Motion to Dismiss, and Defendant Selena Torres' Joinder Thereto</i>
11/16/2020	 Notice of Voluntary Dismissal Without Prejudice Filed by: Plaintiff Nevada Policy Research Institute <i>Notice of Voluntary Dismissal of Defendants Osvaldo Fumo and Jill Torres</i>
12/01/2020	 Motion for Clarification Filed By: Plaintiff Nevada Policy Research Institute <i>Plaintiff's Motion for the Court's Clarification of Its Decision to Grant Defendants' Motions to</i>

CASE SUMMARY

CASE NO. A-20-817757-C

Dismiss Based on Plaintiff's Lack of Standing On Order Shortening Time

12/04/2020



Order Denying Motion

Filed By: Plaintiff Nevada Policy Research Institute
Order Denying Plaintiff's Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible-C2

12/07/2020



Opposition and Countermotion

Filed By: Intervenor Defendant Nevada Legislature
Joint Opposition to Plaintiff's Motion for the Court's Clarification of its Decision to Grant Defendants' Motions to Dismiss Based on Plaintiff's Lack of Standing and Joint Countermotion to Dismiss all Remaining Defendants Based on Plaintiff's Lack of Standing

12/08/2020



Order Granting Motion

Filed By: Intervenor Defendant Nevada Legislature
Proposed Order Granting Legislature's Motion to Intervene as Defendant

12/08/2020



Order Granting Motion

Omnibus Order Granting Motion to Dismiss

12/08/2020



Notice of Entry

Filed By: Defendant Cannizzaro, Nicole J.; Defendant Frierson, Jason
Notice of Entry of Omnibus Order Granting Motions to Dismiss

12/08/2020



Notice of Entry of Order

Filed By: Defendant Cannizzaro, Nicole J.; Defendant Frierson, Jason
Notice of Entry of Order Granting Nevada Legislature's Motion to Intervene as Defendant

12/09/2020



Order Denying Motion

ORDER DENYING PLAINTIFF'S MOTION TO DISQUALIFY OFFICIAL ATTORNEYS

12/09/2020



Notice of Entry of Order

Filed By: Plaintiff Nevada Policy Research Institute
Notice of Entry of Order Denying Plaintiff's Motion to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible

12/09/2020



Notice of Entry of Order

Notice of Entry of Order Denying Plaintiff's Motion to Disqualify Official Attorneys

12/09/2020



Acceptance of Service

Filed By: Plaintiff Nevada Policy Research Institute
Acceptance of Service

12/10/2020



Affidavit of Publication of Summons

Affidavit of Publication

12/10/2020



Affidavit of Publication of Summons

Affidavit of Publication

12/10/2020



Affidavit of Publication of Summons

Affidavit of Publication

12/14/2020



Reply in Support

Filed By: Plaintiff Nevada Policy Research Institute

CASE SUMMARY

CASE NO. A-20-817757-C

Plaintiff Nevada Policy Research Institute's: (1) Notice of Non-Opposition to Joint Countermotion to Dismiss all Remaining Defendants Based on Plaintiff's Lack of Standing, and (2) Limited Reply in Support of Motion for the Court's Clarification of its Decision to Grant Defendants' Motions to Dismiss Based on Plaintiff's Lack of Standing

12/16/2020



Stipulation and Order

Stipulation and Order to Vacate the Voluntary Dismissal of Defendant Jill Tolles Only and That The Parties Shall be Bound by The Court's Prior Rulings_Redacted-C1

12/28/2020



Order

Filed By: Intervenor Defendant Nevada Legislature
Order Denying Plaintiff's Motion for Clarification, Granting Joint Countermotion to Dismiss All Remaining Defendants Based on Plaintiff's Lack of Standing, and Entering Final Judgment in Favor of All Defendants Based on Plaintiff's Lack of Standing

12/28/2020



Notice of Entry of Order

Filed By: Intervenor Defendant Nevada Legislature
Notice of Entry of Order Denying Plaintiff's Motion for Clarification, Granting Joint Countermotion to Dismiss All Remaining Defendants Based on Plaintiff's Lack of Standing, and Entering Final Judgment in Favor of All Defendants Based on Plaintiff's Lack of Standing

01/04/2021

Case Reassigned to Department 8

Judicial Reassignment to Judge Jessica K. Peterson

01/08/2021



Notice of Appeal

Filed By: Plaintiff Nevada Policy Research Institute
Notice of Appeal

01/11/2021



Case Appeal Statement

Filed By: Plaintiff Nevada Policy Research Institute
Case Appeal Statement

DISPOSITIONS

09/17/2020

Dismissal Pursuant to NRCP 41 (Judicial Officer: Holthus, Mary Kay)

Debtors: Teresa Benitez-Thompson (Defendant)
Creditors: Nevada Policy Research Institute (Plaintiff)
Judgment: 09/17/2020, Docketed: 09/25/2020

09/28/2020

Dismissal Pursuant to NRCP 41 (Judicial Officer: Israel, Ronald J.)

Debtors: Kasina Douglass-Boone (Defendant)
Creditors: Nevada Policy Research Institute (Plaintiff)
Judgment: 09/28/2020, Docketed: 10/06/2020

12/08/2020

Order of Dismissal (Judicial Officer: Crockett, Jim)

Debtors: Nevada Policy Research Institute (Plaintiff)
Creditors: Nicole J. Cannizzaro (Defendant), Jason Frierson (Defendant), Brittney Miller (Defendant), Heidi Seevers Gansert (Defendant), Dina Neal (Defendant)
Judgment: 12/08/2020, Docketed: 12/08/2020

12/16/2020

Amended Dismissal Pursuant to NRCP 41 (Judicial Officer: Crockett, Jim)

Debtors: Osvaldo Fumo (Defendant), Jill Tolles (Defendant)
Creditors: Nevada Policy Research Institute (Plaintiff)
Judgment: 12/16/2020, Docketed: 12/02/2020
Comment: Vacated as to Jill Tolles ONLY

12/28/2020

Order of Dismissal (Judicial Officer: Crockett, Jim)

Debtors: Nevada Policy Research Institute (Plaintiff)
Creditors: Nicole J. Cannizzaro (Defendant), Glen Leavitt (Defendant), James Ohrenschall (Defendant), Melanie Scheible (Defendant), Selena Torres (Defendant), Jill Tolles (Defendant),

CASE SUMMARY

CASE NO. A-20-817757-C

Nevada Legislature (Intervenor Defendant)
Judgment: 12/28/2020, Docketed: 12/29/2020

12/28/2020

Judgment (Judicial Officer: Crockett, Jim)
Debtors: Nevada Policy Research Institute (Plaintiff)
Creditors: Nicole J. Cannizzaro (Defendant), Glen Leavitt (Defendant), James Ohrenschall (Defendant), Melanie Scheible (Defendant), Selena Torres (Defendant), Jill Tolles (Defendant), Nevada Legislature (Intervenor Defendant)
Judgment: 12/28/2020, Docketed: 12/29/2020
Comment: Certain Claims

HEARINGS

09/29/2020



Minute Order (10:45 AM) (Judicial Officer: Holthus, Mary Kay)

Minute Order - No Hearing Held;

Journal Entry Details:

As this Court is familiar with one of the parties, in accordance with Rule 2.11(a), and to avoid the appearance of impropriety and implied bias, this Court hereby disqualifies itself and ORDERS this case be REASSIGNED at random.;

10/02/2020



Minute Order (8:00 AM) (Judicial Officer: Cory, Kenneth)

Minute Order - No Hearing Held;

Journal Entry Details:

The Court previously worked with one of the named Defendants and considers them a close friend. Therefore, the Court must recuse from this case and the matter shall be randomly reassigned.;

10/05/2020



Minute Order (3:00 AM) (Judicial Officer: Hardy, Joe)

Minute Order: Recusal

Minute Order - No Hearing Held;

Journal Entry Details:

Although the Court could, and would, rule fairly and without bias, the COURT FINDS that RECUSAL is appropriate in this matter pursuant to Canon 2.11(A) of the Nevada Code of Judicial Conduct, in order to avoid the appearance of impartiality or implied bias because of the Court's personal and financial relationship with one of the named Defendants. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Kristin Duncan, to all registered parties for Odyssey File & Serve. (KD 10/5/2020);

10/19/2020



Minute Order (3:00 AM) (Judicial Officer: Crockett, Jim)

Minute Order - No Hearing Held;

Journal Entry Details:

The Court finds that the 9/29/20 Plaintiff's Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible cannot be granted as Plaintiff's Motion is not accompanied by the requisite Motion for Enlargement of Time. The attempted Publication would conclude beyond the 120 day time period in which to effectuate personal service. Plaintiff's new Motion must also include a discussion of the Scrimmer factors and good cause why the Amended Complaint was not timely served. Lastly, the attached Affidavits of Due Diligence are titled Affidavits, but do not include a Notary Seal, and instead, appear to be Declarations. The titles of the attached Exhibits should all be corrected upon resubmission as part of Plaintiff's new Motion. Therefore, it is hereby ordered, 9/29/20 Plaintiff's Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible is denied. COURT ORDERED, status check SET for the filing of the Order. 11/19/2020 STATUS CHECK: FILING OF ORDER (CHAMBERS) CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /rl 10/19/2020;

10/28/2020

CANCELED Joinder (9:00 AM) (Judicial Officer: Cory, Kenneth)

Vacated - Duplicate Entry

Defendant Jason Frierson's Joinder to Defendant Brittney Miller's Motion to Dismiss Complaint

EIGHTH JUDICIAL DISTRICT COURT


CASE SUMMARY

CASE NO. A-20-817757-C

11/18/2020	<p>Motion to Dismiss (3:00 AM) (Judicial Officer: Crockett, Jim) <i>Defendant Brittney Miller's Motion to Dismiss Complaint</i> Peremptory Challenge Filed 9-22-20</p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Joinder (3:00 AM) (Judicial Officer: Crockett, Jim) <i>NSHE Defendants Fumo, Gansert, and Neal's Joinder in Defendant Brittney Miller's Motion to Dismiss Complaint</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Motion to Disqualify Attorney (3:00 AM) (Judicial Officer: Crockett, Jim) <i>Plaintiff's Motion to Disqualify the Official Attorneys from Representing Defendants Osvaldo Fumo, Heidi Seevers Gansert and Dina Neal on Order Shortening Time</i> Minute Order Dated 09-29-2020</p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Motion to Dismiss (3:00 AM) (Judicial Officer: Crockett, Jim) <i>Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Motion to Dismiss Pursuant to NRCP 12(b)(5) and NRCP 12(b)(6)</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Motion to Intervene (3:00 AM) (Judicial Officer: Crockett, Jim) <i>Nevada Legislature's Motion to Intervene as Defendant</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Motion to Dismiss (3:00 AM) (Judicial Officer: Crockett, Jim) <i>Defendant Jason Frierson's Motion to Dismiss</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Joinder (3:00 AM) (Judicial Officer: Crockett, Jim) <i>Defendant Jason Frierson's Joinder to Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Motion to Dismiss Pursuant to NRCP 12(b)(5) and NRCP 12(b)(6)</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Joinder (3:00 AM) (Judicial Officer: Crockett, Jim) <i>Defendant Jason Frierson's Joinder to Defendant Brittney Miller's Motion to Dismiss Complaint</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Joinder (3:00 AM) (Judicial Officer: Crockett, Jim) <i>Defendant Selena Torres's Joinder to Brittney Miller's Motion to Dismiss Complaint</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Joinder (3:00 AM) (Judicial Officer: Crockett, Jim) <i>Defendants Brittney Miller and Selena Torres s Joinder to Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal s Motion to Dismiss</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Joinder (3:00 AM) (Judicial Officer: Crockett, Jim) <i>Defendant Jason Frierson's Motion to Dismiss</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Joinder (3:00 AM) (Judicial Officer: Crockett, Jim) <i>Defendant Nicole Cannizzaro's Joinder to Defendant Brittney Miller's Motion to Dismiss Complaint</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Joinder (3:00 AM) (Judicial Officer: Crockett, Jim)</p>

CASE SUMMARY

CASE NO. A-20-817757-C

	<p><i>Defendant Nicole Cannizzaro's Joinder to Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Motion to Dismiss Pursuant to NRCP 12(b)(5) and NRCP 12(b)(6)</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Motion to Dismiss (3:00 AM) (Judicial Officer: Crockett, Jim)</p> <p><i>Defendant Nicole Cannizzaro's Motion to Dismiss</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p>Motion (3:00 AM) (Judicial Officer: Crockett, Jim)</p> <p><i>Plaintiff's Ex Parte Motion for Enlargement of Time to Serve Amended Complaint for Declaratory and Injunctive Relief and for an Order Allowing Service by Publication of Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible</i></p> <p>Minute Order - No Hearing Held;</p>
11/18/2020	<p> All Pending Motions (3:00 AM) (Judicial Officer: Crockett, Jim)</p> <p>Minute Order - No Hearing Held;</p> <p>Journal Entry Details:</p> <p><i>Plaintiff's Motion to Disqualify the Official Attorneys from Representing Defendants Osvaldo Fumo, Heidi Seevers Gansert and Dina Neal on Order Shortening Time Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. Plaintiff says Official Attorneys should be disqualified because Defendants were not sued based upon anything they did in their official capacity but instead are sued for alleged violation of constitution prohibition against dual employment in violation of Article 3 of the Nevada Constitution. 10/9/20 Opposition says Nevada Policy Research Institute lacks standing to even bring this Motion because it cannot demonstrate particularized harm beyond that of any ordinary taxpayer and since standing is a jurisdictional matter, this motion must be denied. Opposition further contends that it is by virtue of the fact that Defendants are government employees that they were sued and Official attorneys are not prohibited from representing them and may choose to represent if so requested. . The simple fact is that Official Attorney is a duly authorized legal counsel who is not prohibited from representing the Defendants so this Motion to Disqualify is DENIED. Defendants to submit the Order. COURT FURTHER ORDERED, 11/19/20 hearing VACATED and matter SET for Status Check. Defendant Nicole Cannizzaro's Motion to Dismiss Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. Standing is the controlling issue here and while other issues are discussed, standing is the determinative issue above all else. Nevada Policy Research Institute simply lacks standing to bring this suit. It is an organization, rather than a particularly-aggrieved individual, harmed by any alleged dual employment It is quite clear that Nevada Policy Research Institute does not allege any particularized harm beyond that of any ordinary taxpayer and that is simply not enough to give standing to Nevada Policy Research Institute to bring this suit. Nevada Policy Research Institute s Opposition does not make persuasive arguments regarding standing, suggesting that an evidentiary hearing would need to be conducted but not offering any theory as to how an evidentiary hearing would demonstrate particularized harm or otherwise lead to a finding that Nevada Policy Research Institute has standing to pursue this case against Defendants. And the court is not persuaded that Nevada Policy Research Institute comes within the recent Schwartz exception. And, it cannot be ignored that Nevada Policy Research Institute blows hot and cold on whether or not it is suing the Defendants as legislators. Historically, Nevada Policy Research Institute has demonstrated that it has been able to enlist individuals who might provide a more colorable claim of particularized harm but have simply opted not to do so in this case to enhance the possibility of finding that counsel represents someone with actual standing. The court finds that the Reply brief puts the matter to rest. Nevada Policy Research Institute clearly lacks standing to bring this suit and thus the Motion to Dismiss must be GRANTED. The Joinders of the other Defendants are also GRANTED. Counsel for Defendant to submit the order granting the Motion to Dismiss as to the moving Defendant and all Defendants who filed Joinders to this Motion to Dismiss. COURT FURTHER ORDERED, 11/19/20 hearing VACATED and matter SET for Status Check. Defendant Jason Frierson's Motion to Dismiss Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. Standing is the controlling issue here and while other issues are discussed, standing is the determinative issue above all else. Nevada Policy Research Institute simply lacks standing to bring this suit. It is an organization, rather than a particularly-aggrieved individual, harmed by any alleged dual employment It is quite clear that Nevada Policy Research Institute does not allege any</i></p>

CASE SUMMARY

CASE NO. A-20-817757-C

particularized harm beyond that of any ordinary taxpayer and that is simply not enough to give standing to Nevada Policy Research Institute to bring this suit. Nevada Policy Research Institute's Opposition does not make persuasive arguments regarding standing, suggesting that an evidentiary hearing would need to be conducted but not offering any theory as to how an evidentiary hearing would demonstrate particularized harm or otherwise lead to a finding that Nevada Policy Research Institute has standing to pursue this case against Defendants. And the court is not persuaded that Nevada Policy Research Institute comes within the recent Schwartz exception. And, it cannot be ignored that Nevada Policy Research Institute blows hot and cold on whether or not it is suing the Defendants as legislators. Historically, Nevada Policy Research Institute has demonstrated that it has been able to enlist individuals who might provide a more colorable claim of particularized harm but have simply opted not to do so in this case to enhance the possibility of finding that counsel represents someone with actual standing. The court finds that the Reply brief puts the matter to rest. Nevada Policy Research Institute clearly lacks standing to bring this suit and thus the Motion to Dismiss must be GRANTED. The Joinders of the other Defendants are also granted. Counsel for Defendant to submit the order granting the Motion to Dismiss as to the moving Defendant and all Defendants who filed Joinders to this Motion to Dismiss. COURT FURTHER ORDERED, 11/19/20 hearing VACATED and matter SET for Status Check. Defendant Brittney Miller's Motion to Dismiss Complaint Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. Standing is the controlling issue here. Defendant argues that NPRI simply lacks standing to bring this suit. It is an organization, rather than a particularly-aggrieved individual, harmed by any alleged dual employment. It is quite clear that NPRI does not allege any particularized harm beyond that of any ordinary taxpayer and that is simply not enough to give standing to NPRI to bring this suit. NPRI's 10/2/20 Opposition does not make persuasive arguments regarding standing, suggesting that an evidentiary hearing would need to be conducted but not offering any theory as to how an evidentiary hearing would demonstrate particularized harm or otherwise lead to a finding that NPRI has standing to pursue this case against Defendant Miller (or the other Defendants for that matter). And the court is not persuaded that NPRI comes within the recent Schwartz exception. And, it cannot be ignored that NPRI blows hot and cold on whether or not it is suing the Defendants as legislators. Historically, NPRI has demonstrated that it has been able to enlist individuals who might provide a more colorable claim of particularized harm but have simply opted not to do so in this case to enhance the possibility of finding that counsel represents someone with actual standing. The court finds that the Reply brief puts the matter to rest. NPRI clearly lacks standing to bring this suit and thus the Motion to Dismiss must be GRANTED. The Joinders of Fumo, Gansert and Neal and Frierson and Canizzaro are also granted. Counsel for Defendant Miller to submit the order granting the Motion to Dismiss as to Defendant Miller and all Defendants who filed a Joinder to her Motion to Dismiss. Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Motion to Dismiss Pursuant to NRCP 12(b)(5) and NRCP 12(b)(6) Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. Standing is the determinative issue here and while other issues are discussed, standing is the determinative issue above all else. Nevada Policy Research Institute simply lacks standing to bring this suit. It is an organization, rather than a particularly-aggrieved individual, harmed by any alleged dual employment. It is quite clear that Nevada Policy Research Institute does not allege any particularized harm beyond that of any ordinary taxpayer and that is simply not enough to give standing to Nevada Policy Research Institute to bring this suit. Nevada Policy Research Institute's Opposition does not make persuasive arguments regarding standing, suggesting that an evidentiary hearing would need to be conducted but not offering any theory as to how an evidentiary hearing would demonstrate particularized harm or otherwise lead to a finding that Nevada Policy Research Institute has standing to pursue this case against Defendants. And the court is not persuaded that Nevada Policy Research Institute comes within the recent Schwartz exception. And, it cannot be ignored that Nevada Policy Research Institute blows hot and cold on whether or not it is suing the Defendants as legislators. Historically, Nevada Policy Research Institute has demonstrated that it has been able to enlist individuals who might provide a more colorable claim of particularized harm but have simply opted not to do so in this case to enhance the possibility of finding that counsel represents someone with actual standing. The court finds that the Reply brief puts the matter to rest. Nevada Policy Research Institute clearly lacks standing to bring this suit and thus the Motion to Dismiss must be GRANTED. The Joinders of the other Defendants are also granted. Counsel for Defendants to submit the order granting the Motion to Dismiss as to the moving Defendants and all Defendants who filed Joinders to this Motion to Dismiss. COURT FURTHER ORDERED, 11/19/20 hearing VACATED and matter SET for Status Check. Nevada Legislature's Motion to Intervene as Defendant Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. The

CASE SUMMARY

CASE NO. A-20-817757-C

LCB/State of Nevada says it wishes to intervene because it has a real and substantial interest in the issues here since it has historically rendered opinions supporting the kind of employment that the Defendants are alleged to have and providing legal reassurance to the Defendants that such employment is entirely legal and constitutional. Nevada Policy Research Institute opposes saying the Nevada Legislature does not have the right to intervene and that permissive intervention, which is discretionary, should not be permitted. Nevada State Legislature's Reply Brief is very persuasive and the court is persuaded that the Nevada Legislature is entitled to intervene as a matter of right and that even if it were only entitled to permissive intervention, the court chooses to exercise its discretion to find that the Nevada Legislature is also allowed to intervene permissively. Nevada Legislature's Motion to Intervene as Defendant is granted. Nevada Legislature is directed to prepare the order which includes for the court's findings the headlined points contained in the Reply Brief. COURT FURTHER ORDERED, matter SET for Status Check. 12/17/20 9:00 AM STATUS CHECK: FILING OF ORDERS (11/17/20) CLERK'S NOTE: This Amended Minute Order was electronically served to all registered parties for Odyssey File & Serve. /rl 11/18/2020;

11/19/2020



Status Check (3:00 AM) (Judicial Officer: Crockett, Jim)

Status Check: Filing of Order Denying Plaintiff's Motion for Order to Serve by Publication (10/19)

Vacated Per 11/3/20 PL Order

Matter Continued;

order filed 12/4/20

Journal Entry Details:

Status Check: Filing of Order Denying Plaintiff's Motion for Order to Serve by Publication (10/19) COURT NOTED as of 8:00 am this morning the Order had not been filed. COURT ORDERED, matter CONTINUED. CONTINUED TO: 12/10/2020 9:00 AM CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /rl 11/19/2020;

11/19/2020

CANCELED Motion for Order (9:00 AM) (Judicial Officer: Cory, Kenneth)

Vacated

Plaintiff's Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible

12/15/2020

Motion for Clarification (3:00 AM) (Judicial Officer: Crockett, Jim)

Plaintiff's Motion for the Court's Clarification of Its Decision to Grant Defendants' Motions to Dismiss Based on Plaintiff's Lack of Standing On Order Shortening Time

Denied;

12/15/2020

Opposition and Countermotion (3:00 AM) (Judicial Officer: Crockett, Jim)

Joint Opposition to Plaintiff's Motion for the Court's Clarification of its Decision to Grant Defendants' Motions to Dismiss Based on Plaintiff's Lack of Standing and Joint Countermotion to Dismiss all Remaining Defendants Based on Plaintiff's Lack of Standing

MINUTES

Granted;

SCHEDULED HEARINGS

CANCELED Status Check (01/14/2021 at 3:00 AM) (Judicial Officer: Crockett, Jim)

Vacated - Case Closed

Status Check: Filing of Order from 12/15/20

12/15/2020



All Pending Motions (3:00 AM) (Judicial Officer: Crockett, Jim)

Decision Made;

Journal Entry Details:

PLAINTIFF'S MOTION FOR THE COURT'S CLARIFICATION OF ITS DECISION TO GRANT DEFENDANTS' MOTIONS TO DISMISS BASED ON PLAINTIFF'S LACK OF STANDING ON ORDER SHORTENING TIME JOINT OPPOSITION TO PLAINTIFF'S MOTION FOR THE COURT'S CLARIFICATION OF ITS DECISION TO GRANT DEFENDANTS' MOTIONS TO DISMISS BASED ON PLAINTIFF'S LACK OF STANDING AND JOINT COUNTERMOTION TO DISMISS ALL REMAINING DEFENDANTS BASED ON PLAINTIFF'S LACK OF STANDING Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by the parties without oral argument since the

CASE SUMMARY

CASE NO. A-20-817757-C

	<p>court deems oral argument unnecessary. Although Plaintiff styles this motion as a Motion for Clarification of the Court's Decision, there is no order that has been signed and filed yet and thus the motion is premature since one cannot clarify what does not exist. Plaintiff's Reply brief does not provide any additional justification or authority for clarification. Motion for Clarification must be DENIED. Counsel for Defendant to prepare and submit order to court for signature w/in 14 days per EDCR 7.21. Calendar status check for filing of order.</p> <p>Defendants have filed a Countermotion to dismiss all of Plaintiff's claims on the basis that Plaintiff lacks standing to bring this suit. Standing is the controlling issue here and while other issues are discussed, standing is the determinative issue above all else. The court finds that the Countermotion to Dismiss is most persuasive. NPRI clearly lacks standing to bring this suit and the court is inclined to grant the countermotion to dismiss . On 12/14/20 NPRI filed its Reply and Non-Opposition to Grant Defendants Motion to Dismiss on behalf of all remaining Defendants due to lack of Standing. Counsel for Defendant to submit the order granting the Counter Motion to Dismiss. COURT FURTHER ORDERED, matter SET for status check; 12/17/20 hearing VACATED. 1/14/20 (CHAMBERS) STATUS CHECK: FILING OF ORDER</p> <p>CLERK'S NOTE: The Court is in receipt of Counsel for Plaintiff's Letter to the Court dated 12/16/20, which has been Left Side filed into the case. Prior to issuing the 12/15/20 Minute Order, the Court had reviewed and considered the 12/14/20 Plaintiff's Reply and the Orders referenced therein, and which were also on file in this case. However, the Court is of the view that the issue of Standing needs no further clarification and is entirely dispositive of the arguments raised by Plaintiff. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 12/16/2020;</p>
12/17/2020	<p>CANCELED Status Check (9:00 AM) (Judicial Officer: Crockett, Jim)</p> <p>Vacated</p> <p>STATUS CHECK: FILING OF ORDERS (11/17/20)</p>
01/14/2021	<p>CANCELED Status Check (3:00 AM) (Judicial Officer: Crockett, Jim)</p> <p>Vacated - Case Closed</p> <p>Status Check: Filing of Order from 12/15/20</p>

DATE

FINANCIAL INFORMATION

Defendant Frierson, Jason	
Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 1/11/2021	0.00
Defendant Miller, Brittney	
Total Charges	1,123.00
Total Payments and Credits	1,123.00
Balance Due as of 1/11/2021	0.00
Defendant Torres, Selena	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 1/11/2021	0.00
Defendant Cannizzaro, Nicole J.	
Total Charges	223.00
Total Payments and Credits	223.00
Balance Due as of 1/11/2021	0.00
Plaintiff Nevada Policy Research Institute	
Total Charges	1,194.00
Total Payments and Credits	1,194.00
Balance Due as of 1/11/2021	0.00

DISTRICT COURT CIVIL COVER SHEET

County, Nevada

Case No. _____

(Assigned by Clerk's Office)

CASE NO: A-20-817757-C
Department 2

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

Plaintiff(s) (name/address/phone): <p style="text-align: center;">Nevada Policy Research Institute</p>	Defendant(s) (name/address/phone): <p style="text-align: center;">Nicole J. Cannizzaro; Kasina Douglass-Boone; et al.</p>
Attorney (name/address/phone): <p style="text-align: center;">Deanna L. Forbush (Bar No. 6646)</p> <p style="text-align: center;">Fox Rothschild LLP</p> <p style="text-align: center;">1980 Festival Plaza Drive, Suite 700, Las Vegas, NV 89135</p> <p style="text-align: center;">(702) 262-6899</p>	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 <i>(select case type and estate value)</i> <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 Civil Writ <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		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

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

July 9, 2020

Date

/s/ Deanna L. Forbush

Signature of initiating party or representative

See other side for family-related case filings.

Heather S. Linn

CLERK OF THE COURT

ORDR

JONATHAN D. BLUM, ESQ.

Nevada Bar No. 09515

WILEY PETERSEN

1050 Indigo Dr., Suite 200B

Las Vegas, Nevada 89145

Telephone No. (702) 910-3329

Fax: (702) 553-3467

jblum@wileypetersenlaw.com

Attorney for Defendants,

Jason Frierson and Nicole Cannizzaro

DISTRICT COURT

CLARK COUNTY, NEVADA

NEVADA POLICY RESEARCH INSTITUTE,
a Nevada domestic nonprofit corporation,

Plaintiff,

vs.

NICOLE J. CANNIZZARO, an individual
engaging in dual employment with the
Nevada State Senate and Clark County
District Attorney; KASINA DOUGLASS-
BOONE,
an individual engaging in dual
employment with the Nevada State Assembly
and Clark County School District; JASON
FRIERSON, an individual engaging in dual
employment with the Nevada State Assembly
and Clark County Public Defender;
OSVALDO FUMO, an individual engaging
in dual employment with the Nevada State
Assembly and University of Nevada, Las
Vegas; HEIDI SEEVERS GANSERT, an
individual engaging in dual employment with
the Nevada State Senate and University of
Nevada Reno; GLEN LEAVITT, an
individual engaging in dual employment with
the Nevada State Assembly and Regional
Transportation Commission; BRITTNEY
MILLER, an individual engaging in dual
employment with the Nevada State Assembly
and Clark County School District; DINA
NEAL, an individual engaging in dual
employment with the Nevada State Assembly
and Nevada State College; JAMES
OHRENSCHALL, an individual engaging in
dual employment with the Nevada State

Case No.: A-20-817757-C

Dept. No.: 24

**OMNIBUS ORDER GRANTING
MOTIONS TO DISMISS**

Senate and Clark County Public Defender;
MELANIE SCHEIBLE an individual
engaging in dual employment with the
Nevada State Senate and Clark County
District Attorney; TERESA BENITEZ-
THOMPSON,
an individual engaging in dual
employment with the Nevada State Assembly
and University of Nevada, Reno; JILL
TOLLES, an individual engaging in dual
employment with the Nevada State Assembly
and University of Nevada, Reno; and
SELENA TORRES, an individual engaging
in dual employment with the Nevada State
Assembly and Clark County School District,

Defendants.

In this action, Plaintiff Nevada Policy Research Institute (“NPRI”) has alleged that the individual Defendants are persons simultaneously holding elected offices in the Nevada Legislature and paid positions with the executive branch of the Nevada State Government or with local governments in violation of the separation-of-powers provision in Article 3, Section 1 of the Nevada Constitution. Defendants filed Motions to Dismiss as follows: Motion to Dismiss filed by Defendant Brittney Miller on September 18, 2020; Motion to Dismiss filed by Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal on September 28, 2020; Motion to Dismiss filed by Defendant Jason Frierson on October 5, 2020; and, Motion to Dismiss filed by Defendant Nicole Cannizzaro on October 19, 2020 (collectively, the “Motions to Dismiss”). Each of the defendants that filed a motion to dismiss also filed a joinder to the other Motions to Dismiss.

The Court having read and considered the pleadings and briefs filed by the parties, and for good cause appearing finds as follows:

Pursuant to EDCR 2.23 (c) and (d), this matter was decided on the briefs and pleadings filed by the parties without oral argument because the Court deems oral argument unnecessary.

Standing is the controlling issue here and while other issues are discussed, standing is the determinative issue above all else. Here, NPRI simply lacks standing to bring this suit. It is an organization rather than a particularly-aggrieved individual harmed by any alleged dual employment by any defendant. It is quite clear that NPRI does not allege any particularized harm beyond that of any

1 ordinary taxpayer, and that is not enough to give standing sufficient for NPRI to maintain this suit. *See*
2 *Katz v. Incline Village General Improvement District*, 414 P.3d 300, 2018 WL 1129140 (unpublished
3 decision), Nev. S. Ct. Case No. 70440 (Feb. 26, 2018) (“This court recently reaffirmed the general rule
4 that a taxpayer lacks standing when he or she has not suffered a special or peculiar injury different
5 from that sustained by the general public.”).

6 NPRI’s Opposition does not make persuasive arguments regarding standing, suggesting that an
7 evidentiary hearing would need to be conducted but not offering any theory as to how such a hearing
8 would demonstrate particularized harm or otherwise lead to a finding that it has standing to pursue this
9 case against Defendants.

10 Neither is the Court persuaded that NPRI comes within the recent *Schwartz* public-interest
11 exception to Nevada’s standing doctrine. *See Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894
12 (2016) (recognizing “an exception to [the] injury requirement in certain cases involving issues of public
13 importance.”). To establish standing under the public-interest exception: (1) the case must involve an
14 issue of significant public importance; (2) the case must involve a challenge to a legislative expenditure
15 or appropriation on the basis that it violates a specific provision of the Nevada Constitution; and (3)
16 the plaintiff must be an “appropriate” party, meaning that there is no one else in a better position who
17 will likely bring an action and that the plaintiff is capable of fully advocating his or her position in
18 court. *Id.*

19 Even granting, *arguendo*, that this matter is one of public importance, NPRI is not directly
20 challenging a legislative appropriation or expenditure that can be enjoined in this action. In *Schwartz*,
21 the challenged legislative expenditure at issue involved multi-million dollar educational expenditures
22 projected over decades, alleged to be unconstitutionally diverted from appropriate state education
23 funds, which persuaded the Nevada Supreme Court that parents of children in Nevada’s public school
24 system had standing to maintain suit under the public-interest exception without meeting the
25 particularized-injury requirement. It was the legislative expenditure, and the entirety of the
26 circumstances, that established the public-interest exception in *Schwartz* and exempted the parents
27 from meeting the particularized-injury requirement.

28 Here, at least in response to Defendant Miller’s motion, NPRI avers that her *per diem* or

1 legislative salary is the challenged “legislative appropriation” satisfying that prong of a *Schwartz*
2 analysis. But the present suit is about “dual employment” as a violation of Nevada’s separation-of-
3 powers provision, not about legislative pay; NPRI is not suing the paymasters of legislators to enjoin
4 such payments for the services of legislators; and NPRI blows hot and cold on whether or not it is suing
5 the Defendants as legislators at all, appearing to prefer to cast this action as against executive branch
6 and local government employees when convenient, and against legislators when not. Indeed, NPRI
7 seeks, unsuccessfully, to create a wholly-new and separate category of defendant here, sued neither in
8 his or her official capacity as legislator nor as public employee, in an attempt to disqualify institutional
9 attorneys from representing Defendants, a maneuver that the Court rejected in its order denying NPRI’s
10 motion to disqualify the attorneys for the Nevada State Higher Education System.

11 Further, NPRI cannot demonstrate that it is the “appropriate” party here, beyond its general
12 policy disagreement with legislators holding positions of public employment with the state executive
13 branch or with local governments. Historically, in the numerous suits NPRI has either brought or
14 assisted in bringing on this subject, it has demonstrated that it has been able to enlist individuals who
15 might provide a more colorable claim of particularized harm, but NPRI has simply opted not to do so
16 in this case to enhance the possibility of finding that counsel represents someone with actual standing.
17 NPRI even states in its papers that it has individual members ready and willing to seek the employment
18 positions of Defendants, demonstrating that it is not the sole and appropriate party to bring this suit,
19 especially given the direction provided by the Nevada Supreme Court in *Heller v. Legislature*, 120
20 Nev. 456, 472-473, 93 P.3d 746, 757 (2004), that an appropriate action raising the “dual service issue”
21 under Nevada’s separation-of-powers provision “could be sought by someone with a legally protectible
22 interest, such as a person seeking the executive branch position held by the legislator.” *Id.* (internal
23 quotation and citation omitted).

24 Meeting neither the basic elements of standing in Nevada nor at least two of the three prongs
25 of the analysis in *Schwartz*, NPRI clearly lacks standing to bring this suit.

26 ///

27 ///

28 ///

ORDER

IT IS HEREBY ORDERED that the Motions to Dismiss are **GRANTED**.

IT IS FURTHER ORDERED that the Joinders of the other Defendants are also **GRANTED**.

IT IS HEREBY FURTHER ORDERED that the hearing on this matter set for November 19,
Dated this 8th day of December, 2020
2020 is hereby **VACATED**.

Approved as to form and content by:

FOX ROTHSCHILD LLP

Refused to Sign Order
DEANNA L. FORBUSH, ESQ.
Nevada Bar No. 06646
COLEEN E. MCCARTY, ESQ.
Nevada Bar No. 13186
1980 Festival Plaza Drive, Suite 700
Las Vegas Nevada 89135

*Attorneys for Plaintiff,
Nevada Policy Research Institute*

**ASSISTANT GENERAL COUNSEL
UNIVERSITY OF NEVADA, RENO**

/s/ Gary A. Cardinal
GARY A. CARDINAL, ESQ.
Nevada Bar No. 00076
1664 North Virginia Street/MS 0550
Reno, Nevada 89557

*Attorneys for Defendants,
Osvaldo Fumo, Heidi Seevers Gansert,
and Dina Neal*

\\

\\

\\

\\

**GENERAL COUNSEL NEVADA STATE
COLLEGE E08 FB5 9880 C605
Jim Crockett
District Court Judge**

/s/ Berna L. Rhodes-Ford
BERNA L. RHODES-FORD, ESQ.
Nevada Bar No. 07879
1300 Nevada State Drive. RSC 374
Henderson, Nevada 89002

*Attorneys for Defendants,
Osvaldo Fumo, Heidi Seevers Gansert,
and Dina Neal*

**WOLF RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP**

/s/ Bradley Schrager
BRADLEY SCHRAGER, ESQ.
Nevada Bar No. 13078
3556 E. Russell Road, Second Floor
Las Vegas, Nevada 89120

*Attorneys for Defendants,
Brittney Miller and Selena Torres*

1 **LEGISLATIVE COUNSEL BUREAU,**
2 **LEGAL DIVISION**

3 /s/ Kevin C. Powers
4 KEVIN C. POWERS, ESQ.
5 Nevada Bar No. 6781
6 401 S. Carson St.
7 Carson City, Nevada 89701

8 *Attorneys for Intervenor-Defendant*
9 *Legislature of the State of Nevada*

10 *Respectfully submitted by:*

11 **WILEY PETERSEN**

12 JONATHAN D. BLUM, ESQ.
13 Nevada Bar No. 09515
14 1050 Indigo Dr., Suite 200B
15 Las Vegas, Nevada 89145
16 Telephone No. (702) 910-3329
17 Fax: (702) 553-3467
18 jblum@wileypetersenlaw.com

19 *Attorneys for Defendants,*
20 *Jason Frierson and Nicole Cannizzaro*

From: Gary A Cardinal <gcardinal@unr.edu>
Sent: Monday, December 7, 2020 9:39 AM
To: 'jblum@wileypetersenlaw.com'; 'Bradley Schrager'; 'Powers, Kevin'; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; 'Daniel Bravo'; 'Nita Armendariz'; 'Berna Rhodes-Ford'
Cc: ibautista@wileypetersenlaw.com
Subject: RE: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

Jon,
You have permission to attach my signature.
Thank you,
Gary

GARY A. CARDINAL

Assistant General Counsel
University of Nevada, Reno
1664 North Virginia Street
Mail Stop 0550
Reno, NV 89557
Tel: (775) 784-3495
Fax: (775) 327-2202
gcardinal@unr.edu

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Sent: Monday, December 07, 2020 9:37 AM
To: 'Bradley Schrager' <BSchrager@wrslawyers.com>; 'Powers, Kevin' <kpowers@lcb.state.nv.us>; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; 'Daniel Bravo' <DBravo@wrslawyers.com>; 'Nita Armendariz' <Nita.Armendariz@nsc.edu>; Gary A Cardinal <gcardinal@unr.edu>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>
Cc: ibautista@wileypetersenlaw.com
Subject: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

Counsel,
I have incorporated the requested changes in the attached order. Please let me know if I can affix your e-signatures.

Deanna and Colleen, I understand you will not be signing, but if you can respond confirming the same, that would be helpful.

I plan to submit this today.

Thanks,

Jon

Jonathan D. Blum, Esq.



1050 Indigo Drive, Suite 200B

Las Vegas, Nevada 89145

Office 702.910.3329 | Mobile 702.443.0677

jblum@wileypetersenlaw.com

www.wileypetersenlaw.com



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Sent: Monday, December 7, 2020 9:40 AM
To: 'jblum@wileypetersenlaw.com'; 'Powers, Kevin'; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; Daniel Bravo; 'Nita Armendariz'; gcardinal@unr.edu; 'Berna Rhodes-Ford'
Cc: ibautista@wileypetersenlaw.com
Subject: RE: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

Please affix ours.

Bradley S. Schrager
Areas of Practice: Politics & Government – Appeals & Writs – Wage & Labor
Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP
3556 E. Russell Rd, Las Vegas, Nevada 89120
702.639.5102
bschrager@wrslawyers.com

This correspondence is intended for the individual or entity to whom it is addressed, and may be protected by privilege.

From: jblum@wileypetersenlaw.com [mailto:jblum@wileypetersenlaw.com]
Sent: Monday, December 07, 2020 9:37 AM
To: Bradley Schrager; 'Powers, Kevin'; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; Daniel Bravo; 'Nita Armendariz'; gcardinal@unr.edu; 'Berna Rhodes-Ford'
Cc: ibautista@wileypetersenlaw.com
Subject: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

CAUTION:EXTERNAL EMAIL

Counsel,
I have incorporated the requested changes in the attached order. Please let me know if I can affix your e-signatures.

Deanna and Colleen, I understand you will not be signing, but if you can respond confirming the same, that would be helpful.

I plan to submit this today.

Thanks,
Jon

Jonathan D. Blum, Esq.



1050 Indigo Drive, Suite 200B

Las Vegas, Nevada 89145

Office 702.910.3329 | Mobile 702.443.0677

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From: Powers, Kevin <kpowers@lcb.state.nv.us>

Sent: Monday, December 7, 2020 11:24 AM

To: jblum@wileypetersenlaw.com; 'Bradley Schrager' <BSchrager@wrslawyers.com>; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; 'Daniel Bravo' <DBravo@wrslawyers.com>; 'Nita Armendariz' <Nita.Armendariz@nsc.edu>; gcardinal@unr.edu; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>

Cc: ibautista@wileypetersenlaw.com

Subject: RE: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

LCB Legal has reviewed the proposed Omnibus Order Granting Motions to Dismiss, and I agree to the use of the my electronic signature for the proposed order.

Thanks.

Kevin C. Powers

General Counsel

Nevada Legislative Counsel Bureau, Legal Division

401 S. Carson Street

Carson City, NV 89701-4747

(775) 684-6830

(775) 684-6761-Fax

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From: jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>

Sent: Monday, December 07, 2020 9:37 AM

To: 'Bradley Schrager' <BSchrager@wrslawyers.com>; Powers, Kevin <kpowers@lcb.state.nv.us>; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; 'Daniel Bravo' <DBravo@wrslawyers.com>; 'Nita Armendariz' <Nita.Armendariz@nsc.edu>; gcardinal@unr.edu; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>

Cc: ibautista@wileypetersenlaw.com

Subject: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

Counsel,

I have incorporated the requested changes in the attached order. Please let me know if I can affix your e-signatures.

Deanna and Colleen, I understand you will not be signing, but if you can respond confirming the same, that would be helpful.

I plan to submit this today.

Thanks,
Jon

Jonathan D. Blum, Esq.



1050 Indigo Drive, Suite 200B
Las Vegas, Nevada 89145
Office 702.910.3329 | Mobile 702.443.0677
jblum@wileypetersenlaw.com
www.wileypetersenlaw.com



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From: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>
Sent: Monday, December 7, 2020 2:41 PM
To: jblum@wileypetersenlaw.com
Cc: Bradley Schragger; Powers, Kevin; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; Daniel Bravo; Nita Armendariz; gcardinal@unr.edu; ibautista@wileypetersenlaw.com
Subject: Re: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

You may affix my e-signature.

Berna L. Rhodes-Ford
office [702.992.2378](tel:702.992.2378)
Berna.Rhodes-Ford@nsc.edu

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On Dec 7, 2020, at 9:37 AM, jblum@wileypetersenlaw.com wrote:

Counsel,
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Thanks,
Jon

Jonathan D. Blum, Esq.

<image001.jpg>
1050 Indigo Drive, Suite 200B
Las Vegas, Nevada 89145
Office 702.910.3329 | Mobile 702.443.0677

jblum@wileypetersenlaw.com
www.wileypetersenlaw.com

<image003.png>

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<201203 DRAFT_NPRI v. Cannizzaro et al._Proposed Order Granting MTD 12.7.20.docx>

From: McCarty, Colleen E. <CMcCarty@foxrothschild.com>
Sent: Monday, December 7, 2020 11:43 AM
To: jblum@wileypetersenlaw.com; 'Bradley Schrager'; 'Powers, Kevin'; Forbush, Deanna L.; 'Daniel Bravo'; 'Nita Armendariz'; gcardinal@unr.edu; 'Berna Rhodes-Ford'
Cc: ibautista@wileypetersenlaw.com; Martinez, Natasha
Subject: RE: [EXT] A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

Jon,

As set forth in our communications to you and in the letter to chambers, dated December 4, 2020, we have respectfully requested that the Court hold all proposed orders in this matter until the Court resolves the pending Motion for Clarification on or before December 17, 2020 and NPRI has the opportunity thereafter to provide input to complete the necessary orders. NPRI seeks to include the Court's clarifications in each order ultimately entered by the Court as a result of its November 18, 2020 Minute Order.

Colleen McCarty

From: jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>
Sent: Monday, December 7, 2020 9:37 AM
To: 'Bradley Schrager' <BSchrager@wrslawyers.com>; 'Powers, Kevin' <kpowers@lcb.state.nv.us>; Forbush, Deanna L. <DForbush@foxrothschild.com>; McCarty, Colleen E. <CMcCarty@foxrothschild.com>; 'Daniel Bravo' <DBravo@wrslawyers.com>; 'Nita Armendariz' <Nita.Armendariz@nsc.edu>; gcardinal@unr.edu; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>
Cc: ibautista@wileypetersenlaw.com
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Jon

Jonathan D. Blum, Esq.



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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Nevada Policy Research
Institute, Plaintiff(s)

CASE NO: A-20-817757-C

7 vs.

DEPT. NO. Department 24

8
9 Nicole Cannizzaro, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/8/2020

15 Bradley Schrager bschrager@wrslawyers.com

16 Dannielle Fresquez dfresquez@wrslawyers.com

17 Daniel Bravo dbravo@wrslawyers.com

18 Christie Rehfeld crehfeld@wrslawyers.com

19 Kevin Powers kpowers@lcb.state.nv.us

20 Deanna Forbush dforbush@foxrothschild.com

21 Colleen McCarty cmccarty@foxrothschild.com

22 Natasha Martinez nmartinez@foxrothschild.com

23 Ivette Bautista ibautista@wileypetersenlaw.com

24 Jonathan Blum jblum@wileypetersenlaw.com

25 Chastity Dugenia cdugenia@wileypetersenlaw.com

26
27
28

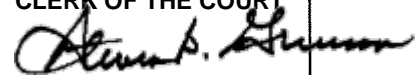
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Berna Rhodes-Ford

Berna.Rhodes-Ford@nsc.edu

Gary Cardinal

gcardinal@unr.edu



1 **NEO**

2 JONATHAN D. BLUM, ESQ.

3 Nevada Bar No. 09515

4 **WILEY PETERSEN**

5 1050 Indigo Dr., Suite 200B

6 Las Vegas, Nevada 89145

7 Telephone No. (702) 910-3329

8 Fax: (702) 553-3467

9 jblum@wileypetersenlaw.com

10 *Attorney for Defendants,*

11 *Jason Frierson and Nicole Cannizzaro*

12 **DISTRICT COURT**

13 **COUNTY OF CLARK, NEVADA**

14 NEVADA POLICY RESEARCH INSTITUTE,
15 a Nevada domestic nonprofit corporation,

16 Plaintiff,

17 vs.

18 NICOLE J. CANNIZZARO, an individual
19 engaging in dual employment with the
20 Nevada State Senate and Clark County
21 District Attorney; KASINA
22 DOUGLASSBOONE,
23 an individual engaging in dual
24 employment with the Nevada State Assembly
25 and Clark County School District; JASON
26 FRIERSON, an individual engaging in dual
27 employment with the Nevada State Assembly
28 and Clark County Public Defender;
OSVALDO FUMO, an individual engaging
in dual employment with the Nevada State
Assembly and University of Nevada, Las
Vegas; HEIDI SEEVERS GANSERT, an
individual engaging in dual employment with
the Nevada State Senate and University of
Nevada Reno; GLEN LEAVITT, an
individual engaging in dual employment with
the Nevada State Assembly and. Regional
Transportation Commission; BRITTNEY
MILLER, an individual engaging in dual
employment with the Nevada State Assembly
and Clark County School District; DINA
NEAL, an individual engaging in dual
employment with the Nevada State Assembly
and Nevada State College; JAMES
OHRENSCHALL, an individual engaging in
dual employment with the Nevada State

CASE No.: A-20-817757-C

DEPT. No.: 24

**NOTICE OF ENTRY OF OMNIBUS
ORDER GRANTING MOTIONS TO
DISMISS**

Senate and Clark County Public Defender;
MELANIE SCHEIBLE an individual
engaging in dual employment with the
Nevada State Senate and Clark County
District Attorney; TERESA
BENITEZTHOMPSON,
an individual engaging in dual
employment with the Nevada State Assembly
and University of Nevada, Reno; JILL
TOLLES, an individual engaging in dual
employment with the Nevada State Assembly
and University of Nevada, Reno; and
SELENA TORRES, an individual engaging
in dual employment with the Nevada State
Assembly and Clark County School District,

Defendants.

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an Omnibus Order
Granting Motions to Dismiss was entered in the above-entitled matter on the 8th day of December
2020, a copy of which is attached hereto.

DATED this 8 of December 2020.

WILEY PETERSEN

JONATHAN D. BLUM, ESQ.
Nevada Bar No. 09515
1050 Indigo Dr., Suite 200B
Las Vegas, Nevada 89145
Telephone No. (702) 910-3329
Facsimile: (702) 553-3467
jblum@wileypetersenlaw.com

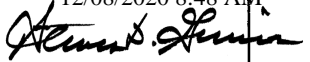
*Attorney for Defendants,
Jason Frierson and Nicole Cannizzaro*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I an employee of WILEY PETERSEN, and the 8th day of December
3 2020, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF**
4 **OMNIBUS ORDER GRANTING MOTIONS TO DISMISS** in the following manner:

5 (ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced
6 document was electronically filed on the date hereof and served through the Notice of Electronic Filing
7 automatically generated by the Court's facilities to those parties listed on the Court's Master Service
8 List.

9
10
11 /s/ Ivette Bautista
12 An Employee of WILEY PETERSEN
13
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CLERK OF THE COURT

ORDR

JONATHAN D. BLUM, ESQ.
Nevada Bar No. 09515

WILEY PETERSEN

1050 Indigo Dr., Suite 200B
Las Vegas, Nevada 89145
Telephone No. (702) 910-3329
Fax: (702) 553-3467
jblum@wileypetersenlaw.com

*Attorney for Defendants,
Jason Frierson and Nicole Cannizzaro*

DISTRICT COURT

CLARK COUNTY, NEVADA

NEVADA POLICY RESEARCH INSTITUTE,
a Nevada domestic nonprofit corporation,

Plaintiff,

vs.

NICOLE J. CANNIZZARO, an individual
engaging in dual employment with the
Nevada State Senate and Clark County
District Attorney; KASINA DOUGLASS-
BOONE,
an individual engaging in dual
employment with the Nevada State Assembly
and Clark County School District; JASON
FRIERSON, an individual engaging in dual
employment with the Nevada State Assembly
and Clark County Public Defender;
OSVALDO FUMO, an individual engaging
in dual employment with the Nevada State
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Vegas; HEIDI SEEVERS GANSERT, an
individual engaging in dual employment with
the Nevada State Senate and University of
Nevada Reno; GLEN LEAVITT, an
individual engaging in dual employment with
the Nevada State Assembly and Regional
Transportation Commission; BRITTNEY
MILLER, an individual engaging in dual
employment with the Nevada State Assembly
and Clark County School District; DINA
NEAL, an individual engaging in dual
employment with the Nevada State Assembly
and Nevada State College; JAMES
OHRENSCHALL, an individual engaging in
dual employment with the Nevada State

Case No.: A-20-817757-C

Dept. No.: 24

**OMNIBUS ORDER GRANTING
MOTIONS TO DISMISS**

Senate and Clark County Public Defender; MELANIE SCHEIBLE an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; TERESA BENITEZ-THOMPSON, an individual engaging in dual employment with the Nevada State Assembly and University of Nevada, Reno; JILL TOLLES, an individual engaging in dual employment with the Nevada State Assembly and University of Nevada, Reno; and SELENA TORRES, an individual engaging in dual employment with the Nevada State Assembly and Clark County School District,

Defendants.

In this action, Plaintiff Nevada Policy Research Institute (“NPRI”) has alleged that the individual Defendants are persons simultaneously holding elected offices in the Nevada Legislature and paid positions with the executive branch of the Nevada State Government or with local governments in violation of the separation-of-powers provision in Article 3, Section 1 of the Nevada Constitution. Defendants filed Motions to Dismiss as follows: Motion to Dismiss filed by Defendant Brittney Miller on September 18, 2020; Motion to Dismiss filed by Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal on September 28, 2020; Motion to Dismiss filed by Defendant Jason Frierson on October 5, 2020; and, Motion to Dismiss filed by Defendant Nicole Cannizzaro on October 19, 2020 (collectively, the “Motions to Dismiss”). Each of the defendants that filed a motion to dismiss also filed a joinder to the other Motions to Dismiss.

The Court having read and considered the pleadings and briefs filed by the parties, and for good cause appearing finds as follows:

Pursuant to EDCR 2.23 (c) and (d), this matter was decided on the briefs and pleadings filed by the parties without oral argument because the Court deems oral argument unnecessary.

Standing is the controlling issue here and while other issues are discussed, standing is the determinative issue above all else. Here, NPRI simply lacks standing to bring this suit. It is an organization rather than a particularly-aggrieved individual harmed by any alleged dual employment by any defendant. It is quite clear that NPRI does not allege any particularized harm beyond that of any

1 ordinary taxpayer, and that is not enough to give standing sufficient for NPRI to maintain this suit. *See*
2 *Katz v. Incline Village General Improvement District*, 414 P.3d 300, 2018 WL 1129140 (unpublished
3 decision), Nev. S. Ct. Case No. 70440 (Feb. 26, 2018) (“This court recently reaffirmed the general rule
4 that a taxpayer lacks standing when he or she has not suffered a special or peculiar injury different
5 from that sustained by the general public.”).

6 NPRI’s Opposition does not make persuasive arguments regarding standing, suggesting that an
7 evidentiary hearing would need to be conducted but not offering any theory as to how such a hearing
8 would demonstrate particularized harm or otherwise lead to a finding that it has standing to pursue this
9 case against Defendants.

10 Neither is the Court persuaded that NPRI comes within the recent *Schwartz* public-interest
11 exception to Nevada’s standing doctrine. *See Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894
12 (2016) (recognizing “an exception to [the] injury requirement in certain cases involving issues of public
13 importance.”). To establish standing under the public-interest exception: (1) the case must involve an
14 issue of significant public importance; (2) the case must involve a challenge to a legislative expenditure
15 or appropriation on the basis that it violates a specific provision of the Nevada Constitution; and (3)
16 the plaintiff must be an “appropriate” party, meaning that there is no one else in a better position who
17 will likely bring an action and that the plaintiff is capable of fully advocating his or her position in
18 court. *Id.*

19 Even granting, *arguendo*, that this matter is one of public importance, NPRI is not directly
20 challenging a legislative appropriation or expenditure that can be enjoined in this action. In *Schwartz*,
21 the challenged legislative expenditure at issue involved multi-million dollar educational expenditures
22 projected over decades, alleged to be unconstitutionally diverted from appropriate state education
23 funds, which persuaded the Nevada Supreme Court that parents of children in Nevada’s public school
24 system had standing to maintain suit under the public-interest exception without meeting the
25 particularized-injury requirement. It was the legislative expenditure, and the entirety of the
26 circumstances, that established the public-interest exception in *Schwartz* and exempted the parents
27 from meeting the particularized-injury requirement.

28 Here, at least in response to Defendant Miller’s motion, NPRI avers that her *per diem* or

1 legislative salary is the challenged “legislative appropriation” satisfying that prong of a *Schwartz*
2 analysis. But the present suit is about “dual employment” as a violation of Nevada’s separation-of-
3 powers provision, not about legislative pay; NPRI is not suing the paymasters of legislators to enjoin
4 such payments for the services of legislators; and NPRI blows hot and cold on whether or not it is suing
5 the Defendants as legislators at all, appearing to prefer to cast this action as against executive branch
6 and local government employees when convenient, and against legislators when not. Indeed, NPRI
7 seeks, unsuccessfully, to create a wholly-new and separate category of defendant here, sued neither in
8 his or her official capacity as legislator nor as public employee, in an attempt to disqualify institutional
9 attorneys from representing Defendants, a maneuver that the Court rejected in its order denying NPRI’s
10 motion to disqualify the attorneys for the Nevada State Higher Education System.

11 Further, NPRI cannot demonstrate that it is the “appropriate” party here, beyond its general
12 policy disagreement with legislators holding positions of public employment with the state executive
13 branch or with local governments. Historically, in the numerous suits NPRI has either brought or
14 assisted in bringing on this subject, it has demonstrated that it has been able to enlist individuals who
15 might provide a more colorable claim of particularized harm, but NPRI has simply opted not to do so
16 in this case to enhance the possibility of finding that counsel represents someone with actual standing.
17 NPRI even states in its papers that it has individual members ready and willing to seek the employment
18 positions of Defendants, demonstrating that it is not the sole and appropriate party to bring this suit,
19 especially given the direction provided by the Nevada Supreme Court in *Heller v. Legislature*, 120
20 Nev. 456, 472-473, 93 P.3d 746, 757 (2004), that an appropriate action raising the “dual service issue”
21 under Nevada’s separation-of-powers provision “could be sought by someone with a legally protectible
22 interest, such as a person seeking the executive branch position held by the legislator.” *Id.* (internal
23 quotation and citation omitted).

24 Meeting neither the basic elements of standing in Nevada nor at least two of the three prongs
25 of the analysis in *Schwartz*, NPRI clearly lacks standing to bring this suit.

26 ///

27 ///

28 ///

ORDER

IT IS HEREBY ORDERED that the Motions to Dismiss are **GRANTED**.

IT IS FURTHER ORDERED that the Joinders of the other Defendants are also **GRANTED**.

IT IS HEREBY FURTHER ORDERED that the hearing on this matter set for November 19,
Dated this 8th day of December, 2020
2020 is hereby **VACATED**.

Approved as to form and content by:

FOX ROTHSCHILD LLP

Refused to Sign Order
DEANNA L. FORBUSH, ESQ.
Nevada Bar No. 06646
COLEEN E. MCCARTY, ESQ.
Nevada Bar No. 13186
1980 Festival Plaza Drive, Suite 700
Las Vegas Nevada 89135

*Attorneys for Plaintiff,
Nevada Policy Research Institute*

**ASSISTANT GENERAL COUNSEL
UNIVERSITY OF NEVADA, RENO**

/s/ Gary A. Cardinal
GARY A. CARDINAL, ESQ.
Nevada Bar No. 00076
1664 North Virginia Street/MS 0550
Reno, Nevada 89557

*Attorneys for Defendants,
Osvaldo Fumo, Heidi Seevers Gansert,
and Dina Neal*

\\

\\

\\

\\

**GENERAL COUNSEL NEVADA STATE
COLLEGE E08 FB5 9880 C605
Jim Crockett
District Court Judge**

/s/ Berna L. Rhodes-Ford
BERNA L. RHODES-FORD, ESQ.
Nevada Bar No. 07879
1300 Nevada State Drive. RSC 374
Henderson, Nevada 89002

*Attorneys for Defendants,
Osvaldo Fumo, Heidi Seevers Gansert,
and Dina Neal*

**WOLF RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP**

/s/ Bradley Schrager
BRADLEY SCHRAGER, ESQ.
Nevada Bar No. 13078
3556 E. Russell Road, Second Floor
Las Vegas, Nevada 89120

*Attorneys for Defendants,
Brittney Miller and Selena Torres*

1 **LEGISLATIVE COUNSEL BUREAU,**
2 **LEGAL DIVISION**

3 /s/ Kevin C. Powers
4 KEVIN C. POWERS, ESQ.
5 Nevada Bar No. 6781
6 401 S. Carson St.
7 Carson City, Nevada 89701

8 *Attorneys for Intervenor-Defendant*
9 *Legislature of the State of Nevada*

10 *Respectfully submitted by:*

11 **WILEY PETERSEN**

12 JONATHAN D. BLUM, ESQ.
13 Nevada Bar No. 09515
14 1050 Indigo Dr., Suite 200B
15 Las Vegas, Nevada 89145
16 Telephone No. (702) 910-3329
17 Fax: (702) 553-3467
18 jblum@wileypetersenlaw.com

19 *Attorneys for Defendants,*
20 *Jason Frierson and Nicole Cannizzaro*

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Cc: ibautista@wileypetersenlaw.com
Subject: RE: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

Jon,
You have permission to attach my signature.
Thank you,
Gary

GARY A. CARDINAL

Assistant General Counsel
University of Nevada, Reno
1664 North Virginia Street
Mail Stop 0550
Reno, NV 89557
Tel: (775) 784-3495
Fax: (775) 327-2202
gcardinal@unr.edu

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Cc: ibautista@wileypetersenlaw.com
Subject: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

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Jon

Jonathan D. Blum, Esq.



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From: Bradley Schrager <BSchrager@wrslawyers.com>
Sent: Monday, December 7, 2020 9:40 AM
To: 'jblum@wileypetersenlaw.com'; 'Powers, Kevin'; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; Daniel Bravo; 'Nita Armendariz'; gcardinal@unr.edu; 'Berna Rhodes-Ford'
Cc: ibautista@wileypetersenlaw.com
Subject: RE: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

Please affix ours.

Bradley S. Schrager
Areas of Practice: Politics & Government – Appeals & Writs – Wage & Labor
Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP
3556 E. Russell Rd, Las Vegas, Nevada 89120
702.639.5102
bschrager@wrslawyers.com

This correspondence is intended for the individual or entity to whom it is addressed, and may be protected by privilege.

From: jblum@wileypetersenlaw.com [mailto:jblum@wileypetersenlaw.com]
Sent: Monday, December 07, 2020 9:37 AM
To: Bradley Schrager; 'Powers, Kevin'; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; Daniel Bravo; 'Nita Armendariz'; gcardinal@unr.edu; 'Berna Rhodes-Ford'
Cc: ibautista@wileypetersenlaw.com
Subject: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

CAUTION:EXTERNAL EMAIL

Counsel,
I have incorporated the requested changes in the attached order. Please let me know if I can affix your e-signatures.

Deanna and Colleen, I understand you will not be signing, but if you can respond confirming the same, that would be helpful.

I plan to submit this today.

Thanks,
Jon

Jonathan D. Blum, Esq.



1050 Indigo Drive, Suite 200B

Las Vegas, Nevada 89145

Office 702.910.3329 | Mobile 702.443.0677

jblum@wileypetersenlaw.com

www.wileypetersenlaw.com



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From: Powers, Kevin <kpowers@lcb.state.nv.us>

Sent: Monday, December 7, 2020 11:24 AM

To: jblum@wileypetersenlaw.com; 'Bradley Schrager' <BSchrager@wrslawyers.com>; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; 'Daniel Bravo' <DBravo@wrslawyers.com>; 'Nita Armendariz' <Nita.Armendariz@nsc.edu>; gcardinal@unr.edu; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>

Cc: ibautista@wileypetersenlaw.com

Subject: RE: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

LCB Legal has reviewed the proposed Omnibus Order Granting Motions to Dismiss, and I agree to the use of the my electronic signature for the proposed order.

Thanks.

Kevin C. Powers

General Counsel

Nevada Legislative Counsel Bureau, Legal Division

401 S. Carson Street

Carson City, NV 89701-4747

(775) 684-6830

(775) 684-6761-Fax

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From: jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>

Sent: Monday, December 07, 2020 9:37 AM

To: 'Bradley Schrager' <BSchrager@wrslawyers.com>; Powers, Kevin <kpowers@lcb.state.nv.us>; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; 'Daniel Bravo' <DBravo@wrslawyers.com>; 'Nita Armendariz' <Nita.Armendariz@nsc.edu>; gcardinal@unr.edu; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>

Cc: ibautista@wileypetersenlaw.com

Subject: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

Counsel,

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Deanna and Colleen, I understand you will not be signing, but if you can respond confirming the same, that would be helpful.

I plan to submit this today.

Thanks,
Jon

Jonathan D. Blum, Esq.



1050 Indigo Drive, Suite 200B
Las Vegas, Nevada 89145
Office 702.910.3329 | Mobile 702.443.0677
jblum@wileypetersenlaw.com
www.wileypetersenlaw.com



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From: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>
Sent: Monday, December 7, 2020 2:41 PM
To: jblum@wileypetersenlaw.com
Cc: Bradley Schragger; Powers, Kevin; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; Daniel Bravo; Nita Armendariz; gcardinal@unr.edu; ibautista@wileypetersenlaw.com
Subject: Re: A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

You may affix my e-signature.

Berna L. Rhodes-Ford
office [702.992.2378](tel:702.992.2378)
Berna.Rhodes-Ford@nsc.edu

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On Dec 7, 2020, at 9:37 AM, jblum@wileypetersenlaw.com wrote:

Counsel,
I have incorporated the requested changes in the attached order. Please let me know if I can affix your e-signatures.

Deanna and Colleen, I understand you will not be signing, but if you can respond confirming the same, that would be helpful.

I plan to submit this today.

Thanks,
Jon

Jonathan D. Blum, Esq.

<image001.jpg>
1050 Indigo Drive, Suite 200B
Las Vegas, Nevada 89145
Office 702.910.3329 | Mobile 702.443.0677

jblum@wileypetersenlaw.com
www.wileypetersenlaw.com

<image003.png>

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<201203 DRAFT_NPRI v. Cannizzaro et al._Proposed Order Granting MTD 12.7.20.docx>

From: McCarty, Colleen E. <CMcCarty@foxrothschild.com>
Sent: Monday, December 7, 2020 11:43 AM
To: jblum@wileypetersenlaw.com; 'Bradley Schrager'; 'Powers, Kevin'; Forbush, Deanna L.; 'Daniel Bravo'; 'Nita Armendariz'; gcardinal@unr.edu; 'Berna Rhodes-Ford'
Cc: ibautista@wileypetersenlaw.com; Martinez, Natasha
Subject: RE: [EXT] A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

Jon,

As set forth in our communications to you and in the letter to chambers, dated December 4, 2020, we have respectfully requested that the Court hold all proposed orders in this matter until the Court resolves the pending Motion for Clarification on or before December 17, 2020 and NPRI has the opportunity thereafter to provide input to complete the necessary orders. NPRI seeks to include the Court's clarifications in each order ultimately entered by the Court as a result of its November 18, 2020 Minute Order.

Colleen McCarty

From: jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>
Sent: Monday, December 7, 2020 9:37 AM
To: 'Bradley Schrager' <BSchrager@wrslawyers.com>; 'Powers, Kevin' <kpowers@lcb.state.nv.us>; Forbush, Deanna L. <DForbush@foxrothschild.com>; McCarty, Colleen E. <CMcCarty@foxrothschild.com>; 'Daniel Bravo' <DBravo@wrslawyers.com>; 'Nita Armendariz' <Nita.Armendariz@nsc.edu>; gcardinal@unr.edu; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>
Cc: ibautista@wileypetersenlaw.com
Subject: [EXT] A-20-817757-C Nevada Policy Research Institute vs. Nicole Cannizzaro, et al. 00618- Order on Motions to Dismiss

Counsel,

I have incorporated the requested changes in the attached order. Please let me know if I can affix your e-signatures.

Deanna and Colleen, I understand you will not be signing, but if you can respond confirming the same, that would be helpful.

I plan to submit this today.

Thanks,
Jon

Jonathan D. Blum, Esq.



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Las Vegas, Nevada 89145
Office 702.910.3329 | Mobile 702.443.0677
jblum@wileypetersenlaw.com
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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Nevada Policy Research
Institute, Plaintiff(s)

CASE NO: A-20-817757-C

7 vs.

DEPT. NO. Department 24

8
9 Nicole Cannizzaro, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/8/2020

15 Bradley Schrager bschrager@wrslawyers.com

16 Dannielle Fresquez dfresquez@wrslawyers.com

17 Daniel Bravo dbravo@wrslawyers.com

18 Christie Rehfeld crehfeld@wrslawyers.com

19 Kevin Powers kpowers@lcb.state.nv.us

20 Deanna Forbush dforbush@foxrothschild.com

21 Colleen McCarty cmccarty@foxrothschild.com

22 Natasha Martinez nmartinez@foxrothschild.com

23 Ivette Bautista ibautista@wileypetersenlaw.com

24 Jonathan Blum jblum@wileypetersenlaw.com

25 Chastity Dugenia cdugenia@wileypetersenlaw.com

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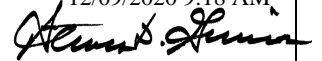
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Berna Rhodes-Ford

Berna.Rhodes-Ford@nsc.edu

Gary Cardinal

gcardinal@unr.edu



CLERK OF THE COURT

ORDR

Berna L. Rhodes-Ford
Nevada Bar No. 7879
General Counsel
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1300 Nevada State Dr., RSC 374
Henderson, Nevada 89002
Tel: (702) 992-2378
Fax: (702) 974-0750
berna.rhodes-ford@nsc.edu

Gary A. Cardinal
Nevada Bar No. 76
Assistant General Counsel
University of Nevada, Reno
1664 North Virginia Street/MS 0550
Reno, Nevada 89557-0550
Tel: (775) 784-3495
Fax: (775) 327-2202
gcardinal@unr.edu

*Attorneys for Defendants
Osvaldo Fumo, Heidi Seevers Gansert,
and Dina Neal*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NEVADA POLICY RESEARCH INSTITUTE,
a Nevada domestic nonprofit corporation,

Case No.: A-20-817757-C

Plaintiff,

Dept. No.: 24

v.

NICOLE J. CANNIZZARO, an individual
engaging in dual employment with the Nevada
State Senate and Clark County District Attorney;
KASINA DOUGLAS-BOONE, an individual
engaging in dual employment with the Nevada
State Assembly and Clark County School
District; JASON FRIERSON, an individual
engaging in dual employment with the Nevada
State Assembly and Clark County Public
Defender; OSVALDO FUMO, an individual
engaging in dual employment with the Nevada
State Assembly and University of Nevada, Las

**ORDER DENYING PLAINTIFF'S
MOTION TO DISQUALIFY
OFFICIAL ATTORNEYS**

1 Vegas; HEIDI SEEVERS GANSERT, an
2 individual engaging in dual employment with
3 the Nevada State Senate and University of
4 Nevada Reno; GLEN LEAVITT, an individual
5 engaging in dual employment with the Nevada
6 State Assembly and Regional Transportation
7 Commission; BRITTNEY MILLER, an
8 individual engaging in dual employment with
9 the Nevada State Assembly and Clark County
10 School District; DINA NEAL, an individual
11 engaging in dual employment with the Nevada
12 State Assembly and Nevada State College;
13 JAMES OHRENSCHALL, an individual
14 engaging in dual employment with the Nevada
15 State Senate and Clark County Public Defender;
16 MELANIE SCHEIBLE, an individual engaging
17 in dual employment with the Nevada State
18 Senate and Clark County District Attorney;
19 TERESA BENITEZ-THOMPSON, an
20 individual engaging in dual employment with
21 the Nevada State Assembly and University of
22 Nevada, Reno; JILL TOLLES, an individual
23 engaging in dual employment with the Nevada
24 State Assembly and University of Nevada,
25 Reno; and SELINA TORRES, an individual
26 engaging in dual employment with the Nevada
27 State Assembly and Clark County School
28 District,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION TO DISQUALIFY OFFICIAL
ATTORNEYS**

Having duly considered Plaintiff Nevada Policy Research Institute's ("NPRI") Motion to Disqualify the Official Attorneys from representing Defendants Osvaldo Fumo, Heidi Seevers Gansert and Dina Neal (the "NSHE Defendants"), the Opposition filed by the NSHE Defendants and NPRI's Reply, the Court finds that the Official Attorneys are duly authorized legal counsel who are not prohibited from representing the NSHE Defendants.


// //

// //

// //

Accordingly, IT IS HEREBY ORDERED that NPRI's Motion to Disqualify the Official
Attorneys is DENIED.

Dated this 9th day of December, 2020



Respectfully submitted this 8th day of December, 2020

369 4DE F4A1 5A64
Jim Crockett
District Court Judge

/s/ Berna L. Rhodes-Ford

BERNA L. RHODES-FORD

Nevada Bar No. 7879

General Counsel

Nevada State College

1300 Nevada State Dr., RSC 374

Henderson, Nevada 89002

Tel: (702) 992-2378

Fax: (702) 974-0750

berna.rhodes-ford@nsc.edu

*Attorneys for Defendants Osvaldo Fumo,
Heidi Seevers Gansert, and Dina Neal*

/s/ Gary A. Cardinal

GARY A. CARDINAL

Nevada Bar No. 76

Assistant General Counsel

University of Nevada, Reno

1664 North Virginia Street/MS 0550

Reno, Nevada 89557-0550

Tel: (775) 784-3495

Fax: (775) 327-2202

gcardinal@unr.edu

*Attorneys for Defendants Osvaldo Fumo,
Heidi Seevers Gansert, and Dina Neal*

Order reviewed by:

Deanna L. Forbush, Esq.

FOX ROTHSCHILD LLP

Email: dforbush@foxrothschild.com

Attorneys for Plaintiff

Colleen E. McCarty, Esq.

FOX ROTHSCHILD LLP

Email: cmccarty@foxrothschild.com

Attorneys for Plaintiff

/s/ Bradley Schrager

Bradley Schrager, Esq.

WOLF, RIFKIN, SHAPIRO,

SCHULMAN & RABKIN, LLP

Email: bschrager@wrslawyers.com

*Attorneys for Defendants Brittney Miller
and Selena Torres*

/s/ Daniel Bravo

Daniel Bravo, Esq.

WOLF, RIFKIN, SHAPIRO,

SCHULMAN & RABKIN, LLP Email:

dbravo@wrslawyers.com *Attorneys for
Defendants Brittney Miller and Selena
Torres*

1 /s/ Jonathan D. Blum

2 Jonathan D. Blum, Esq.

3 **WILEY PETERSEN**

4 Email: jblum@wileypetersenlaw.com

5 *Attorneys for Defendants Jason Frierson*

6 *and Nicole Cannizzaro*

/s/ Kevin C. Powers

 Kevin C. Powers

LEGISLATIVE COUNSEL

BUREAU, LEGAL DIVISION

 Email: kpowers@lcb.state.nv.us

Attorneys for Intervenor-Defendant

Legislature of the State of Nevada

RE: Draft Order on Motion to Disqualify

Bradley Schrager <BSchrager@wrslawyers.com>

Thu 12/3/2020 5:24 AM

To: 'Powers, Kevin' <kpowers@lcb.state.nv.us>; Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>; dforbush@foxrothschild.com <dforbush@foxrothschild.com>; cmccarty@foxrothschild.com <cmccarty@foxrothschild.com>; Daniel Bravo <DBravo@wrslawyers.com>; jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>
Cc: Nita Armendariz <Nita.Armendariz@nsc.edu>

Concur on use of e-signature for us, Counsel

Bradley S. Schrager

Areas of Practice: Politics & Government – Appeals & Writs – Wage & Labor

Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP

3556 E. Russell Rd, Las Vegas, Nevada 89120

702.639.5102

bschrager@wrslawyers.com

This correspondence is intended for the individual or entity to whom it is addressed, and may be protected by privilege.

From: Powers, Kevin [mailto:kpowers@lcb.state.nv.us]**Sent:** Wednesday, December 02, 2020 11:32 PM**To:** Berna Rhodes-Ford; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; Bradley Schrager; Daniel Bravo; jblum@wileypetersenlaw.com**Cc:** Nita Armendariz**Subject:** RE: Draft Order on Motion to Disqualify

CAUTION:EXTERNAL EMAIL

I have reviewed the proposed Order Denying Plaintiff's Motion to Disqualify Official Attorneys, and I agree to the use of the my electronic signature, with the following technical revisions.

As part of my electronic signature block on the proposed order:

1. Please revise to read “**LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION**”
2. Please delete “*Opposed Intervenor*” and replace with:

*Attorneys for Intervenor-Defendant
Legislature of the State of Nevada*

Kevin C. Powers

General Counsel

Nevada Legislative Counsel Bureau, Legal Division

401 S. Carson Street

Carson City, NV 89701-4747

(775) 684-6830
(775) 684-6761-Fax

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From: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>

Sent: Wednesday, December 2, 2020 4:16 PM

To: dforbush@foxrothschild.com; cmccarty@foxrothschild.com; bschrager@wrslawyers.com; dbravo@wrslawyers.com; jblum@wileypetersenlaw.com; Powers, Kevin <kpowers@lcb.state.nv.us>

Cc: Nita Armendariz <Nita.Armendariz@nsc.edu>

Subject: Draft Order on Motion to Disqualify

Good afternoon, counsel. Please review the attached draft order on the Motion to Disqualify Attorneys. If you have no revisions to the draft order, please let me know if I can add your electronic signature to the draft order.

Thank you.

Berna L. Rhodes-Ford
General Counsel

BE CONNECTED OFFICE 702.992.2378 | FAX 702.974.0750 | Berna.Rhodes-Ford@nsc.edu

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Fwd: NPRI v. Cannizzaro et al.

Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>

Tue 12/8/2020 4:46 PM

To: Nita Armendariz <Nita.Armendariz@nsc.edu>

Berna L. Rhodes-FordOFFICE **702.992.2378**Berna.Rhodes-Ford@nsc.edu

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Begin forwarded message:

From: "McCarty, Colleen E." <CMcCarty@foxrothschild.com>**Date:** December 3, 2020 at 6:54:01 PM PST**To:** Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>, Gary A Cardinal <gcardinal@unr.edu>, jblum@wileypetersenlaw.com, Bradley Schrager <BSchrager@wrslawyers.com>, dbravo@wrslawyers.com, "Powers, Kevin" <kpowers@lcb.state.nv.us>, "Forbush, Deanna L." <DForbush@foxrothschild.com>**Cc:** "Martinez, Natasha" <NMartinez@foxrothschild.com>**Subject:** NPRI v. Cannizzaro et al.

Good evening Counsel,

I am in receipt of each of your proposed orders, and I do have suggested edits to each. However, as each was submitted to me on or after the deadline for submission to the Court under EDCR 7.21, and the Court's ruling on NPRI's Motion for Clarification is two weeks away or less, I am asking for the courtesy of waiting to provide input on these orders until after the Court's ruling.

The Omnibus Order Granting Motions to Dismiss proposed by Mr. Blum will obviously have the most direct impact by any clarification provided by the Court, but I will also be seeking to include discussion of the standing argument in Ms. Rhodes-Ford's proposed Order Denying Plaintiff's Motion to Disqualify Official Attorneys on behalf of the NSHE Defendants, as standing was raised in the underlying briefing. And, while Mr. Power's proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant may not be directly impacted by the Court's expected clarification, it is unnecessarily costly to my client for me to have to address these orders on a piecemeal basis.

As the deadline for submission of these orders has already passed, and it is NPRI that would most benefit from the expedited entry of the orders and the opportunity to seek appellate review in advance of the 2021 Legislative Session, I trust you will each be amenable to extending the

requested courtesy of waiting to review and, to the extent necessary, submit competing orders related to the Court's November 18, 2020 Minute Order.

Thank you in advance for your consideration.

Colleen

Colleen E. McCarty

Attorney

Fox Rothschild LLP

One Summerlin

1980 Festival Plaza Drive, Suite 700

Las Vegas, NV 89135

(702) 699-5171 - direct

(702) 597-5503 - fax

CMcCarty@foxrothschild.com

www.foxrothschild.com

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Fox Rothschild LLP
ATTORNEYS AT LAW

One Summerlin
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135
Tel (702) 262-6899; Fax (702) 597-5503
www.foxrothschild.com

Colleen E. McCarty
Direct: (702) 699-7151
Email: CMcCarty@foxrothschild.com

December 4, 2020

VIA EMAIL TRANSMISSION
Dept24LC@clarkcountycourts.us

Marvin Simeon
Law Clerk to the Honorable Jim Crockett
Eighth Judicial District Court, Dept. XXIV
200 Lewis Avenue
Las Vegas, Nevada 89155

Re: *Nevada Policy Research Institute v. Nicole Cannizzaro, et al.*, Case No. A-20-817757-C
Request to Hold Processing of Orders from November 18, 2020 Minute Order

Dear Mr. Simeon:

Following the Court's entry of the OST on NPRI's Motion for Clarification, opposing counsel for the NSHE Defendants, the Nevada Legislature, and the individual Defendants, Nicole Cannizzaro and Jason Frierson, respectively, prepared and forwarded to my attention for review draft orders from the Court's Minute Order entered on November 18, 2020. While NPRI is the party with the most to gain from the expedited entry of these orders and the opportunity they will provide to seek appellate review in advance of the 2021 Legislative Session, I have respectfully requested that each opposing counsel wait to submit his or her proposed order until the Court resolves the pending Motion for Clarification on or before December 17, 2020 and I have the opportunity to provide input to complete the necessary orders. Opposing counsel, however, have declined this courtesy, in agreement with the position articulated by Mr. Johnathan D. Blum, Esq., which is the reason for this correspondence. The relevant emails are enclosed herewith as **Exhibit 1**.

I would note, again, that each proposed order draft was submitted to me for my consideration after service of NPRI's Motion for Clarification, and this was either on or after the 14-day period for submission of proposed orders to Chambers pursuant to EDCR 7.21, which period ran yesterday, December 2, 2020. That said, the reason NPRI respectfully requests that any order hereafter submitted to Chambers be held for consideration is to first allow the Court to clarify its Minute Order as requested. All parties, and quite possibly the successor Judge on this case, will benefit from having the clearest possible record. And, it is both inefficient and costly to my client to be asked to discuss draft orders now, when additional information for inclusion in

December 4, 2020

Page 2

some, if not all, of the orders will be forthcoming from the Court within the next two weeks at the latest.

Finally, to the extent counsel for the NSHE Defendants and/or the Nevada Legislature would suggest that clarification of the Court's standing determination does not directly impact their clients' order, NPRI respectfully submits this does not override the efficiency of completing each order simultaneously, rather than on a piecemeal basis. Also, although not specifically included in the Court's Minute Order, the NSHE Defendants argued lack of standing as a basis for issuing an order in their favor, the same as those Defendants seeking dismissal. And, the Nevada Legislature, by its own admission, understands this case "involves extremely important questions of constitutional law" (*see* Nevada Legislature's Motion to Intervene as Defendant at 16:22-23), which goes directly to the first criteria for application of the public importance exception. For these reasons, I will likely seek to include the Court's clarifications in each order ultimately entered by the Court as a result of the November 18, 2020 Minute Order.

Should you wish further explanation of the specific objections my client and I have to the form of orders I received and am anticipating will be submitted with or without my signature by opposing counsel, I will be happy to provide this to you immediately upon request. Again, however, it is my hope to avoid the unnecessary additional expense to my client of further reviewing and preparing competing orders in advance of the December 17, 2020 hearing.

Please do not hesitate to contact me directly at (702) 702-262-6899 if you have any questions or need any additional information. Thank you in advance for your kind consideration

Sincerely,

FOX ROTHSCHILD LLP

/s/ Colleen E. McCarty

Colleen E. McCarty

CEM/nm

cc: Jonathan D. Blum, Esq. (jblum@wileypetersenlaw.com)
Gary A. Cardinal, Esq. (gcardinal@unr.edu)
Kevin C. Powers, Esq. (kpowers@lcb.state.nv.us)
Berna L. Rhodes-Ford, Esq. (berna.rhodes-ford@nsc.edu)
Bradley Schrager, Esq. (bschrager@wrslawyers.com)

EXHIBIT 1

From: jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>

Sent: Thursday, December 3, 2020 9:00 PM

To: McCarty, Colleen E. <CMcCarty@foxrothschild.com>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>; 'Gary A Cardinal' <gcardinal@unr.edu>; 'Bradley Schrager' <BSchrager@wrslawyers.com>; DBravo@wrslawyers.com; 'Powers, Kevin' <kpowers@lcb.state.nv.us>; Forbush, Deanna L. <DForbush@foxrothschild.com>

Cc: Martinez, Natasha <NMartinez@foxrothschild.com>; ibautista@wileypetersenlaw.com

Subject: [EXT] RE: NPRI v. Cannnizzaro et al. 00618

Colleen,

From my perspective the draft orders were not submitted earlier due to the intervening holiday, and the language of the minute order. The status check for the filing of the orders was set for Dec. 17, indicating a longer timeframe allowed by the Court, specifically permitted under EDCR 7.21. My position is that, per the minute order and local rules we can't simply fail to submit an order because there is another pending motion that may potentially affect that order. The motion for clarification should have been filed after a final order on the motions were entered, and is, in my opinion, premature. (I recognize the issue of Judge Crockett's departure from the bench as an issue, but requiring another round of briefing before the Judge has an opportunity to sign an order on the original motions causes additional fees for all of us.)

I'll be off the grid through the weekend, so I'll review the proposed changes on Monday. I will then submit the proposed order with any parties' signatures that are in agreement. Submitting your own competing order, if that's what you choose to do, may obviate the need for the motion for clarification as Judge Crockett can sign or revise whichever version he deems most accurate.

Thanks,
Jon

Jonathan D. Blum, Esq.



1050 Indigo Drive, Suite 200B

Las Vegas, Nevada 89145

Office 702.910.3329 | Mobile 702.443.0677

jblum@wileypetersenlaw.com

www.wileypetersenlaw.com



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From: McCarty, Colleen E. <CMcCarty@foxrothschild.com>

Sent: Thursday, December 3, 2020 6:54 PM

To: 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>; Gary A Cardinal <gcardinal@unr.edu>; jblum@wileypetersenlaw.com; Bradley Schrager <BSchrager@wrslawyers.com>; DBravo@wrslawyers.com; Powers, Kevin <kpowers@lcb.state.nv.us>; Forbush, Deanna L. <DForbush@foxrothschild.com>

Cc: Martinez, Natasha <NMartinez@foxrothschild.com>

Subject: NPRI v. Cannizzaro et al.

Good evening Counsel,

I am in receipt of each of your proposed orders, and I do have suggested edits to each. However, as each was submitted to me on or after the deadline for submission to the Court under EDCR 7.21, and the Court's ruling on NPRI's Motion for Clarification is two weeks away or less, I am asking for the courtesy of waiting to provide input on these orders until after the Court's ruling.

The Omnibus Order Granting Motions to Dismiss proposed by Mr. Blum will obviously have the most direct impact by any clarification provided by the Court, but I will also be seeking to include discussion of the standing argument in Ms. Rhodes-Ford's proposed Order Denying Plaintiff's Motion to Disqualify Official Attorneys on behalf of the NSHE Defendants, as standing was raised in the underlying briefing. And, while Mr. Power's proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant may not be directly impacted by the Court's expected clarification, it is unnecessarily costly to my client for me to have to address these orders on a piecemeal basis.

As the deadline for submission of these orders has already passed, and it is NPRI that would most benefit from the expedited entry of the orders and the opportunity to seek appellate review in advance of the 2021 Legislative Session, I trust you will each be amenable to extending the requested courtesy of waiting to review and, to the extent necessary, submit competing orders related to the Court's November 18, 2020 Minute Order.

Thank you in advance for your consideration.

Colleen

Colleen E. McCarty

Attorney

Fox Rothschild LLP

One Summerlin

1980 Festival Plaza Drive, Suite 700

Las Vegas, NV 89135

(702) 699-5171 - direct

(702) 597-5503 - fax

CMcCarty@foxrothschild.com

www.foxrothschild.com

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From: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>
Sent: Thursday, December 3, 2020 11:16 PM
To: Bradley Schrager <BSchrager@wrslawyers.com>
Cc: Powers, Kevin <kpowers@lcb.state.nv.us>; jblum@wileypetersenlaw.com; McCarty, Colleen E. <CMcCarty@foxrothschild.com>; Gary A Cardinal <gcardinal@unr.edu>; Daniel Bravo <DBravo@wrslawyers.com>; Forbush, Deanna L. <DForbush@foxrothschild.com>; Martinez, Natasha <NMartinez@foxrothschild.com>; ibautista@wileypetersenlaw.com
Subject: [EXT] Re: NPRI v. Cannnizzaro et al. 00618

I am in agreement as well.

Berna L. Rhodes-Ford
office [702.992.2378](tel:702.992.2378)
Berna.Rhodes-Ford@nsc.edu

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On Dec 3, 2020, at 9:56 PM, Bradley Schrager <BSchrager@wrslawyers.com> wrote:

I concur

Bradley Schrager
Wolf Rifkin Shapiro Schulman & Rabkin

On Dec 3, 2020, at 9:17 PM, Powers, Kevin <kpowers@lcb.state.nv.us> wrote:

CAUTION:EXTERNAL EMAIL

LCB Legal agrees with Mr. Blum's legal analysis, procedural approach, and timeline as set forth in his email below. Therefore, LCB Legal will follow all the same with regard to its proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant.

Thanks.

Kevin C. Powers

General Counsel

Nevada Legislative Counsel Bureau, Legal Division

401 S. Carson Street

Carson City, NV 89701-4747

(775) 684-6830

(775) 684-6761-Fax

ATTENTION

The information contained in this message is a confidential communication from the Nevada Legislative Counsel Bureau. It is intended to be read only by the person or entity to whom it is addressed or by the designee of such person or entity. If the reader of this message is not the intended recipient, you are on notice that distribution of this message in any form is strictly prohibited.

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From: jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>

Sent: Thursday, December 3, 2020 9:00 PM

To: 'McCarty, Colleen E.' <CMcCarty@foxrothschild.com>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>; 'Gary A Cardinal' <gcardinal@unr.edu>; 'Bradley Schrager' <BSchrager@wrslawyers.com>; DBravo@wrslawyers.com; Powers, Kevin <kpowers@lcb.state.nv.us>; 'Forbush, Deanna L.' <DForbush@foxrothschild.com>

Cc: 'Martinez, Natasha' <NMartinez@foxrothschild.com>; ibautista@wileypetersenlaw.com

Subject: RE: NPRI v. Cannizzaro et al. 00618

Colleen,

From my perspective the draft orders were not submitted earlier due to the intervening holiday, and the language of the minute order. The status check for the filing of the orders was set for Dec. 17, indicating a longer timeframe allowed by the Court, specifically permitted under EDCR 7.21. My position is that, per the minute order and local rules we can't simply fail to submit an order because there is another pending motion that may potentially affect that order. The motion for clarification should have been filed after a final order on the motions were entered, and is, in my opinion, premature. (I recognize the issue of Judge Crockett's departure from the bench as an issue, but requiring another round of briefing before the Judge has an opportunity to sign an order on the original motions causes additional fees for all of us.)

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Thanks,
Jon

Jonathan D. Blum, Esq.

<image001.jpg>

1050 Indigo Drive, Suite 200B

Las Vegas, Nevada 89145
Office 702.910.3329 | Mobile 702.443.0677
jblum@wileypetersenlaw.com
www.wileypetersenlaw.com

<image002.png>

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From: McCarty, Colleen E. <CMcCarty@foxrothschild.com>
Sent: Thursday, December 3, 2020 6:54 PM
To: 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>; Gary A Cardinal <gcardinal@unr.edu>; jblum@wileypetersenlaw.com; Bradley Schragger <BSchragger@wrslawyers.com>; DBravo@wrslawyers.com; Powers, Kevin <kpowers@lcb.state.nv.us>; Forbush, Deanna L. <DForbush@foxrothschild.com>
Cc: Martinez, Natasha <NMartinez@foxrothschild.com>
Subject: NPRI v. Cannizzaro et al.

Good evening Counsel,

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As the deadline for submission of these orders has already passed, and it is NPRI that would most benefit from the expedited entry of the orders and the opportunity to seek appellate review in advance of the 2021 Legislative Session, I trust you will each be amenable to extending the requested courtesy of waiting to review and, to the extent necessary, submit competing orders related to the Court's November 18, 2020 Minute Order.

Thank you in advance for your consideration.

Colleen

Colleen E. McCarty

Attorney

Fox Rothschild LLP

One Summerlin

1980 Festival Plaza Drive, Suite 700

Las Vegas, NV 89135

(702) 699-5171 - direct

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RE: Draft Order on Motion to Disqualify 00618

jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>

Wed 12/2/2020 5:27 PM

To: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>; dforbush@foxrothschild.com <dforbush@foxrothschild.com>; cmccarty@foxrothschild.com <cmccarty@foxrothschild.com>; bschrager@wrslawyers.com <bschrager@wrslawyers.com>; dbravo@wrslawyers.com <dbravo@wrslawyers.com>; kpowers@lcb.state.nv.us <kpowers@lcb.state.nv.us>

Cc: Nita Armendariz <Nita.Armendariz@nsc.edu>; ibautista@wileypetersenlaw.com <ibautista@wileypetersenlaw.com>

Thanks Berna, you may affix my e-signature.

Jonathan D. Blum, Esq.



1050 Indigo Drive, Suite 200B
Las Vegas, Nevada 89145
Office 702.910.3329 | Mobile 702.443.0677
jblum@wileypetersenlaw.com
www.wileypetersenlaw.com



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From: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>

Sent: Wednesday, December 2, 2020 4:16 PM

To: dforbush@foxrothschild.com; cmccarty@foxrothschild.com; bschrager@wrslawyers.com; dbravo@wrslawyers.com; jblum@wileypetersenlaw.com; kpowers@lcb.state.nv.us

Cc: Nita Armendariz <Nita.Armendariz@nsc.edu>

Subject: Draft Order on Motion to Disqualify

Good afternoon, counsel. Please review the attached draft order on the Motion to Disqualify Attorneys. If you have no revisions to the draft order, please let me know if I can add your electronic signature to the draft order.

Thank you.

Berna L. Rhodes-Ford
General Counsel

BE CONNECTED OFFICE 702.992.2378 | FAX 702.974.0750 | Berna.Rhodes-Ford@nsc.edu

BE HERE 1300 Nevada State Drive | RSC 374 | Henderson, NV 89002

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Nevada Policy Research
Institute, Plaintiff(s)

CASE NO: A-20-817757-C

7 vs.

DEPT. NO. Department 24

8
9 Nicole Cannizzaro, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/9/2020

15 Bradley Schrager bschrager@wrslawyers.com

16 Dannielle Fresquez dfresquez@wrslawyers.com

17 Daniel Bravo dbravo@wrslawyers.com

18 Christie Rehfeld crehfeld@wrslawyers.com

19 Kevin Powers kpowers@lcb.state.nv.us

20 Deanna Forbush dforbush@foxrothschild.com

21 Colleen McCarty cmccarty@foxrothschild.com

22 Natasha Martinez nmartinez@foxrothschild.com

23 Ivette Bautista ibautista@wileypetersenlaw.com

24 Jonathan Blum jblum@wileypetersenlaw.com

25 Chastity Dugenia cdugenia@wileypetersenlaw.com

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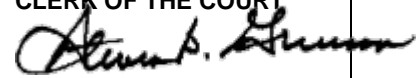
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Berna Rhodes-Ford

Berna.Rhodes-Ford@nsc.edu

Gary Cardinal

gcardinal@unr.edu



NEOJ

Berna L. Rhodes-Ford
Nevada Bar No. 7879
General Counsel
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1300 Nevada State Dr., RSC 374
Henderson, Nevada 89002
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Reno, Nevada 89557-0550
Tel: (775) 784-3495
Fax: (775) 327-2202
gcardinal@unr.edu

*Attorneys for Defendants
Osvaldo Fumo, Heidi Seevers Gansert,
Dina Neal and Jill Tolles*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NEVADA POLICY RESEARCH INSTITUTE,
a Nevada domestic nonprofit corporation,

Case No.: A-20-817757-C

Plaintiff,

Dept. No.: 24

v.

NICOLE J. CANNIZZARO, an individual
engaging in dual employment with the Nevada
State Senate and Clark County District Attorney;
KASINA DOUGLAS-BOONE, an individual
engaging in dual employment with the Nevada
State Assembly and Clark County School
District; JASON FRIERSON, an individual
engaging in dual employment with the Nevada
State Assembly and Clark County Public
Defender; OSVALDO FUMO, an individual
engaging in dual employment with the Nevada
State Assembly and University of Nevada, Las

**NOTICE OF ENTRY OF
ORDER DENYING PLAINTIFF'S
MOTION TO DISQUALIFY
OFFICIAL ATTORNEYS**

1 Vegas; HEIDI SEEVERS GANSERT, an
2 individual engaging in dual employment with
3 the Nevada State Senate and University of
4 Nevada Reno; GLEN LEAVITT, an individual
5 engaging in dual employment with the Nevada
6 State Assembly and Regional Transportation
7 Commission; BRITTNEY MILLER, an
8 individual engaging in dual employment with
9 the Nevada State Assembly and Clark County
10 School District; DINA NEAL, an individual
11 engaging in dual employment with the Nevada
12 State Assembly and Nevada State College;
13 JAMES OHRENSCHALL, an individual
14 engaging in dual employment with the Nevada
15 State Senate and Clark County Public Defender;
16 MELANIE SCHEIBLE, an individual engaging
17 in dual employment with the Nevada State
18 Senate and Clark County District Attorney;
19 TERESA BENITEZ-THOMPSON, an
20 individual engaging in dual employment with
21 the Nevada State Assembly and University of
22 Nevada, Reno; JILL TOLLES, an individual
23 engaging in dual employment with the Nevada
24 State Assembly and University of Nevada,
25 Reno; and SELINA TORRES, an individual
26 engaging in dual employment with the Nevada
27 State Assembly and Clark County School
28 District,

Defendants.

PLEASE TAKE NOTICE that an Order Denying Plaintiff's Motion to Disqualify Official Attorneys was entered in the above-entitled matter on the 9th day of December, 2020, a copy of which is attached hereto.

Dated this 9th day of December, 2020

/s/ Berna L. Rhodes-Ford

BERNA L. RHODES-FORD

Nevada Bar No. 7879

General Counsel

Nevada State College

1300 Nevada State Dr., RSC 374

Henderson, Nevada 89002

Tel: (702) 992-2378

Fax: (702) 974-0750

berna.rhodes-ford@nsc.edu

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/s/ Gary A. Cardinal
GARY A. CARDINAL
Nevada Bar No. 76
Assistant General Counsel
University of Nevada, Reno
1664 North Virginia Street/MS 0550
Reno, Nevada 89557-0550
Tel: (775) 784-3495
Fax: (775) 327-2202
gcardinal@unr.edu

*Attorneys for Defendants
Osvaldo Fumo, Heidi Seevers Gansert,
Dina Neal and Jill Tolles*

CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the Office of General Counsel for Nevada State College, located at 1300 Henderson, Nevada 89002, I am over the age of 18 years, and I am not a party to the within cause. Pursuant to NRCP 5, I further certify that on this 9th day of December, 2020, I caused the following document, **NOTICE OF ENTRY OF ORDER DENYING MOTION TO DISQUALIFY OFFICIAL ATTORNEYS**, to be served as follows:



BY ELECTRONIC SERVICE Pursuant to N.E.F.C.R. 9 and EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail to the attorneys listed below at the address indicated below.

Deanna L. Forbush, Esq.
FOX ROTHSCHILD LLP
Email: dforbush@foxrothschild.com
Attorneys for Plaintiff

Colleen E. McCarty, Esq.
FOX ROTHSCHILD LLP
Email: cmccarty@foxrothschild.com
Attorneys for Plaintiff

Bradley Schrager, Esq.
**WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP**
Email: bschrager@wrslawyers.com
*Attorneys for Defendants Brittney Miller
and Selena Torres*

Daniel Bravo, Esq.
**WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP**
Email: dbravo@wrslawyers.com
*Attorneys for Defendants Brittney Miller
and Selena Torres*

Jonathan D. Blum, Esq.
WILEY PETERSEN
Email: jblum@wileypetersenlaw.com
*Attorneys for Defendants Jason Frierson
and Nicole Cannizzaro*

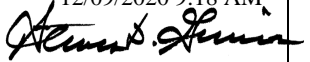
Kevin C. Powers
LEGISLATIVE COUNSEL BUREAU
Email: kpowers@lcb.state.nv.us
Attorneys for Nevada Legislature



BY MAIL I caused such envelope(s) with first class postage thereon fully prepaid to be placed in the U.S. Mail in Henderson, Nevada.

Nita Armendariz

An employee of the Office of General Counsel
Nevada State College


CLERK OF THE COURT

ORDR

Berna L. Rhodes-Ford
Nevada Bar No. 7879
General Counsel
Nevada State College
1300 Nevada State Dr., RSC 374
Henderson, Nevada 89002
Tel: (702) 992-2378
Fax: (702) 974-0750
berna.rhodes-ford@nsc.edu

Gary A. Cardinal
Nevada Bar No. 76
Assistant General Counsel
University of Nevada, Reno
1664 North Virginia Street/MS 0550
Reno, Nevada 89557-0550
Tel: (775) 784-3495
Fax: (775) 327-2202
gcardinal@unr.edu

*Attorneys for Defendants
Osvaldo Fumo, Heidi Seevers Gansert,
and Dina Neal*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NEVADA POLICY RESEARCH INSTITUTE,
a Nevada domestic nonprofit corporation,

Case No.: A-20-817757-C

Plaintiff,

Dept. No.: 24

v.

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engaging in dual employment with the Nevada
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KASINA DOUGLAS-BOONE, an individual
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District; JASON FRIERSON, an individual
engaging in dual employment with the Nevada
State Assembly and Clark County Public
Defender; OSVALDO FUMO, an individual
engaging in dual employment with the Nevada
State Assembly and University of Nevada, Las

**ORDER DENYING PLAINTIFF'S
MOTION TO DISQUALIFY
OFFICIAL ATTORNEYS**

1 Vegas; HEIDI SEEVERS GANSERT, an
2 individual engaging in dual employment with
3 the Nevada State Senate and University of
4 Nevada Reno; GLEN LEAVITT, an individual
5 engaging in dual employment with the Nevada
6 State Assembly and Regional Transportation
7 Commission; BRITTNEY MILLER, an
8 individual engaging in dual employment with
9 the Nevada State Assembly and Clark County
10 School District; DINA NEAL, an individual
11 engaging in dual employment with the Nevada
12 State Assembly and Nevada State College;
13 JAMES OHRENSCHALL, an individual
14 engaging in dual employment with the Nevada
15 State Senate and Clark County Public Defender;
16 MELANIE SCHEIBLE, an individual engaging
17 in dual employment with the Nevada State
18 Senate and Clark County District Attorney;
19 TERESA BENITEZ-THOMPSON, an
20 individual engaging in dual employment with
21 the Nevada State Assembly and University of
22 Nevada, Reno; JILL TOLLES, an individual
23 engaging in dual employment with the Nevada
24 State Assembly and University of Nevada,
25 Reno; and SELINA TORRES, an individual
26 engaging in dual employment with the Nevada
27 State Assembly and Clark County School
28 District,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION TO DISQUALIFY OFFICIAL
ATTORNEYS**

Having duly considered Plaintiff Nevada Policy Research Institute's ("NPRI") Motion to Disqualify the Official Attorneys from representing Defendants Osvaldo Fumo, Heidi Seevers Gansert and Dina Neal (the "NSHE Defendants"), the Opposition filed by the NSHE Defendants and NPRI's Reply, the Court finds that the Official Attorneys are duly authorized legal counsel who are not prohibited from representing the NSHE Defendants.


// //

// //

// //

Accordingly, IT IS HEREBY ORDERED that NPRI's Motion to Disqualify the Official
Attorneys is DENIED.

Dated this 9th day of December, 2020



Respectfully submitted this 8th day of December, 2020

369 4DE F4A1 5A64
Jim Crockett
District Court Judge

/s/ Berna L. Rhodes-Ford

BERNA L. RHODES-FORD
Nevada Bar No. 7879
General Counsel
Nevada State College
1300 Nevada State Dr., RSC 374
Henderson, Nevada 89002
Tel: (702) 992-2378
Fax: (702) 974-0750
berna.rhodes-ford@nsc.edu

*Attorneys for Defendants Osvaldo Fumo,
Heidi Seevers Gansert, and Dina Neal*

/s/ Gary A. Cardinal

GARY A. CARDINAL
Nevada Bar No. 76
Assistant General Counsel
University of Nevada, Reno
1664 North Virginia Street/MS 0550
Reno, Nevada 89557-0550
Tel: (775) 784-3495
Fax: (775) 327-2202
gcardinal@unr.edu

*Attorneys for Defendants Osvaldo Fumo,
Heidi Seevers Gansert, and Dina Neal*

Order reviewed by:

Deanna L. Forbush, Esq.
FOX ROTHSCHILD LLP
Email: dforbush@foxrothschild.com
Attorneys for Plaintiff

Colleen E. McCarty, Esq.
FOX ROTHSCHILD LLP
Email: cmccarty@foxrothschild.com
Attorneys for Plaintiff

/s/ Bradley Schrager

Bradley Schrager, Esq.
**WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP**
Email: bschrager@wrslawyers.com
*Attorneys for Defendants Brittney Miller
and Selena Torres*

/s/ Daniel Bravo

Daniel Bravo, Esq.
**WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP** Email:
dbravo@wrslawyers.com *Attorneys for
Defendants Brittney Miller and Selena
Torres*

1 /s/ Jonathan D. Blum

2 Jonathan D. Blum, Esq.

3 **WILEY PETERSEN**

4 Email: jblum@wileypetersenlaw.com

5 *Attorneys for Defendants Jason Frierson*

6 *and Nicole Cannizzaro*

/s/ Kevin C. Powers

 Kevin C. Powers

LEGISLATIVE COUNSEL

BUREAU, LEGAL DIVISION

 Email: kpowers@lcb.state.nv.us

Attorneys for Intervenor-Defendant

Legislature of the State of Nevada

RE: Draft Order on Motion to Disqualify

Bradley Schrager <BSchrager@wrslawyers.com>

Thu 12/3/2020 5:24 AM

To: 'Powers, Kevin' <kpowers@lcb.state.nv.us>; Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>; dforbush@foxrothschild.com <dforbush@foxrothschild.com>; cmccarty@foxrothschild.com <cmccarty@foxrothschild.com>; Daniel Bravo <DBravo@wrslawyers.com>; jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>
Cc: Nita Armendariz <Nita.Armendariz@nsc.edu>

Concur on use of e-signature for us, Counsel

Bradley S. Schrager

Areas of Practice: Politics & Government – Appeals & Writs – Wage & Labor

Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP

3556 E. Russell Rd, Las Vegas, Nevada 89120

702.639.5102

bschrager@wrslawyers.com

This correspondence is intended for the individual or entity to whom it is addressed, and may be protected by privilege.

From: Powers, Kevin [mailto:kpowers@lcb.state.nv.us]**Sent:** Wednesday, December 02, 2020 11:32 PM**To:** Berna Rhodes-Ford; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; Bradley Schrager; Daniel Bravo; jblum@wileypetersenlaw.com**Cc:** Nita Armendariz**Subject:** RE: Draft Order on Motion to Disqualify

CAUTION:EXTERNAL EMAIL

I have reviewed the proposed Order Denying Plaintiff's Motion to Disqualify Official Attorneys, and I agree to the use of the my electronic signature, with the following technical revisions.

As part of my electronic signature block on the proposed order:

1. Please revise to read "**LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION**"
2. Please delete "*Opposed Intervenor*" and replace with:

*Attorneys for Intervenor-Defendant
Legislature of the State of Nevada*

Kevin C. Powers

General Counsel

Nevada Legislative Counsel Bureau, Legal Division

401 S. Carson Street

Carson City, NV 89701-4747

(775) 684-6830

(775) 684-6761-Fax

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From: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>

Sent: Wednesday, December 2, 2020 4:16 PM

To: dforbush@foxrothschild.com; cmccarty@foxrothschild.com; bschrager@wrslawyers.com; dbravo@wrslawyers.com; jblum@wileypetersenlaw.com; Powers, Kevin <kpowers@lcb.state.nv.us>

Cc: Nita Armendariz <Nita.Armendariz@nsc.edu>

Subject: Draft Order on Motion to Disqualify

Good afternoon, counsel. Please review the attached draft order on the Motion to Disqualify Attorneys. If you have no revisions to the draft order, please let me know if I can add your electronic signature to the draft order.

Thank you.

Berna L. Rhodes-Ford

General Counsel

BE CONNECTED OFFICE 702.992.2378 | FAX 702.974.0750 | Berna.Rhodes-Ford@nsc.edu

BE HERE 1300 Nevada State Drive | RSC 374 | Henderson, NV 89002

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Fwd: NPRI v. Cannizzaro et al.

Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>

Tue 12/8/2020 4:46 PM

To: Nita Armendariz <Nita.Armendariz@nsc.edu>

Berna L. Rhodes-FordOFFICE **702.992.2378**Berna.Rhodes-Ford@nsc.edu

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Begin forwarded message:

From: "McCarty, Colleen E." <CMcCarty@foxrothschild.com>**Date:** December 3, 2020 at 6:54:01 PM PST**To:** Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>, Gary A Cardinal <gcardinal@unr.edu>, jblum@wileypetersenlaw.com, Bradley Schrager <BSchrager@wrslawyers.com>, dbravo@wrslawyers.com, "Powers, Kevin" <kpowers@lcb.state.nv.us>, "Forbush, Deanna L." <DForbush@foxrothschild.com>**Cc:** "Martinez, Natasha" <NMartinez@foxrothschild.com>**Subject:** NPRI v. Cannizzaro et al.

Good evening Counsel,

I am in receipt of each of your proposed orders, and I do have suggested edits to each. However, as each was submitted to me on or after the deadline for submission to the Court under EDCR 7.21, and the Court's ruling on NPRI's Motion for Clarification is two weeks away or less, I am asking for the courtesy of waiting to provide input on these orders until after the Court's ruling.

The Omnibus Order Granting Motions to Dismiss proposed by Mr. Blum will obviously have the most direct impact by any clarification provided by the Court, but I will also be seeking to include discussion of the standing argument in Ms. Rhodes-Ford's proposed Order Denying Plaintiff's Motion to Disqualify Official Attorneys on behalf of the NSHE Defendants, as standing was raised in the underlying briefing. And, while Mr. Power's proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant may not be directly impacted by the Court's expected clarification, it is unnecessarily costly to my client for me to have to address these orders on a piecemeal basis.

As the deadline for submission of these orders has already passed, and it is NPRI that would most benefit from the expedited entry of the orders and the opportunity to seek appellate review in advance of the 2021 Legislative Session, I trust you will each be amenable to extending the

requested courtesy of waiting to review and, to the extent necessary, submit competing orders related to the Court's November 18, 2020 Minute Order.

Thank you in advance for your consideration.

Colleen

Colleen E. McCarty

Attorney

Fox Rothschild LLP

One Summerlin

1980 Festival Plaza Drive, Suite 700

Las Vegas, NV 89135

(702) 699-5171 - direct

(702) 597-5503 - fax

CMcCarty@foxrothschild.com

www.foxrothschild.com

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Fox Rothschild LLP
ATTORNEYS AT LAW

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Las Vegas, Nevada 89135
Tel (702) 262-6899; Fax (702) 597-5503
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Colleen E. McCarty
Direct: (702) 699-7151
Email: CMcCarty@foxrothschild.com

December 4, 2020

VIA EMAIL TRANSMISSION
Dept24LC@clarkcountycourts.us

Marvin Simeon
Law Clerk to the Honorable Jim Crockett
Eighth Judicial District Court, Dept. XXIV
200 Lewis Avenue
Las Vegas, Nevada 89155

Re: *Nevada Policy Research Institute v. Nicole Cannizzaro, et al.*, Case No. A-20-817757-C
Request to Hold Processing of Orders from November 18, 2020 Minute Order

Dear Mr. Simeon:

Following the Court's entry of the OST on NPRI's Motion for Clarification, opposing counsel for the NSHE Defendants, the Nevada Legislature, and the individual Defendants, Nicole Cannizzaro and Jason Frierson, respectively, prepared and forwarded to my attention for review draft orders from the Court's Minute Order entered on November 18, 2020. While NPRI is the party with the most to gain from the expedited entry of these orders and the opportunity they will provide to seek appellate review in advance of the 2021 Legislative Session, I have respectfully requested that each opposing counsel wait to submit his or her proposed order until the Court resolves the pending Motion for Clarification on or before December 17, 2020 and I have the opportunity to provide input to complete the necessary orders. Opposing counsel, however, have declined this courtesy, in agreement with the position articulated by Mr. Johnathan D. Blum, Esq., which is the reason for this correspondence. The relevant emails are enclosed herewith as **Exhibit 1**.

I would note, again, that each proposed order draft was submitted to me for my consideration after service of NPRI's Motion for Clarification, and this was either on or after the 14-day period for submission of proposed orders to Chambers pursuant to EDCR 7.21, which period ran yesterday, December 2, 2020. That said, the reason NPRI respectfully requests that any order hereafter submitted to Chambers be held for consideration is to first allow the Court to clarify its Minute Order as requested. All parties, and quite possibly the successor Judge on this case, will benefit from having the clearest possible record. And, it is both inefficient and costly to my client to be asked to discuss draft orders now, when additional information for inclusion in

December 4, 2020

Page 2

some, if not all, of the orders will be forthcoming from the Court within the next two weeks at the latest.

Finally, to the extent counsel for the NSHE Defendants and/or the Nevada Legislature would suggest that clarification of the Court's standing determination does not directly impact their clients' order, NPRI respectfully submits this does not override the efficiency of completing each order simultaneously, rather than on a piecemeal basis. Also, although not specifically included in the Court's Minute Order, the NSHE Defendants argued lack of standing as a basis for issuing an order in their favor, the same as those Defendants seeking dismissal. And, the Nevada Legislature, by its own admission, understands this case "involves extremely important questions of constitutional law" (*see* Nevada Legislature's Motion to Intervene as Defendant at 16:22-23), which goes directly to the first criteria for application of the public importance exception. For these reasons, I will likely seek to include the Court's clarifications in each order ultimately entered by the Court as a result of the November 18, 2020 Minute Order.

Should you wish further explanation of the specific objections my client and I have to the form of orders I received and am anticipating will be submitted with or without my signature by opposing counsel, I will be happy to provide this to you immediately upon request. Again, however, it is my hope to avoid the unnecessary additional expense to my client of further reviewing and preparing competing orders in advance of the December 17, 2020 hearing.

Please do not hesitate to contact me directly at (702) 702-262-6899 if you have any questions or need any additional information. Thank you in advance for your kind consideration

Sincerely,

FOX ROTHSCHILD LLP

/s/ Colleen E. McCarty

Colleen E. McCarty

CEM/nm

cc: Jonathan D. Blum, Esq. (jblum@wileypetersenlaw.com)
Gary A. Cardinal, Esq. (gcardinal@unr.edu)
Kevin C. Powers, Esq. (kpowers@lcb.state.nv.us)
Berna L. Rhodes-Ford, Esq. (berna.rhodes-ford@nsc.edu)
Bradley Schrager, Esq. (bschrager@wrslawyers.com)

EXHIBIT 1

From: jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>

Sent: Thursday, December 3, 2020 9:00 PM

To: McCarty, Colleen E. <CMcCarty@foxrothschild.com>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>; 'Gary A Cardinal' <gcardinal@unr.edu>; 'Bradley Schrager' <BSchrager@wrslawyers.com>; DBravo@wrslawyers.com; 'Powers, Kevin' <kpowers@lcb.state.nv.us>; Forbush, Deanna L. <DForbush@foxrothschild.com>

Cc: Martinez, Natasha <NMartinez@foxrothschild.com>; ibautista@wileypetersenlaw.com

Subject: [EXT] RE: NPRI v. Cannnizzaro et al. 00618

Colleen,

From my perspective the draft orders were not submitted earlier due to the intervening holiday, and the language of the minute order. The status check for the filing of the orders was set for Dec. 17, indicating a longer timeframe allowed by the Court, specifically permitted under EDCR 7.21. My position is that, per the minute order and local rules we can't simply fail to submit an order because there is another pending motion that may potentially affect that order. The motion for clarification should have been filed after a final order on the motions were entered, and is, in my opinion, premature. (I recognize the issue of Judge Crockett's departure from the bench as an issue, but requiring another round of briefing before the Judge has an opportunity to sign an order on the original motions causes additional fees for all of us.)

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Thanks,
Jon

Jonathan D. Blum, Esq.



1050 Indigo Drive, Suite 200B

Las Vegas, Nevada 89145

Office 702.910.3329 | Mobile 702.443.0677

jblum@wileypetersenlaw.com

www.wileypetersenlaw.com



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From: McCarty, Colleen E. <CMcCarty@foxrothschild.com>

Sent: Thursday, December 3, 2020 6:54 PM

To: 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>; Gary A Cardinal <gcardinal@unr.edu>; jblum@wileypetersenlaw.com; Bradley Schrager <BSchrager@wrslawyers.com>; DBravo@wrslawyers.com; Powers, Kevin <kpowers@lcb.state.nv.us>; Forbush, Deanna L. <DForbush@foxrothschild.com>

Cc: Martinez, Natasha <NMartinez@foxrothschild.com>

Subject: NPRI v. Cannizzaro et al.

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Thank you in advance for your consideration.

Colleen

Colleen E. McCarty

Attorney

Fox Rothschild LLP

One Summerlin

1980 Festival Plaza Drive, Suite 700

Las Vegas, NV 89135

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From: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>
Sent: Thursday, December 3, 2020 11:16 PM
To: Bradley Schrager <BSchrager@wrslawyers.com>
Cc: Powers, Kevin <kpowers@lcb.state.nv.us>; jblum@wileypetersenlaw.com; McCarty, Colleen E. <CMcCarty@foxrothschild.com>; Gary A Cardinal <gcardinal@unr.edu>; Daniel Bravo <DBravo@wrslawyers.com>; Forbush, Deanna L. <DForbush@foxrothschild.com>; Martinez, Natasha <NMartinez@foxrothschild.com>; ibautista@wileypetersenlaw.com
Subject: [EXT] Re: NPRI v. Cannnizzaro et al. 00618

I am in agreement as well.

Berna L. Rhodes-Ford
office [702.992.2378](tel:702.992.2378)
Berna.Rhodes-Ford@nsc.edu

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On Dec 3, 2020, at 9:56 PM, Bradley Schrager <BSchrager@wrslawyers.com> wrote:

I concur

Bradley Schrager
Wolf Rifkin Shapiro Schulman & Rabkin

On Dec 3, 2020, at 9:17 PM, Powers, Kevin <kpowers@lcb.state.nv.us> wrote:

CAUTION:EXTERNAL EMAIL

LCB Legal agrees with Mr. Blum's legal analysis, procedural approach, and timeline as set forth in his email below. Therefore, LCB Legal will follow all the same with regard to its proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant.

Thanks.

Kevin C. Powers

General Counsel

Nevada Legislative Counsel Bureau, Legal Division

401 S. Carson Street

Carson City, NV 89701-4747

(775) 684-6830

(775) 684-6761-Fax

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From: jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>

Sent: Thursday, December 3, 2020 9:00 PM

To: 'McCarty, Colleen E.' <CMcCarty@foxrothschild.com>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>; 'Gary A Cardinal' <gcardinal@unr.edu>; 'Bradley Schrager' <BSchrager@wrslawyers.com>; DBravo@wrslawyers.com; Powers, Kevin <kpowers@lcb.state.nv.us>; 'Forbush, Deanna L.' <DForbush@foxrothschild.com>

Cc: 'Martinez, Natasha' <NMartinez@foxrothschild.com>; ibautista@wileypetersenlaw.com

Subject: RE: NPRI v. Cannizzaro et al. 00618

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Thanks,
Jon

Jonathan D. Blum, Esq.

<image001.jpg>

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Las Vegas, Nevada 89145
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jblum@wileypetersenlaw.com
www.wileypetersenlaw.com

<image002.png>

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Cc: Martinez, Natasha <NMartinez@foxrothschild.com>
Subject: NPRI v. Cannizzaro et al.

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Thank you in advance for your consideration.

Colleen

Colleen E. McCarty

Attorney

Fox Rothschild LLP

One Summerlin

1980 Festival Plaza Drive, Suite 700

Las Vegas, NV 89135

(702) 699-5171 - direct

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RE: Draft Order on Motion to Disqualify 00618

jblum@wileypetersenlaw.com <jblum@wileypetersenlaw.com>

Wed 12/2/2020 5:27 PM

To: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>; dforbush@foxrothschild.com <dforbush@foxrothschild.com>; cmccarty@foxrothschild.com <cmccarty@foxrothschild.com>; bschrager@wrslawyers.com <bschrager@wrslawyers.com>; dbravo@wrslawyers.com <dbravo@wrslawyers.com>; kpowers@lcb.state.nv.us <kpowers@lcb.state.nv.us>

Cc: Nita Armendariz <Nita.Armendariz@nsc.edu>; ibautista@wileypetersenlaw.com <ibautista@wileypetersenlaw.com>

Thanks Berna, you may affix my e-signature.

Jonathan D. Blum, Esq.



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Sent: Wednesday, December 2, 2020 4:16 PM

To: dforbush@foxrothschild.com; cmccarty@foxrothschild.com; bschrager@wrslawyers.com; dbravo@wrslawyers.com; jblum@wileypetersenlaw.com; kpowers@lcb.state.nv.us

Cc: Nita Armendariz <Nita.Armendariz@nsc.edu>

Subject: Draft Order on Motion to Disqualify

Good afternoon, counsel. Please review the attached draft order on the Motion to Disqualify Attorneys. If you have no revisions to the draft order, please let me know if I can add your electronic signature to the draft order.

Thank you.

Berna L. Rhodes-Ford
General Counsel

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Nevada Policy Research
Institute, Plaintiff(s)

CASE NO: A-20-817757-C

7 vs.

DEPT. NO. Department 24

8
9 Nicole Cannizzaro, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/9/2020

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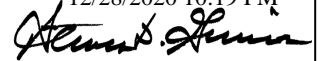
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CLERK OF THE COURT

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Attorneys for Intervenor-Defendant Legislature of the State of Nevada

**DISTRICT COURT
CLARK COUNTY, NEVADA**

NEVADA POLICY RESEARCH INSTITUTE, a
Nevada domestic nonprofit corporation,

Plaintiff,

vs.

**Case No. A-20-817757-C
Dept. No. 24**

NICOLE J. CANNIZZARO, an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; KASINA DOUGLASS-BOONE, an individual engaging in dual employment with the Nevada State Assembly and Clark County School District; JASON FRIERSON, an individual engaging in dual employment with the Nevada State Assembly and Clark County Public Defender; OSVALDO FUMO, an individual engaging in dual employment with the Nevada State Assembly and University of Nevada, Las Vegas; HEIDI SEEVERS GANSERT, an individual engaging in dual employment with the Nevada State Senate and University of Nevada, Reno; GLEN LEAVITT, an individual engaging in dual employment with the Nevada State Assembly and Regional Transportation Commission; BRITTNEY MILLER, an individual engaging in dual employment with the Nevada State Assembly and Clark County School District; DINA NEAL, an individual engaging in dual employment with the Nevada State Assembly and Nevada State College; JAMES OHRENSCHALL, an individual engaging in dual employment with the Nevada State Senate and Clark County Public Defender; MELANIE SCHEIBLE, an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; TERESA BENITEZ-

**ORDER DENYING PLAINTIFF'S
MOTION FOR CLARIFICATION,
GRANTING JOINT COUNTERMOTION
TO DISMISS ALL REMAINING
DEFENDANTS BASED ON PLAINTIFF'S
LACK OF STANDING, AND ENTERING
FINAL JUDGMENT IN FAVOR OF ALL
DEFENDANTS BASED ON PLAINTIFF'S
LACK OF STANDING**

1 THOMPSON, an individual engaging in dual
2 employment with the Nevada State Assembly and
3 University of Nevada, Reno; JILL TOLLES, an
4 individual engaging in dual employment with the
5 Nevada State Assembly and University of Nevada,
6 Reno; and SELENA TORRES, an individual
7 engaging in dual employment with the Nevada State
8 Assembly and Clark County School District,

9
10 Defendants, and

11 THE LEGISLATURE OF THE STATE OF
12 NEVADA,

13 Intervenor-Defendant.
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BACKGROUND

1 In this action, Plaintiff Nevada Policy Research Institute (“NPRI”) has alleged that the individual
2 Defendants are persons simultaneously holding elected offices in the Nevada Legislature and paid
3 positions with the executive branch of the Nevada State Government or with local governments in
4 violation of the separation-of-powers provision in Article 3, Section 1 of the Nevada Constitution.
5 NPRI is represented by Deanna L. Forbush, Esq. and Colleen E. McCarty, Esq., of Fox Rothschild LLP.

6 On December 8, 2020, the Court entered an Order Granting Nevada Legislature’s Motion to
7 Intervene as an Intervenor-Defendant (the “Legislature”). The Legislature is represented by Kevin C.
8 Powers, General Counsel, Legislative Counsel Bureau, Legal Division, under NRS 218F.720.
9 Additionally, on December 8, 2020, the Court entered an Omnibus Order Granting Motions to Dismiss
10 in favor of the following individual Defendants based on NPRI’s lack of standing: (1) Defendants
11 Brittney Miller and Selena Torres,¹ who are represented by Bradley Schrager, Esq., and Daniel Bravo,
12 Esq., of Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP; (2) Defendants Jason Frierson and Nicole
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¹ Although Defendant Selena Torres did not file a separate Motion to Dismiss, she filed Joinders to the
other Defendants’ Motions to Dismiss. In the Court’s Omnibus Order Granting Motions to Dismiss,
the Court granted all Joinders to the other Defendants’ Motions to Dismiss.

1 Cannizzaro, who are represented by Jonathan D. Blum, Esq., of Wiley Petersen; and (3) Defendants
2 Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal (the Nevada System of Higher Education or
3 “NSHE” Defendants), who are represented by Berna L. Rhodes-Ford, General Counsel, Nevada State
4 College, and Gary A. Cardinal, Assistant General Counsel, University of Nevada, Reno. On
5 December 9, 2020, the Court entered an Order Denying NPRI’s Motion to Disqualify Official Attorneys
6 from representing the NSHE Defendants.

7 In addition to the individual Defendants dismissed by the Court’s Omnibus Order Granting
8 Motions to Dismiss, the following individual Defendants were voluntarily dismissed by NPRI, without
9 prejudice, pursuant to NRCP 41(a)(1) during the course of this litigation: (1) Defendant Teresa Benitz-
10 Thompson on September 17, 2020; (2) Defendant Kasina Douglass-Boone on September 28, 2020; and
11 (3) Defendants Osvaldo Fumo and Jill Tolles on November 16, 2020. NPRI voluntarily dismissed these
12 Defendants based on representations from their respective counsel that they were no longer engaging in
13 the dual employment as alleged by NPRI in its Amended Complaint.

14 However, with regard to Defendant Jill Tolles, upon notification from her counsel that she would
15 be entering into a new contract with her state employer, NPRI and all other parties entered into, and the
16 Court approved, a Stipulation and Order on December 16, 2020, which: (1) vacated the voluntary
17 dismissal of Defendant Jill Tolles and reinstated her as a Defendant with all defenses reserved, including
18 her right to argue that she is not an employee of NSHE or the University of Nevada, Reno; and
19 (2) provided that the Court’s Omnibus Order Granting Motions to Dismiss and the Court’s Order
20 Denying NPRI’s Motion to Disqualify Official Attorneys from representing the NSHE Defendants shall
21 apply equally to Defendant Jill Tolles, such that all parties are bound thereby without the need to re-
22 litigate the motions decided therein. Defendant Jill Tolles is represented by counsel for the NSHE
23 Defendants.

24 //

1 The remaining individual Defendants are Glen Leavitt, James Ohrenschall, and Melanie Scheible.
2 On November 4, 2020, the Court entered: (1) an Order Granting NPRI's Motion for Enlargement of
3 Time to Serve the Amended Complaint on Defendants Glen Leavitt, James Ohrenschall, and Melanie
4 Scheible; and (2) an Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and
5 Melanie Scheible. On December 9, 2020, NPRI filed an Acceptance of Service in which Jonathan D.
6 Blum, Esq., of Wiley Petersen, accepted service of the Summons and Amended Complaint on behalf of
7 Defendant Melanie Scheible. On December 14, 2020, NPRI stated in its Limited Reply in Support of its
8 Motion for Clarification that Defendants Glen Leavitt and James Ohrenschall were officially served by
9 publication effective December 10, 2020.

10 **PENDING MOTION AND COUNTERMOTION**

11 Presently pending before the Court are the following motion and countermotion and their
12 supporting documents: (1) NPRI's Motion for the Court's Clarification of its Decision to Grant
13 Defendants' Motions to Dismiss Based on NPRI's Lack of Standing ("NPRI's Motion for
14 Clarification"), which includes a request for the Court to grant NRCP 54(b) certification whereby the
15 Court finds that there is no just reason for delay and directs entry of a final judgment in order to
16 facilitate timely and meaningful appellate review; (2) Defendants' and Legislature's Joint Opposition to
17 NPRI's Motion for the Court's Clarification of its Decision to Grant Defendants' Motions to Dismiss
18 Based on NPRI's Lack of Standing and Joint Countermotion to Dismiss All Remaining Defendants
19 Based on NPRI's Lack of Standing ("Joint Countermotion to Dismiss"); and (3) NPRI's Notice of Non-
20 Opposition to Joint Countermotion to Dismiss and Limited Reply in Support of its Motion for
21 Clarification.

22 Pursuant to EDCR 2.23(c) and (d), the Court decided the pending motion and countermotion on
23 the written submissions filed by the parties without oral argument because the Court deems oral
24 argument unnecessary. Having considered the written submissions filed by the parties, and for good

1 cause shown, the Court: (1) denies NPRI's Motion for Clarification; (2) grants the Joint Countermotion
2 to Dismiss and hereby dismisses all remaining Defendants based on NPRI's lack of standing; and
3 (3) denies NPRI's request for NRCP 54(b) certification as moot because, by dismissing all Defendants
4 based on NPRI's lack of standing, the Court is entering a final judgment which adjudicates all the claims
5 against all the parties based on NPRI's lack of standing and which thereby renders NRCP 54(b)
6 certification unnecessary. Consequently, having dismissed all Defendants based on NPRI's lack of
7 standing, the Court enters a final judgment in favor of all Defendants based on NPRI's lack of standing,
8 and the Court does not address the merits of NPRI's constitutional claims.

9 **DISCUSSION**

10 **1. NPRI's Motion for Clarification.**

11 On November 18, 2020, the Court entered a Minute Order which directed counsel for the
12 prevailing parties to prepare for the Court's review and approval a proposed order granting Defendants'
13 Motions to Dismiss based on NPRI's lack of standing. On December 1, 2020, before counsel for the
14 prevailing parties had submitted a proposed order for the Court's review and approval, NPRI filed its
15 Motion for Clarification of the Court's decision granting Defendants' Motions to Dismiss based on
16 NPRI's lack of standing. When NPRI filed its Motion for Clarification on December 1, 2020, there was
17 no written order that the Court had signed and filed yet. Thus, at that time, NPRI's Motion for
18 Clarification was premature because the Court could not clarify an order that did not exist yet.

19 On December 2, 2020, counsel for Defendants Jason Frierson and Nicole Cannizzaro submitted a
20 proposed Omnibus Order Granting Motions to Dismiss, without commentary from NPRI. NPRI instead
21 emailed a Letter to the Court on December 4, 2020, which NPRI also copied to counsel for all other
22 parties, requesting that the Court hold off processing the proposed order until the hearing on the Motion
23 for Clarification ("NPRI's December 4 Letter"). NPRI's December 4 Letter has been "Left Side" filed
24 into this case.

1 On December 8, 2020, the Court signed and filed Defendants' proposed Omnibus Order Granting
2 Motions to Dismiss based on NPRI's lack of standing. On December 14, 2020, NPRI filed its Limited
3 Reply in Support of its Motion for Clarification. In NPRI's Reply, NPRI asks for the Court to provide
4 clarification of precisely why NPRI lacks standing to bring this lawsuit, arguing that the record remains
5 unclear as to how NPRI either: (1) lacks its own particularized harm to establish standing; or (2) fails to
6 meet the public-importance exception to standing under *Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d
7 886, 894 (2016).

8 On December 15, 2020, the Court entered a Minute Order denying NPRI's Motion for
9 Clarification, stating that:

10 Although Plaintiff styles this motion as a Motion for Clarification of the Court's Decision,
11 there is no order that has been signed and filed yet and thus the motion is premature since
12 one cannot clarify what does not exist. Plaintiff's Reply brief does not provide any
additional justification or authority for clarification. Motion for Clarification must be
DENIED.

13 Based on the Court's December 15 Minute Order, NPRI believed that the Court denied its Motion
14 for Clarification on the basis that no order from the November 18, 2020, hearing had yet been signed
15 and filed yet, even though all orders had been signed and filed on either December 8 or December 9,
16 2020. Accordingly, on December 16, 2020, NPRI emailed a Letter to the Court ("NPRI's December 16
17 Letter"), which NPRI also copied to counsel for all other parties, requesting that the record be corrected
18 and that the Court either place the Motion for Clarification back on calendar or provide the basis for the
19 denial of NPRI's Motion for Clarification. NPRI's December 16 Letter has been "Left Side" filed into
20 this case.

21 Having considered NPRI's Reply and NPRI's December 16 Letter, the Court finds that NPRI does
22 not provide any additional justification or authority for clarification, and the Court is of the view that the
23 issue of standing needs no further clarification and is entirely dispositive of the arguments raised by
24 NPRI. Therefore, the Court denies NPRI's Motion for Clarification.

1 **2. Joint Countermotion to Dismiss All Remaining Defendants.**

2 As discussed previously, the remaining individual Defendants are Glen Leavitt, James
3 Ohrenschall, and Melanie Scheible. In Nevada, a person named as a codefendant in a complaint is not
4 treated as a party to the case unless the person has been served with process or has entered a voluntary
5 appearance. *Rae v. All Am. Life & Cas. Co.*, 95 Nev. 920, 922, 605 P.2d 196, 197 (1979); *Valley Bank*
6 *of Nev. v. Ginsburg*, 110 Nev. 440, 447, 874 P.2d 729, 734 (1994); *Albert D. Massi, Ltd. v. Bellmyre*,
7 111 Nev. 1520, 1521, 908 P.2d 705, 706 (1995).

8 Based on the record in this case, NPRI filed an Acceptance of Service on December 9, 2020, in
9 which Jonathan D. Blum, Esq., of Wiley Petersen, accepted service of the Summons and Amended
10 Complaint on behalf of Defendant Melanie Scheible. Additionally, on December 14, 2020, NPRI stated
11 in its Limited Reply in Support of its Motion for Clarification that Defendants Glen Leavitt and James
12 Ohrenschall were officially served by publication effective December 10, 2020. Therefore, because the
13 remaining individual Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible have been
14 served with process, the Court finds that they are parties to this case, regardless of whether they have
15 appeared in this action.

16 The Joint Countermotion to Dismiss asks the Court to dismiss all remaining Defendants based on
17 NPRI's lack of standing and argues that NPRI lacks standing to bring its constitutional claims against all
18 remaining Defendants, regardless of whether they have appeared in this action. In NPRI's Non-
19 Opposition to the Joint Countermotion to Dismiss, NPRI does not oppose the Court's entry of a final
20 judgment as to all remaining Defendants based on NPRI's lack of standing in order to facilitate timely
21 and meaningful appellate review.

22 The Court finds that the Joint Countermotion to Dismiss is most persuasive. As argued in the
23 Joint Countermotion to Dismiss, when a plaintiff files a complaint for declaratory and injunctive relief,
24 the Court may not exercise subject-matter jurisdiction over the plaintiff's claims unless the plaintiff has

1 standing to bring the claims. *Doe v. Bryan*, 102 Nev. 523, 524-26, 728 P.2d 443, 444-45 (1986). When
2 the plaintiff lacks standing to bring its claims, the defendant is entitled to dismissal for lack of subject-
3 matter jurisdiction as a matter of law. *Id.* (affirming district court’s dismissal of plaintiffs’ constitutional
4 claims because plaintiffs lacked standing to bring those claims); NRCP 12(h)(3) (“If the court
5 determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”).

6 Furthermore, when the plaintiff pleads a claim against multiple defendants and one of the
7 defendants proves that the claim fails as a matter of law—such as for the lack of standing—the natural
8 consequence is that the claim fails as a matter of law as to all defendants named in the claim, even if
9 some of the defendants do not answer or defend against the claim. *See In re Forsyth’s Estate*, 45 Nev.
10 385, 392, 204 P. 887, 889-90 (1922) (explaining the “well-known and general rule to the effect that,
11 where several persons are joined as defendants, one or more of whom made default, and the others
12 defend successfully upon a ground not personal to themselves, but which goes to destroy the very basis
13 of the action, their success in maintaining such defense inures to the benefit of all.”). The reason for this
14 rule is that when a claim fails as a matter of law, it is legally unsustainable, and the plaintiff cannot
15 prosecute the claim against any defendant, regardless of whether the defendant has appeared in the
16 action. *See Sutherland v. Gross*, 105 Nev. 192, 198, 772 P.2d 1287, 1291 (1989) (stating that “when the
17 defenses interposed by the answering co-defendant call into question the validity of plaintiff’s entire
18 cause of action and when such defenses prove successful, the defenses inure to the benefit of the
19 defaulting co-defendant. Consequently, the plaintiff cannot take judgment against the defendant in
20 default.” (citations omitted)); *Paul v. Pool*, 96 Nev. 130, 132, 605 P.2d 635, 636 (1980) (“The answer of
21 a co-defendant inures to the benefit of a defaulting defendant where there exists, as here, a common
22 defense as to both of them.”).

23 As determined by the Court in its Omnibus Order Granting Motions to Dismiss, standing is the
24 controlling issue here, and while other issues are discussed, standing is the determinative issue above all

1 else. In its Omnibus Order, the Court concluded that NPRI clearly lacks standing to bring its
2 constitutional claims against Defendants who filed Motions to Dismiss or Joinders thereto. The Court
3 finds that its conclusion that NPRI clearly lacks standing to bring its constitutional claims applies
4 equally to all remaining Defendants as well. Therefore, the Court grants the Joint Countermotion to
5 Dismiss and hereby dismisses all remaining Defendants based on NPRI's lack of standing.
6 Consequently, having dismissed all Defendants based on NPRI's lack of standing, the Court enters a
7 final judgment in favor of all Defendants based on NPRI's lack of standing, and the Court does not
8 address the merits of NPRI's constitutional claims.

9 **3. NRCP 54(b) certification.**

10 As a general rule, a party is not entitled to appeal from any order or other decision, however
11 designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the
12 parties. NRCP 54(b); *Wilmurth v. State*, 79 Nev. 490, 491-92, 387 P.2d 251, 251 (1963). However,
13 NRCP 54(b) contains an exception to the general rule, stating that "the court may direct entry of a final
14 judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines
15 that there is no just reason for delay." NRCP 54(b); *Crescent v. White*, 91 Nev. 209, 210, 533 P.2d 159,
16 160 (1975) (explaining that "a judgment or order that fails to adjudicate all the claims and the rights and
17 liabilities of the parties is not appealable, absent the express determination that there is no just reason for
18 delay, as required by NRCP 54(b).").

19 In this case, NPRI's request for NRCP 54(b) certification is denied as moot because, by dismissing
20 all Defendants based on NPRI's lack of standing, the Court is entering a final judgment which
21 adjudicates all the claims against all the parties based on NPRI's lack of standing and which thereby
22 renders NRCP 54(b) certification unnecessary.

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2. IT IS HEREBY FURTHER ORDERED that Defendants' and Legislature's Joint Counter-motion to Dismiss All Remaining Defendants Based on NPRI's Lack of Standing is GRANTED.

3. IT IS HEREBY FURTHER ORDERED that NPRI's request for NRCP 54(b) certification is DENIED as moot because, by dismissing all Defendants based on NPRI's lack of standing, the Court is entering a final judgment which adjudicates all the claims against all the parties based on NPRI's lack of standing and which thereby renders NRCP 54(b) certification unnecessary.

4. IT IS HEREBY FURTHER ORDERED that a FINAL JUDGMENT is entered in favor of all Defendants based on NPRI's lack of standing.

Dated this 28th day of December, 2020

Dated this 28th day of December, 2020



Order submitted by:

/s/ Kevin C. Powers
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Attorneys for Intervenor-Defendant Legislature of Nevada

D49 621 CDB2 0D29
Jim Crockett
District Court Judge

//
//
//

Order reviewed by:

/s/ Colleen E. McCarty

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Powers, Kevin

From: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>
Sent: Wednesday, December 23, 2020 5:23 PM
To: Powers, Kevin
Cc: McCarty, Colleen E.; Forbush, Deanna L.; Bradley Schrage; Daniel Bravo; jblum@wileypetersenlaw.com; Gary A Cardinal
Subject: Re: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment

I authorize use of my electronic signature on the revised proposed order.

Berna L. Rhodes-Ford
office [702.992.2378](tel:702.992.2378)
Berna.Rhodes-Ford@nsc.edu

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On Dec 23, 2020, at 5:04 PM, Powers, Kevin <kpowers@lcb.state.nv.us> wrote:

Plaintiff's Counsel:

In response to NPRI's suggested revisions to the proposed order, Counsel for all Defendants have prepared and approved the attached revised proposed order and final judgment in this matter.

The revised proposed order includes most—but not all—of NPRI's suggested revisions. The revised proposed order also includes some additional revisions from Defendants in response to NPRI's suggested revisions that are included in the revised proposed order.

Counsel for all Defendants do not intend to make any additional revisions to the revised proposed order. Therefore, please review the revised proposed order, and please reply to this email as to whether you authorize the use of your electronic signature on the revised proposed order.

If you do not so authorize, then LCB Legal will submit the revised proposed order to the Court, and NPRI may submit a competing proposed order if it so desires.

Finally, in order to submit the revised proposed order with the required email verification, **Counsel for all Defendants**, please reply to this email in order to authorize the use of your electronic signature on the revised proposed order.

Thanks.

Kevin C. Powers

General Counsel

Nevada Legislative Counsel Bureau, Legal Division

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From: McCarty, Colleen E. <CMcCarty@foxrothschild.com>**Sent:** Tuesday, December 22, 2020 12:11 PM**To:** Powers, Kevin <kpowers@lcb.state.nv.us>; Forbush, Deanna L. <DForbush@foxrothschild.com>**Cc:** 'Bradley Schrager' <BSchrager@wrslawyers.com>; 'Daniel Bravo' <DBravo@wrslawyers.com>; 'jblum@wileypetersenlaw.com' <jblum@wileypetersenlaw.com>; Gary A Cardinal <gcardinal@unr.edu>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>**Subject:** RE: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment

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<CMcCarty@foxrothschild.com>

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<2020_12-23_01_A-20-817757-C_Proposed Order Denying Motion for Clarification, Granting Countermotion to Dismiss Remaining Defs and Entering Final Judgment.doc>

Powers, Kevin

From: Bradley Schrager <BSchrager@wrslawyers.com>
Sent: Thursday, December 24, 2020 7:30 AM
To: Powers, Kevin
Cc: McCarty, Colleen E.; Forbush, Deanna L.; Daniel Bravo; jblum@wileypetersenlaw.com; Gary A Cardinal; Berna Rhodes-Ford
Subject: Re: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment

Signature authorized on behalf of my clients

Bradley Schrager
Wolf Rifkin Shapiro Schulman & Rabkin

On Dec 23, 2020, at 5:04 PM, Powers, Kevin <kpowers@lcb.state.nv.us> wrote:

CAUTION:EXTERNAL EMAIL

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ibautista@wileypetersenlaw.com
Subject: RE: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment 00618

Thanks, Kevin.

Missing one word in caption:

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LACK OF STANDING, AND ENTERING FINAL JUDGMENT IN FAVOR **OF** ALL DEFENDANTS
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Cc: 'Bradley Schrager'; 'Daniel Bravo'; 'Berna Rhodes-Ford';
ibautista@wileypetersenlaw.com
Subject: RE: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment 00618

You may affix my e-signature. Thank you.

GARY A. CARDINAL

Assistant General Counsel
University of Nevada, Reno
1664 North Virginia Street
Mail Stop 0550
Reno, NV 89557
Tel: (775) 784-3495
Fax: (775) 327-2202
gcardinal@unr.edu

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Nevada Policy Research
Institute, Plaintiff(s)

CASE NO: A-20-817757-C

7 vs.

DEPT. NO. Department 24

8
9 Nicole Cannizzaro, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

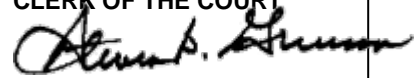
14 Service Date: 12/28/2020

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9 *Attorneys for Intervenor-Defendant Legislature of the State of Nevada*

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

12 NEVADA POLICY RESEARCH INSTITUTE, a
13 Nevada domestic nonprofit corporation,

14 Plaintiff,

15 vs.

16 **Case No. A-20-817757-C**
17 **Dept. No. 24**

18 NICOLE J. CANNIZZARO, an individual engaging
19 in dual employment with the Nevada State Senate
20 and Clark County District Attorney; KASINA
21 DOUGLASS-BOONE, an individual engaging in
22 dual employment with the Nevada State Assembly
23 and Clark County School District; JASON
24 FRIERSON, an individual engaging in dual
employment with the Nevada State Assembly and
Clark County Public Defender; OSVALDO FUMO,
an individual engaging in dual employment with the
Nevada State Assembly and University of Nevada,
Las Vegas; HEIDI SEEVERS GANSERT, an
individual engaging in dual employment with the
Nevada State Senate and University of Nevada,
Reno; GLEN LEAVITT, an individual engaging in
dual employment with the Nevada State Assembly
and Regional Transportation Commission;
BRITTNEY MILLER, an individual engaging in
dual employment with the Nevada State Assembly
and Clark County School District; DINA NEAL, an
individual engaging in dual employment with the
Nevada State Assembly and Nevada State College;
JAMES OHRENSCHALL, an individual engaging
in dual employment with the Nevada State Senate
and Clark County Public Defender; MELANIE
SCHEIBLE, an individual engaging in dual
employment with the Nevada State Senate and Clark
County District Attorney; TERESA BENITEZ-

**NOTICE OF ENTRY OF ORDER
DENYING PLAINTIFF'S MOTION FOR
CLARIFICATION, GRANTING JOINT
COUNTERMOTION TO DISMISS ALL
REMAINING DEFENDANTS BASED ON
PLAINTIFF'S LACK OF STANDING,
AND ENTERING FINAL JUDGMENT IN
FAVOR OF ALL DEFENDANTS BASED
ON PLAINTIFF'S LACK OF STANDING**

1 THOMPSON, an individual engaging in dual
2 employment with the Nevada State Assembly and
3 University of Nevada, Reno; JILL TOLLES, an
4 individual engaging in dual employment with the
5 Nevada State Assembly and University of Nevada,
6 Reno; and SELENA TORRES, an individual
7 engaging in dual employment with the Nevada State
8 Assembly and Clark County School District,

9 Defendants, and

10 THE LEGISLATURE OF THE STATE OF
11 NEVADA,

12 Intervenor-Defendant.

13 **NOTICE OF ENTRY OF ORDER**

14 **TO ALL PARTIES AND THEIR COUNSEL**, please take notice that: (1) an Order Denying
15 Plaintiff's Motion for Clarification, Granting Joint Countermotion to Dismiss All Remaining Defendants
16 Based on Plaintiff's Lack of Standing, and Entering Final Judgment in Favor of All Defendants Based
17 on Plaintiff's Lack of Standing was approved and signed by the Court on December 28, 2020, and
18 electronically filed with the Clerk on that same date; and (2) a copy of the Order is attached hereto.

19 DATED: This 28th day of December, 2020.

20 Respectfully submitted,

21 By: /s/ Kevin C. Powers

22 **KEVIN C. POWERS**

23 General Counsel

24 Nevada Bar No. 6781

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Legislature of the State of Nevada

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Nevada Legislative Counsel Bureau, Legal Division, and that on the 28th day of December, 2020, pursuant to NRCP 5(b) and NEFCR 9, I served a true and correct copy of the Notice of Entry of Order Denying Plaintiff's Motion for Clarification, Granting Joint Countermotion to Dismiss All Remaining Defendants Based on Plaintiff's Lack of Standing, and Entering Final Judgment in Favor of All Defendants Based on Plaintiff's Lack of Standing, by means of the Eighth Judicial District Court's electronic filing system, directed to:

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/s/ Kevin C. Powers
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

NEVADA POLICY RESEARCH INSTITUTE, a
Nevada domestic nonprofit corporation,

Plaintiff,

vs.

**Case No. A-20-817757-C
Dept. No. 24**

NICOLE J. CANNIZZARO, an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; KASINA DOUGLASS-BOONE, an individual engaging in dual employment with the Nevada State Assembly and Clark County School District; JASON FRIERSON, an individual engaging in dual employment with the Nevada State Assembly and Clark County Public Defender; OSVALDO FUMO, an individual engaging in dual employment with the Nevada State Assembly and University of Nevada, Las Vegas; HEIDI SEEVERS GANSERT, an individual engaging in dual employment with the Nevada State Senate and University of Nevada, Reno; GLEN LEAVITT, an individual engaging in dual employment with the Nevada State Assembly and Regional Transportation Commission; BRITTNEY MILLER, an individual engaging in dual employment with the Nevada State Assembly and Clark County School District; DINA NEAL, an individual engaging in dual employment with the Nevada State Assembly and Nevada State College; JAMES OHRENSCHALL, an individual engaging in dual employment with the Nevada State Senate and Clark County Public Defender; MELANIE SCHEIBLE, an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; TERESA BENITEZ-

**ORDER DENYING PLAINTIFF'S
MOTION FOR CLARIFICATION,
GRANTING JOINT COUNTERMOTION
TO DISMISS ALL REMAINING
DEFENDANTS BASED ON PLAINTIFF'S
LACK OF STANDING, AND ENTERING
FINAL JUDGMENT IN FAVOR OF ALL
DEFENDANTS BASED ON PLAINTIFF'S
LACK OF STANDING**

1 THOMPSON, an individual engaging in dual
2 employment with the Nevada State Assembly and
3 University of Nevada, Reno; JILL TOLLES, an
4 individual engaging in dual employment with the
5 Nevada State Assembly and University of Nevada,
6 Reno; and SELENA TORRES, an individual
7 engaging in dual employment with the Nevada State
8 Assembly and Clark County School District,

9
10 Defendants, and

11 THE LEGISLATURE OF THE STATE OF
12 NEVADA,

13 Intervenor-Defendant.
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BACKGROUND

1 In this action, Plaintiff Nevada Policy Research Institute (“NPRI”) has alleged that the individual
2 Defendants are persons simultaneously holding elected offices in the Nevada Legislature and paid
3 positions with the executive branch of the Nevada State Government or with local governments in
4 violation of the separation-of-powers provision in Article 3, Section 1 of the Nevada Constitution.
5 NPRI is represented by Deanna L. Forbush, Esq. and Colleen E. McCarty, Esq., of Fox Rothschild LLP.

6 On December 8, 2020, the Court entered an Order Granting Nevada Legislature’s Motion to
7 Intervene as an Intervenor-Defendant (the “Legislature”). The Legislature is represented by Kevin C.
8 Powers, General Counsel, Legislative Counsel Bureau, Legal Division, under NRS 218F.720.
9 Additionally, on December 8, 2020, the Court entered an Omnibus Order Granting Motions to Dismiss
10 in favor of the following individual Defendants based on NPRI’s lack of standing: (1) Defendants
11 Brittney Miller and Selena Torres,¹ who are represented by Bradley Schrager, Esq., and Daniel Bravo,
12 Esq., of Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP; (2) Defendants Jason Frierson and Nicole
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¹ Although Defendant Selena Torres did not file a separate Motion to Dismiss, she filed Joinders to the
other Defendants’ Motions to Dismiss. In the Court’s Omnibus Order Granting Motions to Dismiss,
the Court granted all Joinders to the other Defendants’ Motions to Dismiss.

1 Cannizzaro, who are represented by Jonathan D. Blum, Esq., of Wiley Petersen; and (3) Defendants
2 Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal (the Nevada System of Higher Education or
3 “NSHE” Defendants), who are represented by Berna L. Rhodes-Ford, General Counsel, Nevada State
4 College, and Gary A. Cardinal, Assistant General Counsel, University of Nevada, Reno. On
5 December 9, 2020, the Court entered an Order Denying NPRI’s Motion to Disqualify Official Attorneys
6 from representing the NSHE Defendants.

7 In addition to the individual Defendants dismissed by the Court’s Omnibus Order Granting
8 Motions to Dismiss, the following individual Defendants were voluntarily dismissed by NPRI, without
9 prejudice, pursuant to NRCP 41(a)(1) during the course of this litigation: (1) Defendant Teresa Benitz-
10 Thompson on September 17, 2020; (2) Defendant Kasina Douglass-Boone on September 28, 2020; and
11 (3) Defendants Osvaldo Fumo and Jill Tolles on November 16, 2020. NPRI voluntarily dismissed these
12 Defendants based on representations from their respective counsel that they were no longer engaging in
13 the dual employment as alleged by NPRI in its Amended Complaint.

14 However, with regard to Defendant Jill Tolles, upon notification from her counsel that she would
15 be entering into a new contract with her state employer, NPRI and all other parties entered into, and the
16 Court approved, a Stipulation and Order on December 16, 2020, which: (1) vacated the voluntary
17 dismissal of Defendant Jill Tolles and reinstated her as a Defendant with all defenses reserved, including
18 her right to argue that she is not an employee of NSHE or the University of Nevada, Reno; and
19 (2) provided that the Court’s Omnibus Order Granting Motions to Dismiss and the Court’s Order
20 Denying NPRI’s Motion to Disqualify Official Attorneys from representing the NSHE Defendants shall
21 apply equally to Defendant Jill Tolles, such that all parties are bound thereby without the need to re-
22 litigate the motions decided therein. Defendant Jill Tolles is represented by counsel for the NSHE
23 Defendants.

24 //

1 The remaining individual Defendants are Glen Leavitt, James Ohrenschall, and Melanie Scheible.
2 On November 4, 2020, the Court entered: (1) an Order Granting NPRI's Motion for Enlargement of
3 Time to Serve the Amended Complaint on Defendants Glen Leavitt, James Ohrenschall, and Melanie
4 Scheible; and (2) an Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and
5 Melanie Scheible. On December 9, 2020, NPRI filed an Acceptance of Service in which Jonathan D.
6 Blum, Esq., of Wiley Petersen, accepted service of the Summons and Amended Complaint on behalf of
7 Defendant Melanie Scheible. On December 14, 2020, NPRI stated in its Limited Reply in Support of its
8 Motion for Clarification that Defendants Glen Leavitt and James Ohrenschall were officially served by
9 publication effective December 10, 2020.

10 **PENDING MOTION AND COUNTERMOTION**

11 Presently pending before the Court are the following motion and countermotion and their
12 supporting documents: (1) NPRI's Motion for the Court's Clarification of its Decision to Grant
13 Defendants' Motions to Dismiss Based on NPRI's Lack of Standing ("NPRI's Motion for
14 Clarification"), which includes a request for the Court to grant NRCP 54(b) certification whereby the
15 Court finds that there is no just reason for delay and directs entry of a final judgment in order to
16 facilitate timely and meaningful appellate review; (2) Defendants' and Legislature's Joint Opposition to
17 NPRI's Motion for the Court's Clarification of its Decision to Grant Defendants' Motions to Dismiss
18 Based on NPRI's Lack of Standing and Joint Countermotion to Dismiss All Remaining Defendants
19 Based on NPRI's Lack of Standing ("Joint Countermotion to Dismiss"); and (3) NPRI's Notice of Non-
20 Opposition to Joint Countermotion to Dismiss and Limited Reply in Support of its Motion for
21 Clarification.

22 Pursuant to EDCR 2.23(c) and (d), the Court decided the pending motion and countermotion on
23 the written submissions filed by the parties without oral argument because the Court deems oral
24 argument unnecessary. Having considered the written submissions filed by the parties, and for good

1 cause shown, the Court: (1) denies NPRI's Motion for Clarification; (2) grants the Joint Countermotion
2 to Dismiss and hereby dismisses all remaining Defendants based on NPRI's lack of standing; and
3 (3) denies NPRI's request for NRCP 54(b) certification as moot because, by dismissing all Defendants
4 based on NPRI's lack of standing, the Court is entering a final judgment which adjudicates all the claims
5 against all the parties based on NPRI's lack of standing and which thereby renders NRCP 54(b)
6 certification unnecessary. Consequently, having dismissed all Defendants based on NPRI's lack of
7 standing, the Court enters a final judgment in favor of all Defendants based on NPRI's lack of standing,
8 and the Court does not address the merits of NPRI's constitutional claims.

9 **DISCUSSION**

10 **1. NPRI's Motion for Clarification.**

11 On November 18, 2020, the Court entered a Minute Order which directed counsel for the
12 prevailing parties to prepare for the Court's review and approval a proposed order granting Defendants'
13 Motions to Dismiss based on NPRI's lack of standing. On December 1, 2020, before counsel for the
14 prevailing parties had submitted a proposed order for the Court's review and approval, NPRI filed its
15 Motion for Clarification of the Court's decision granting Defendants' Motions to Dismiss based on
16 NPRI's lack of standing. When NPRI filed its Motion for Clarification on December 1, 2020, there was
17 no written order that the Court had signed and filed yet. Thus, at that time, NPRI's Motion for
18 Clarification was premature because the Court could not clarify an order that did not exist yet.

19 On December 2, 2020, counsel for Defendants Jason Frierson and Nicole Cannizzaro submitted a
20 proposed Omnibus Order Granting Motions to Dismiss, without commentary from NPRI. NPRI instead
21 emailed a Letter to the Court on December 4, 2020, which NPRI also copied to counsel for all other
22 parties, requesting that the Court hold off processing the proposed order until the hearing on the Motion
23 for Clarification ("NPRI's December 4 Letter"). NPRI's December 4 Letter has been "Left Side" filed
24 into this case.

1 On December 8, 2020, the Court signed and filed Defendants' proposed Omnibus Order Granting
2 Motions to Dismiss based on NPRI's lack of standing. On December 14, 2020, NPRI filed its Limited
3 Reply in Support of its Motion for Clarification. In NPRI's Reply, NPRI asks for the Court to provide
4 clarification of precisely why NPRI lacks standing to bring this lawsuit, arguing that the record remains
5 unclear as to how NPRI either: (1) lacks its own particularized harm to establish standing; or (2) fails to
6 meet the public-importance exception to standing under *Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d
7 886, 894 (2016).

8 On December 15, 2020, the Court entered a Minute Order denying NPRI's Motion for
9 Clarification, stating that:

10 Although Plaintiff styles this motion as a Motion for Clarification of the Court's Decision,
11 there is no order that has been signed and filed yet and thus the motion is premature since
12 one cannot clarify what does not exist. Plaintiff's Reply brief does not provide any
additional justification or authority for clarification. Motion for Clarification must be
DENIED.

13 Based on the Court's December 15 Minute Order, NPRI believed that the Court denied its Motion
14 for Clarification on the basis that no order from the November 18, 2020, hearing had yet been signed
15 and filed yet, even though all orders had been signed and filed on either December 8 or December 9,
16 2020. Accordingly, on December 16, 2020, NPRI emailed a Letter to the Court ("NPRI's December 16
17 Letter"), which NPRI also copied to counsel for all other parties, requesting that the record be corrected
18 and that the Court either place the Motion for Clarification back on calendar or provide the basis for the
19 denial of NPRI's Motion for Clarification. NPRI's December 16 Letter has been "Left Side" filed into
20 this case.

21 Having considered NPRI's Reply and NPRI's December 16 Letter, the Court finds that NPRI does
22 not provide any additional justification or authority for clarification, and the Court is of the view that the
23 issue of standing needs no further clarification and is entirely dispositive of the arguments raised by
24 NPRI. Therefore, the Court denies NPRI's Motion for Clarification.

1 **2. Joint Countermotion to Dismiss All Remaining Defendants.**

2 As discussed previously, the remaining individual Defendants are Glen Leavitt, James
3 Ohrenschall, and Melanie Scheible. In Nevada, a person named as a codefendant in a complaint is not
4 treated as a party to the case unless the person has been served with process or has entered a voluntary
5 appearance. *Rae v. All Am. Life & Cas. Co.*, 95 Nev. 920, 922, 605 P.2d 196, 197 (1979); *Valley Bank*
6 *of Nev. v. Ginsburg*, 110 Nev. 440, 447, 874 P.2d 729, 734 (1994); *Albert D. Massi, Ltd. v. Bellmyre*,
7 111 Nev. 1520, 1521, 908 P.2d 705, 706 (1995).

8 Based on the record in this case, NPRI filed an Acceptance of Service on December 9, 2020, in
9 which Jonathan D. Blum, Esq., of Wiley Petersen, accepted service of the Summons and Amended
10 Complaint on behalf of Defendant Melanie Scheible. Additionally, on December 14, 2020, NPRI stated
11 in its Limited Reply in Support of its Motion for Clarification that Defendants Glen Leavitt and James
12 Ohrenschall were officially served by publication effective December 10, 2020. Therefore, because the
13 remaining individual Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible have been
14 served with process, the Court finds that they are parties to this case, regardless of whether they have
15 appeared in this action.

16 The Joint Countermotion to Dismiss asks the Court to dismiss all remaining Defendants based on
17 NPRI's lack of standing and argues that NPRI lacks standing to bring its constitutional claims against all
18 remaining Defendants, regardless of whether they have appeared in this action. In NPRI's Non-
19 Opposition to the Joint Countermotion to Dismiss, NPRI does not oppose the Court's entry of a final
20 judgment as to all remaining Defendants based on NPRI's lack of standing in order to facilitate timely
21 and meaningful appellate review.

22 The Court finds that the Joint Countermotion to Dismiss is most persuasive. As argued in the
23 Joint Countermotion to Dismiss, when a plaintiff files a complaint for declaratory and injunctive relief,
24 the Court may not exercise subject-matter jurisdiction over the plaintiff's claims unless the plaintiff has

1 standing to bring the claims. *Doe v. Bryan*, 102 Nev. 523, 524-26, 728 P.2d 443, 444-45 (1986). When
2 the plaintiff lacks standing to bring its claims, the defendant is entitled to dismissal for lack of subject-
3 matter jurisdiction as a matter of law. *Id.* (affirming district court’s dismissal of plaintiffs’ constitutional
4 claims because plaintiffs lacked standing to bring those claims); NRCP 12(h)(3) (“If the court
5 determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”).

6 Furthermore, when the plaintiff pleads a claim against multiple defendants and one of the
7 defendants proves that the claim fails as a matter of law—such as for the lack of standing—the natural
8 consequence is that the claim fails as a matter of law as to all defendants named in the claim, even if
9 some of the defendants do not answer or defend against the claim. *See In re Forsyth’s Estate*, 45 Nev.
10 385, 392, 204 P. 887, 889-90 (1922) (explaining the “well-known and general rule to the effect that,
11 where several persons are joined as defendants, one or more of whom made default, and the others
12 defend successfully upon a ground not personal to themselves, but which goes to destroy the very basis
13 of the action, their success in maintaining such defense inures to the benefit of all.”). The reason for this
14 rule is that when a claim fails as a matter of law, it is legally unsustainable, and the plaintiff cannot
15 prosecute the claim against any defendant, regardless of whether the defendant has appeared in the
16 action. *See Sutherland v. Gross*, 105 Nev. 192, 198, 772 P.2d 1287, 1291 (1989) (stating that “when the
17 defenses interposed by the answering co-defendant call into question the validity of plaintiff’s entire
18 cause of action and when such defenses prove successful, the defenses inure to the benefit of the
19 defaulting co-defendant. Consequently, the plaintiff cannot take judgment against the defendant in
20 default.” (citations omitted)); *Paul v. Pool*, 96 Nev. 130, 132, 605 P.2d 635, 636 (1980) (“The answer of
21 a co-defendant inures to the benefit of a defaulting defendant where there exists, as here, a common
22 defense as to both of them.”).

23 As determined by the Court in its Omnibus Order Granting Motions to Dismiss, standing is the
24 controlling issue here, and while other issues are discussed, standing is the determinative issue above all

1 else. In its Omnibus Order, the Court concluded that NPRI clearly lacks standing to bring its
2 constitutional claims against Defendants who filed Motions to Dismiss or Joinders thereto. The Court
3 finds that its conclusion that NPRI clearly lacks standing to bring its constitutional claims applies
4 equally to all remaining Defendants as well. Therefore, the Court grants the Joint Countermotion to
5 Dismiss and hereby dismisses all remaining Defendants based on NPRI's lack of standing.
6 Consequently, having dismissed all Defendants based on NPRI's lack of standing, the Court enters a
7 final judgment in favor of all Defendants based on NPRI's lack of standing, and the Court does not
8 address the merits of NPRI's constitutional claims.

9 **3. NRCP 54(b) certification.**

10 As a general rule, a party is not entitled to appeal from any order or other decision, however
11 designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the
12 parties. NRCP 54(b); *Wilmurth v. State*, 79 Nev. 490, 491-92, 387 P.2d 251, 251 (1963). However,
13 NRCP 54(b) contains an exception to the general rule, stating that "the court may direct entry of a final
14 judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines
15 that there is no just reason for delay." NRCP 54(b); *Crescent v. White*, 91 Nev. 209, 210, 533 P.2d 159,
16 160 (1975) (explaining that "a judgment or order that fails to adjudicate all the claims and the rights and
17 liabilities of the parties is not appealable, absent the express determination that there is no just reason for
18 delay, as required by NRCP 54(b).").

19 In this case, NPRI's request for NRCP 54(b) certification is denied as moot because, by dismissing
20 all Defendants based on NPRI's lack of standing, the Court is entering a final judgment which
21 adjudicates all the claims against all the parties based on NPRI's lack of standing and which thereby
22 renders NRCP 54(b) certification unnecessary.

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2. IT IS HEREBY FURTHER ORDERED that Defendants' and Legislature's Joint Countermotion to Dismiss All Remaining Defendants Based on NPRI's Lack of Standing is GRANTED.

3. IT IS HEREBY FURTHER ORDERED that NPRI's request for NRCP 54(b) certification is DENIED as moot because, by dismissing all Defendants based on NPRI's lack of standing, the Court is entering a final judgment which adjudicates all the claims against all the parties based on NPRI's lack of standing and which thereby renders NRCP 54(b) certification unnecessary.

4. IT IS HEREBY FURTHER ORDERED that a FINAL JUDGMENT is entered in favor of all Defendants based on NPRI's lack of standing.

Dated this 28th day of December, 2020



Order submitted by:

/s/ Kevin C. Powers
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Attorneys for Intervenor-Defendant Legislature of Nevada

D49 621 CDB2 0D29
Jim Crockett
District Court Judge

//
//
//

Order reviewed by:

/s/ Colleen E. McCarty

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BERNA L. RHODES-FORD, ESQ.

General Counsel

NEVADA STATE COLLEGE

berna.rhodes-ford@nsc.edu

/s/ Gary A. Cardinal

GARY A. CARDINAL, ESQ.

Assistant General Counsel

UNIVERSITY OF NEVADA, RENO

gcardinal@unr.edu

*Attorneys for Defendants Osvaldo Fumo,
Heidi Seevers Gansert, Dina Neal and Jill Tolles*

/s/ Jonathan D. Blum

JONATHAN D. BLUM, ESQ.

WILEY PETERSEN

jblum@wileypetersenlaw.com

*Attorneys for Defendants Jason Frierson,
Nicole Cannizzaro and Melanie Scheible*

Powers, Kevin

From: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>
Sent: Wednesday, December 23, 2020 5:23 PM
To: Powers, Kevin
Cc: McCarty, Colleen E.; Forbush, Deanna L.; Bradley Schrage; Daniel Bravo; jblum@wileypetersenlaw.com; Gary A Cardinal
Subject: Re: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment

I authorize use of my electronic signature on the revised proposed order.

Berna L. Rhodes-Ford
office [702.992.2378](tel:702.992.2378)
Berna.Rhodes-Ford@nsc.edu

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On Dec 23, 2020, at 5:04 PM, Powers, Kevin <kpowers@lcb.state.nv.us> wrote:

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(775) 684-6830

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From: McCarty, Colleen E. <CMcCarty@foxrothschild.com>**Sent:** Tuesday, December 22, 2020 12:11 PM**To:** Powers, Kevin <kpowers@lcb.state.nv.us>; Forbush, Deanna L. <DForbush@foxrothschild.com>**Cc:** 'Bradley Schrager' <BSchrager@wrslawyers.com>; 'Daniel Bravo' <DBravo@wrslawyers.com>; 'jblum@wileypetersenlaw.com' <jblum@wileypetersenlaw.com>; Gary A Cardinal <gcardinal@unr.edu>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>**Subject:** RE: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment

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<CMcCarty@foxrothschild.com>

Cc: 'Bradley Schrager' <BSchrager@wrslawyers.com>; 'Daniel Bravo' <DBravo@wrslawyers.com>;

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<2020_12-23_01_A-20-817757-C_Proposed Order Denying Motion for Clarification, Granting Countermotion to Dismiss Remaining Defs and Entering Final Judgment.doc>

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To: Powers, Kevin
Cc: McCarty, Colleen E.; Forbush, Deanna L.; Daniel Bravo; jblum@wileypetersenlaw.com; Gary A Cardinal; Berna Rhodes-Ford
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Signature authorized on behalf of my clients

Bradley Schrager
Wolf Rifkin Shapiro Schulman & Rabkin

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Sent: Thursday, December 24, 2020 8:12 AM
To: Powers, Kevin; 'McCarty, Colleen E.'; 'Forbush, Deanna L.'
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ibautista@wileypetersenlaw.com
Subject: RE: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment 00618

Thanks, Kevin.

Missing one word in caption:

**ORDER DENYING PLAINTIFF'S MOTION FOR CLARIFICATION, GRANTING JOINT
COUNTERMOTION TO DISMISS ALL REMAINING DEFENDANTS BASED ON PLAINTIFF'S
LACK OF STANDING, AND ENTERING FINAL JUDGMENT IN FAVOR **OF** ALL DEFENDANTS
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Subject: RE: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment 00618

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GARY A. CARDINAL

Assistant General Counsel
University of Nevada, Reno
1664 North Virginia Street
Mail Stop 0550
Reno, NV 89557
Tel: (775) 784-3495
Fax: (775) 327-2202
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(775) 684-6761-Fax

ATTENTION

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From: McCarty, Colleen E. <CMcCarty@foxrothschild.com>
Sent: Tuesday, December 22, 2020 12:11 PM
To: Powers, Kevin <kpowers@lcb.state.nv.us>; Forbush, Deanna L. <DForbush@foxrothschild.com>
Cc: 'Bradley Schrager' <BSchrager@wrslawyers.com>; 'Daniel Bravo' <DBravo@wrslawyers.com>; 'jblum@wileypetersenlaw.com' <jblum@wileypetersenlaw.com>; Gary A Cardinal <gcardinal@unr.edu>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>
Subject: RE: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment

Mr. Powers,

Attached please find NPRI's suggested revisions to the draft order. We believe they add some additional context and complete the record and also, as NPRI did not oppose the motion to dismiss, remove some superfluous language.

Should you have any questions or wish to discuss the track changes, please do not hesitate to reach out.

Colleen

From: Powers, Kevin <kpowers@lcb.state.nv.us>
Sent: Friday, December 18, 2020 5:10 PM
To: Forbush, Deanna L. <DForbush@foxrothschild.com>; McCarty, Colleen E. <CMcCarty@foxrothschild.com>
Cc: 'Bradley Schrager' <BSchrager@wrslawyers.com>; 'Daniel Bravo' <DBravo@wrslawyers.com>; 'jblum@wileypetersenlaw.com' <jblum@wileypetersenlaw.com>; Gary A Cardinal <gcardinal@unr.edu>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>
Subject: [EXT] A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment

Plaintiff's Counsel:

Counsel for all Defendants have prepared and approved the attached proposed order and final judgment in this matter based on the Court's minute orders on December 15 and 16, 2020. Please review the proposed order and final judgment and let us know whether you have any suggested revisions.

Counsel for all Defendants would like to submit the proposed order and final judgment to the Court as early as possible next week before the holiday.

Thank you for your prompt consideration of this matter.

Kevin C. Powers

General Counsel
Nevada Legislative Counsel Bureau, Legal Division
401 S. Carson Street
Carson City, NV 89701-4747

(775) 684-6830
(775) 684-6761-Fax

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Nevada Policy Research
Institute, Plaintiff(s)

CASE NO: A-20-817757-C

7 vs.

DEPT. NO. Department 24

8
9 Nicole Cannizzaro, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/28/2020

15 Bradley Schrager	bschrager@wrslawyers.com
16 Dannielle Fresquez	dfresquez@wrslawyers.com
17 Daniel Bravo	dbravo@wrslawyers.com
18 Christie Rehfeld	crehfeld@wrslawyers.com
19 Kevin Powers	kpowers@lcb.state.nv.us
20 Deanna Forbush	dforbush@foxrothschild.com
21 Doreen Loffredo	dloffredo@foxrothschild.com
22 Colleen McCarty	cmccarty@foxrothschild.com
23 Natasha Martinez	nmartinez@foxrothschild.com
24 Ivette Bautista	ibautista@wileypetersenlaw.com
25 Jonathan Blum	jblum@wileypetersenlaw.com

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Chastity Dugenia	cdugenia@wileypetersenlaw.com
Berna Rhodes-Ford	Berna.Rhodes-Ford@nsc.edu
Gary Cardinal	gcardinal@unr.edu

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

September 29, 2020

A-20-817757-C Nevada Policy Research Institute, Plaintiff(s)
vs.
Nicole Cannizzaro, Defendant(s)

September 29, 2020 10:45 AM Minute Order

HEARD BY: Holthus, Mary Kay

COURTROOM: Chambers

COURT CLERK: Dara Yorke

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- As this Court is familiar with one of the parties, in accordance with Rule 2.11(a), and to avoid the appearance of impropriety and implied bias, this Court hereby disqualifies itself and ORDERS this case be REASSIGNED at random.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

October 02, 2020

A-20-817757-C Nevada Policy Research Institute, Plaintiff(s)
vs.
Nicole Cannizzaro, Defendant(s)

October 02, 2020 8:00 AM Minute Order

HEARD BY: Cory, Kenneth **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Jill Chambers

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- The Court previously worked with one of the named Defendants and considers them a close friend. Therefore, the Court must recuse from this case and the matter shall be randomly reassigned.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

October 05, 2020

A-20-817757-C Nevada Policy Research Institute, Plaintiff(s)
vs.
Nicole Cannizzaro, Defendant(s)

October 05, 2020

3:00 AM

Minute Order

HEARD BY: Hardy, Joe

COURTROOM: Chambers

COURT CLERK: Kristin Duncan

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Although the Court could, and would, rule fairly and without bias, the COURT FINDS that RECUSAL is appropriate in this matter pursuant to Canon 2.11(A) of the Nevada Code of Judicial Conduct, in order to avoid the appearance of impartiality or implied bias because of the Court's personal and financial relationship with one of the named Defendants.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Kristin Duncan, to all registered parties for Odyssey File & Serve. (KD 10/5/2020)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

October 19, 2020

A-20-817757-C Nevada Policy Research Institute, Plaintiff(s)
vs.
Nicole Cannizzaro, Defendant(s)

October 19, 2020 3:00 AM Minute Order

HEARD BY: Crockett, Jim **COURTROOM:** Phoenix Building 11th Floor
116

COURT CLERK: Rem Lord

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- The Court finds that the 9/29/20 Plaintiff s Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible cannot be granted as Plaintiff s Motion is not accompanied by the requisite Motion for Enlargement of Time. The attempted Publication would conclude beyond the 120 day time period in which to effectuate personal service. Plaintiff's new Motion must also include a discussion of the Scrimmer factors and good cause why the Amended Complaint was not timely served. Lastly, the attached Affidavits of Due Diligence are titled Affidavits, but do not include a Notary Seal, and instead, appear to be Declarations. The titles of the attached Exhibits should all be corrected upon resubmission as part of Plaintiff's new Motion. Therefore, it is hereby ordered, 9/29/20 Plaintiff's Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible is denied. COURT ORDERED, status check SET for the filing of the Order.

11/19/2020 STATUS CHECK: FILING OF ORDER (CHAMBERS)

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /rl 10/19/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

November 18, 2020

A-20-817757-C Nevada Policy Research Institute, Plaintiff(s)
vs.
Nicole Cannizzaro, Defendant(s)

November 18, 2020 3:00 AM

All Pending Motions

HEARD BY: Crockett, Jim

COURTROOM: Phoenix Building 11th Floor
116

COURT CLERK: Rem Lord

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Plaintiff's Motion to Disqualify the Official Attorneys from Representing Defendants Osvaldo Fumo, Heidi Seevers Gansert and Dina Neal on Order Shortening Time

Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. Plaintiff says Official Attorneys should be disqualified because Defendants were not sued based upon anything they did in their official capacity but instead are sued for alleged violation of constitution prohibition against dual employment in violation of Article 3 of the Nevada Constitution.

10/9/20 Opposition says Nevada Policy Research Institute lacks standing to even bring this Motion because it cannot demonstrate particularized harm beyond that of any ordinary taxpayer and since standing is a jurisdictional matter, this motion must be denied. Opposition further contends that it is by virtue of the fact that Defendants are government employees that they were sued and Official attorneys are not prohibited from representing them and may choose to represent if so requested. . The simple fact is that Official Attorney is a duly authorized legal counsel who is not prohibited from representing the Defendants so this Motion to Disqualify is DENIED. Defendants to submit the

Order. COURT FURTHER ORDERED, 11/19/20 hearing VACATED and matter SET for Status Check.

Defendant Nicole Cannizzaro's Motion to Dismiss

Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. Standing is the controlling issue here and while other issues are discussed, standing is the determinative issue above all else. Nevada Policy Research Institute simply lacks standing to bring this suit. It is an organization, rather than a particularly-aggrieved individual, harmed by any alleged dual employment. It is quite clear that Nevada Policy Research Institute does not allege any particularized harm beyond that of any ordinary taxpayer and that is simply not enough to give standing to Nevada Policy Research Institute to bring this suit. Nevada Policy Research Institute's Opposition does not make persuasive arguments regarding standing, suggesting that an evidentiary hearing would need to be conducted but not offering any theory as to how an evidentiary hearing would demonstrate particularized harm or otherwise lead to a finding that Nevada Policy Research Institute has standing to pursue this case against Defendants. And the court is not persuaded that Nevada Policy Research Institute comes within the recent Schwartz exception. And, it cannot be ignored that Nevada Policy Research Institute blows hot and cold on whether or not it is suing the Defendants as legislators. Historically, Nevada Policy Research Institute has demonstrated that it has been able to enlist individuals who might provide a more colorable claim of particularized harm but have simply opted not to do so in this case to enhance the possibility of finding that counsel represents someone with actual standing. The court finds that the Reply brief puts the matter to rest. Nevada Policy Research Institute clearly lacks standing to bring this suit and thus the Motion to Dismiss must be GRANTED. The Joinders of the other Defendants are also GRANTED. Counsel for Defendant to submit the order granting the Motion to Dismiss as to the moving Defendant and all Defendants who filed Joinders to this Motion to Dismiss. COURT FURTHER ORDERED, 11/19/20 hearing VACATED and matter SET for Status Check.

Defendant Jason Frierson's Motion to Dismiss

Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. Standing is the controlling issue here and while other issues are discussed, standing is the determinative issue above all else. Nevada Policy Research Institute simply lacks standing to bring this suit. It is an organization, rather than a particularly-aggrieved individual, harmed by any alleged dual employment. It is quite clear that Nevada Policy Research Institute does not allege any particularized harm beyond that of any ordinary taxpayer and that is simply not enough to give standing to Nevada Policy Research Institute to bring this suit. Nevada Policy Research Institute's Opposition does not make persuasive arguments regarding standing, suggesting that an evidentiary hearing would need to be conducted but not offering any theory as to how an evidentiary hearing would demonstrate particularized harm or otherwise lead to a finding that Nevada Policy Research Institute has standing to pursue this case against Defendants. And the court is not persuaded that

Nevada Policy Research Institute comes within the recent Schwartz exception. And, it cannot be ignored that Nevada Policy Research Institute blows hot and cold on whether or not it is suing the Defendants as legislators. Historically, Nevada Policy Research Institute has demonstrated that it has been able to enlist individuals who might provide a more colorable claim of particularized harm but have simply opted not to do so in this case to enhance the possibility of finding that counsel represents someone with actual standing. The court finds that the Reply brief puts the matter to rest. Nevada Policy Research Institute clearly lacks standing to bring this suit and thus the Motion to Dismiss must be GRANTED. The Joinders of the other Defendants are also granted. Counsel for Defendant to submit the order granting the Motion to Dismiss as to the moving Defendant and all Defendants who filed Joinders to this Motion to Dismiss. COURT FURTHER ORDERED, 11/19/20 hearing VACATED and matter SET for Status Check.

Defendant Brittney Miller's Motion to Dismiss Complaint Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. Standing is the controlling issue here. Defendant argues that NPRI simply lacks standing to bring this suit. It is an organization, rather than a particularly-aggrieved individual, harmed by any alleged dual employment. It is quite clear that NPRI does not allege any particularized harm beyond that of any ordinary taxpayer and that is simply not enough to give standing to NPRI to bring this suit. NPRI's 10/2/20 Opposition does not make persuasive arguments regarding standing, suggesting that an evidentiary hearing would need to be conducted but not offering any theory as to how an evidentiary hearing would demonstrate particularized harm or otherwise lead to a finding that NPRI has standing to pursue this case against Defendant Miller (or the other Defendants for that matter). And the court is not persuaded that NPRI comes within the recent Schwartz exception. And, it cannot be ignored that NPRI blows hot and cold on whether or not it is suing the Defendants as legislators. Historically, NPRI has demonstrated that it has been able to enlist individuals who might provide a more colorable claim of particularized harm but have simply opted not to do so in this case to enhance the possibility of finding that counsel represents someone with actual standing. The court finds that the Reply brief puts the matter to rest. NPRI clearly lacks standing to bring this suit and thus the Motion to Dismiss must be GRANTED. The Joinders of Fumo, Gansert and Neal and Frierson and Canizzaro are also granted. Counsel for Defendant Miller to submit the order granting the Motion to Dismiss as to Defendant Miller and all Defendants who filed a Joinder to her Motion to Dismiss.

Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Motion to Dismiss Pursuant to NRCP 12(b)(5) and NRCP 12(b)(6)

Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. Standing is the controlling issue here and while other issues are discussed, standing is the determinative issue above all else. Nevada Policy Research Institute simply lacks standing to bring

this suit. It is an organization, rather than a particularly-aggrieved individual, harmed by any alleged dual employment. It is quite clear that Nevada Policy Research Institute does not allege any particularized harm beyond that of any ordinary taxpayer and that is simply not enough to give standing to Nevada Policy Research Institute to bring this suit. Nevada Policy Research Institute's Opposition does not make persuasive arguments regarding standing, suggesting that an evidentiary hearing would need to be conducted but not offering any theory as to how an evidentiary hearing would demonstrate particularized harm or otherwise lead to a finding that Nevada Policy Research Institute has standing to pursue this case against Defendants. And the court is not persuaded that Nevada Policy Research Institute comes within the recent Schwartz exception. And, it cannot be ignored that Nevada Policy Research Institute blows hot and cold on whether or not it is suing the Defendants as legislators. Historically, Nevada Policy Research Institute has demonstrated that it has been able to enlist individuals who might provide a more colorable claim of particularized harm but have simply opted not to do so in this case to enhance the possibility of finding that counsel represents someone with actual standing. The court finds that the Reply brief puts the matter to rest. Nevada Policy Research Institute clearly lacks standing to bring this suit and thus the Motion to Dismiss must be GRANTED. The Joinders of the other Defendants are also granted. Counsel for Defendants to submit the order granting the Motion to Dismiss as to the moving Defendants and all Defendants who filed Joinders to this Motion to Dismiss. COURT FURTHER ORDERED, 11/19/20 hearing VACATED and matter SET for Status Check.

Nevada Legislature's Motion to Intervene as Defendant

Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by 11/16/2020 by the parties without oral argument since the court deems oral argument unnecessary. The LCB/State of Nevada says it wishes to intervene because it has a real and substantial interest in the issues here since it has historically rendered opinions supporting the kind of employment that the Defendants are alleged to have and providing legal reassurance to the Defendants that such employment is entirely legal and constitutional. Nevada Policy Research Institute opposes saying the Nevada Legislature does not have the right to intervene and that permissive intervention, which is discretionary, should not be permitted. Nevada State Legislature's Reply Brief is very persuasive and the court is persuaded that the Nevada Legislature is entitled to intervene as a matter of right and that even if it were only entitled to permissive intervention, the court chooses to exercise its discretion to find that the Nevada Legislature is also allowed to intervene permissively. Nevada Legislature's Motion to Intervene as Defendant is granted. Nevada Legislature is directed to prepare the order which includes for the court's findings the headlined points contained in the Reply Brief. COURT FURTHER ORDERED, matter SET for Status Check.

12/17/20 9:00 AM STATUS CHECK: FILING OF ORDERS (11/17/20)

CLERK'S NOTE: This Amended Minute Order was electronically served to all registered parties for Odyssey File & Serve. /rl 11/18/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

November 19, 2020

A-20-817757-C Nevada Policy Research Institute, Plaintiff(s)
vs.
Nicole Cannizzaro, Defendant(s)

November 19, 2020 3:00 AM Status Check

HEARD BY: Crockett, Jim **COURTROOM:** Phoenix Building 11th Floor
116

COURT CLERK: Rem Lord

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Status Check: Filing of Order Denying Plaintiff's Motion for Order to Serve by Publication (10/19)

COURT NOTED as of 8:00 am this morning the Order had not been filed. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 12/10/2020 9:00 AM

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. /rl 11/19/2020

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

December 15, 2020

A-20-817757-C Nevada Policy Research Institute, Plaintiff(s)
vs.
Nicole Cannizzaro, Defendant(s)

December 15, 2020 3:00 AM All Pending Motions

HEARD BY: Crockett, Jim **COURTROOM:** Chambers

COURT CLERK: Jill Chambers
Nicole McDevitt

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- PLAINTIFF S MOTION FOR THE COURT S CLARIFICATION OF ITS DECISION TO GRANT DEFENDANTS MOTIONS TO DISMISS BASED ON PLAINTIFF S LACK OF STANDING ON ORDER SHORTENING TIME

JOINT OPPOSITION TO PLAINTIFF S MOTION FOR THE COURT S CLARIFICATION OF ITS DECISION TO GRANT DEFENDANTS MOTIONS TO DISMISS BASED ON PLAINTIFF S LACK OF STANDING AND JOINT COUNTERMOTION TO DISMISS ALL REMAINING DEFENDANTS BASED ON PLAINTIFF S LACK OF STANDING

Pursuant to EDCR 2.23 (c) and (d), this matter is being decided on the briefs and pleadings filed by the parties without oral argument since the court deems oral argument unnecessary.

Although Plaintiff styles this motion as a Motion for Clarification of the Court's Decision, there is no order that has been signed and filed yet and thus the motion is premature since one cannot clarify what does not exist. Plaintiff's Reply brief does not provide any additional justification or authority for clarification. Motion for Clarification must be DENIED. Counsel for Defendant to prepare and submit order to court for signature w/in 14 days per EDCR 7.21. Calendar status check for filing of

order.

Defendants have filed a Countermotion to dismiss all of Plaintiff's claims on the basis that Plaintiff lacks standing to bring this suit. Standing is the controlling issue here and while other issues are discussed, standing is the determinative issue above all else. The court finds that the Countermotion to Dismiss is most persuasive. NPRI clearly lacks standing to bring this suit and the court is inclined to grant the countermotion to dismiss. On 12/14/20 NPRI filed its Reply and Non-Opposition to Grant Defendants Motion to Dismiss on behalf of all remaining Defendants due to lack of Standing. Counsel for Defendant to submit the order granting the Counter Motion to Dismiss. COURT FURTHER ORDERED, matter SET for status check; 12/17/20 hearing VACATED.

1/14/20 (CHAMBERS) STATUS CHECK: FILING OF ORDER

CLERK'S NOTE: The Court is in receipt of Counsel for Plaintiff's Letter to the Court dated 12/16/20, which has been Left Side filed into the case. Prior to issuing the 12/15/20 Minute Order, the Court had reviewed and considered the 12/14/20 Plaintiff's Reply and the Orders referenced therein, and which were also on file in this case. However, the Court is of the view that the issue of Standing needs no further clarification and is entirely dispositive of the arguments raised by Plaintiff.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 12/16/2020



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

DEANNA L. FORBUSH, ESQ.
1980 FESTIVAL PLAZA DR., SUITE 700
LAS VEGAS, NV 89135

DATE: January 11, 2021
CASE: A-20-817757-C

RE CASE: NEVADA POLICY RESEARCH INSTITUTE vs. NICHOLE J. CANNIZZARO, an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; ET AL.

NOTICE OF APPEAL FILED: January 8, 2021

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 District Court.*
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

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.

*****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; OMNIBUS ORDER GRANTING MOTIONS TO DISMISS; NOTICE OF ENTRY OF OMNIBUS ORDER GRANTING MOTIONS TO DISMISS; ORDER DENYING PLAINTIFF'S MOTION TO DISQUALIFY OFFICIAL ATTORNEYS; NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION TO DISQUALIFY OFFICIAL ATTORNEYS; ORDER DENYING PLAINTIFF'S MOTION FOR CLARIFICATION, GRANTING JOINT COUNTERMOTION TO DISMISS ALL REMAINING DEFENDANTS BASED ON PLAINTIFF'S LACK OF STANDING, AND ENTERING FINAL JUDGMENT IN FAVOR OF ALL DEFENDANTS BASED ON PLAINTIFF'S LACK OF STANDING; NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION FOR CLARIFICATION, GRANTING JOINT COUNTERMOTION TO DISMISS ALL REMAINING DEFENDANTS BASED ON PLAINTIFF'S LACK OF STANDING, AND ENTERING FINAL JUDGMENT IN FAVOR OF ALL DEFENDANTS BASED ON PLAINTIFF'S LACK OF STANDING; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

NEVADA POLICY RESEARCH INSTITUTE,

Plaintiff(s),

vs.

NICHOLE J. CANNIZZARO, an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; and Clark County District Attorney; JASON FRIERSON, an individual engaging in dual employment with the Nevada State Assembly and Clark County Public Defender; OSVALDO FUMO, an individual engaging in dual employment with the Nevada State Assembly and University of Nevada, Las Vegas; HEIDI SEEVERS GANSERT, an individual engaging in dual employment with the Nevada State Senate and University of Nevada Reno; GLEN LEAVITT, an individual engaging in dual employment with the Nevada State Assembly and Regional Transportation Commission; BRITINEY MILLER, an individual engaging in dual employment with the Nevada State Assembly and Clark County School District;

Case No: A-20-817757-C

Dept No: VIII

DINA NEAL, an individual engaging in dual employment with the Nevada State Assembly and Nevada State College; JAMES OHRENSCHALL, an individual engaging in dual employment with the Nevada State Senate and Clark County Public Defender; MELANIE SCHEIBLE an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; JILL TOLLES, an individual engaging in dual employment with the Nevada State Assembly and University of Nevada, Reno; SELENA TORRES, an individual engaging in dual employment with the Nevada State Assembly and Clark County School District,

Defendant(s),

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 11 day of January 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk