

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA POLICY RESEARCH
INSTITUTE,

Appellant,

vs.

NICOLE J. CANNIZZARO, an individual
engaging in dual employment with the
Nevada State Senate and Clark County
District Attorney; JASON FRIERSON, an
individual engaging in dual employment
with the Nevada State Assembly and Clark
County Public Defender; 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 engagement in dual employment
with the Nevada State Senate and Nevada
State College; JAMES OHRENSCHALL,
an individual engaging in dual employment
with the Nevada State Senate and Clark
County Public Defendant; MELANIE
SCHEIBLE, an individual engagement 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;

Supreme Court Case No.: 82341

Electronically Filed
[District Court Case No. 2021-05:20 p.m.
A-20-817757-C] Elizabeth A. Brown
Clerk of Supreme Court

and SELENA TORRES, an individual
engaging in dual employment with the
Nevada State Assembly and Clark County
School District,

Respondents,

and Legislature of the State of Nevada,

Intervenor-Respondent.

JOINT APPENDIX VOLUME 5 of 7

Appeal from the Eighth Judicial District Court,
Orders Granting Motions to Dismiss and Joinders Thereto;
Order Granting Motion to Intervene; and Order Denying Motion to Disqualify
The Honorable Jim Crockett (Ret.), District Court Judge

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CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of June, 2021, I caused the foregoing to be served on all parties to this action by electronically filing it with the Court's e-filing system, which will electronically serve the following:

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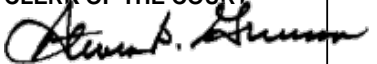
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10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

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

14 Plaintiff,

15 vs.

16 NICOLE J. CANNIZZARO, an individual engaging
17 in dual employment with the Nevada State Senate
18 and Clark County District Attorney; KASINA
19 DOUGLASS-BOONE, an individual engaging in
20 dual employment with the Nevada State Assembly
21 and Clark County School District; JASON
22 FRIERSON, an individual engaging in dual
23 employment with the Nevada State Assembly and
24 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-

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

NOTICE OF ENTRY OF ORDER
GRANTING NEVADA LEGISLATURE'S
MOTION TO INTERVENE AS
DEFENDANT

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.

10 **NOTICE OF ENTRY OF ORDER**

11 **TO ALL PARTIES AND THEIR COUNSEL**, please take notice that: (1) an Order Granting
12 Nevada Legislature's Motion to Intervene as Defendant was approved and signed by the Court on
13 December 8, 2020, and electronically filed with the Clerk on that same date; and (2) a copy of the Order
14 is attached hereto.

15 DATED: This 8th day of December, 2020.

16 Respectfully submitted,

17 By: /s/ Kevin C. Powers

18 **KEVIN C. POWERS**

19 General Counsel

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Legislature of the State of Nevada

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of the Nevada Legislative Counsel Bureau, Legal Division,
3 and that on the 8th day of December, 2020, pursuant to NRCP 5(b) and NEFCR 9, I served a true
4 and correct copy of the Notice of Entry of Order Granting Nevada Legislature's Motion to Intervene as
5 Defendant, by means of the Eighth Judicial District Court's electronic filing system, directed to:

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14 *Research Institute*

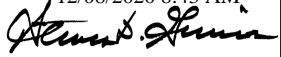
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18 /s/ Kevin C. Powers
19 An Employee of the Legislative Counsel Bureau
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24


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 GRANTING NEVADA
LEGISLATURE'S MOTION TO
INTERVENE AS DEFENDANT**

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 SELINA TORRES, an individual
7 engaging in dual employment with the Nevada State
8 Assembly and Clark County School District,
9
10 Defendants.

11 INTRODUCTION

12 In this action, Plaintiff Nevada Policy Research Institute (NPRI) has alleged that the individual
13 Legislator-Defendants are persons simultaneously holding elected offices in the Nevada Legislature
14 (Legislature) and paid positions with the executive branch of the Nevada State Government or with local
15 governments in violation of the separation-of-powers provision in Article 3, Section 1 of the Nevada
16 Constitution. The Legislature filed a motion to intervene as a defendant under NRCP 24 and
17 NRS 218F.720. NPRI filed an opposition, and the Legislature filed a reply. The Court concludes that
18 the Legislature is entitled to intervene as a matter of right. In addition, the Court concludes that, even if
19 the Legislature was only entitled to seek permissive intervention, the Court chooses to exercise its
20 discretion to find that the Legislature is allowed to intervene permissively. Therefore, the Court grants
21 the Legislature's motion to intervene as a defendant.

22 DISCUSSION

23 **1. Intervention as a matter of right under NRCP 24(a)(1) and NRS 218F.720(2)(b).**

24 The Legislature contends that it is entitled to intervention as a matter of right under
NRCP 24(a)(1), which provides that, on timely motion, the Court must permit anyone to intervene who
"is given an unconditional right to intervene by a state or federal statute." When the movant establishes
that it is given an unconditional right to intervene by statute, "there is no room for the operation of a
court's discretion," and "the right to intervene is absolute and unconditional." *Bhd. of R.R. Trainmen v.*

1 *Balt. & Ohio R.R.*, 331 U.S. 519, 531 (1947).

2 The Legislature contends that NRS 218F.720 gives it an unconditional right to intervene in this
3 action. The statute provides in relevant part:

4 2. If a party to any action or proceeding before any court, agency or officer:

5 (a) Alleges that the Legislature, by its actions or failure to act, has violated the
6 Constitution, treaties or laws of the United States or the Constitution or laws of this State; or

7 (b) Challenges, contests or raises as an issue, either in law or in equity, in whole or in
8 part, or facially or as applied, the meaning, intent, purpose, scope, applicability, validity,
9 enforceability or constitutionality of any law, resolution, initiative, referendum or other
10 legislative or constitutional measure, including, without limitation, on grounds that it is
11 ambiguous, unclear, uncertain, imprecise, indefinite or vague, is preempted by federal law or
12 is otherwise inapplicable, invalid, unenforceable or unconstitutional,

13 ↳ the Legislature may elect to intervene in the action or proceeding by filing a motion or
14 request to intervene in the form required by the rules, laws or regulations applicable to the
15 action or proceeding. The motion or request to intervene must be accompanied by an
16 appropriate pleading, brief or dispositive motion setting forth the Legislature's arguments,
17 claims, objections or defenses, in law or fact, or by a motion or request to file such a
18 pleading, brief or dispositive motion at a later time.

19 3. Notwithstanding any other law to the contrary, upon the filing of a motion or request
20 to intervene pursuant to subsection 2, the Legislature has an unconditional right and standing
21 to intervene in the action or proceeding and to present its arguments, claims, objections or
22 defenses, in law or fact, whether or not the Legislature's interests are adequately represented
23 by existing parties and whether or not the State or any agency, officer or employee of the
24 State is an existing party. If the Legislature intervenes in the action or proceeding, the
Legislature has all the rights of a party.

16 The Legislature contends that NRS 218F.720(2)(b) gives it an unconditional right to intervene in
17 this action in order to defend against NPRI's constitutional challenge because it involves allegations
18 concerning the meaning, intent, purpose, scope, applicability and enforceability of the separation-of-
19 powers provision with regard to members of the Legislature who hold positions of public employment
20 with the state executive branch or with local governments. The Court agrees.

21 In its amended complaint, NPRI has alleged that "[t]here is an actual controversy between [NPRI],
22 acting in the public interest, and [the Legislator-Defendants] and each of them, as to the *meaning* of the
23 Separation of Powers requirement of Nevada Const. Art. 3, §1, ¶1 and its *application* to [the Legislator-
24 Defendants] and their conduct." *Am. Compl.* ¶ 23 (emphasis added). Based on NPRI's allegations, the

1 Court finds that NRS 218F.720(2)(b) gives the Legislature an unconditional right to intervene in this
2 action in order to defend against NPRI's constitutional challenge.

3 NPRI argues that NRS 218F.720(2)(b) is not applicable because NPRI is seeking to enforce the
4 separation-of-powers provision and is not challenging it on any grounds. To support its argument, NPRI
5 contends that the statute would grant the Legislature an unconditional right to intervene only if NPRI
6 had challenged the separation-of-powers provision "on grounds that it is ambiguous, unclear, uncertain,
7 imprecise, indefinite or vague, is preempted by federal law or is otherwise inapplicable, invalid,
8 unenforceable or unconstitutional." NRS 218F.720(2)(b). The Court disagrees with NPRI's
9 interpretation of NRS 218F.720(2)(b) because such an interpretation would disregard the plain meaning
10 of the statutory language by ignoring the plain meaning of the words "including, without limitation,"
11 which are expressly set forth in the statute.

12 Based on the plain meaning of the statutory language, NRS 218F.720(2)(b) contains a broadly
13 worded grant of authority which gives the Legislature an unconditional right to intervene whenever a
14 party "[c]hallenges, contests or raises as an issue, either in law or in equity, in whole or in part, or
15 facially or as applied, the *meaning, intent, purpose, scope, applicability, validity, enforceability* or
16 constitutionality of any law, resolution, initiative, referendum or other legislative or constitutional
17 measure." NRS 218F.720(2)(b) (emphasis added). Following the statute's broadly worded grant of
18 authority, the statute also contains an illustrative and nonexhaustive list of examples of such statutory or
19 constitutional challenges that would grant the Legislature an unconditional right to intervene, "*including,*
20 *without limitation,* on grounds that it is ambiguous, unclear, uncertain, imprecise, indefinite or vague, is
21 preempted by federal law or is otherwise inapplicable, invalid, unenforceable or unconstitutional."
22 NRS 218F.720(2)(b) (emphasis added).

23 Under the rules of statutory construction, when words such as "including, without limitation," and
24 "including, but not limited to," are used in a statutory provision, they are not words of limitation.

1 Instead, they are words of enlargement which are intended to convey that the statutory provision
2 contains an illustrative and nonexhaustive list of examples that is not intended to be exclusive. *See Am.*
3 *Sur. Co. of N.Y. v. Marotta*, 287 U.S. 513, 517 (1933) (stating that in “statutes and other writings,
4 ‘include’ is frequently, if not generally, used as a word of extension or enlargement rather than as one of
5 limitation or enumeration.”); *Fed. Land Bank of St. Paul v. Bismarck Lumber Co.*, 314 U.S. 95, 100
6 (1941) (stating that “the term ‘including’ is not one of all-embracing definition, but connotes simply an
7 illustrative application of the general principle.”); *People v. Williams*, 108 Cal. Rptr. 3d 772, 775 (Cal.
8 Ct. App. 2010); *Colbert v. Cleveland*, 790 N.E.2d 781, 784 (Ohio 2003); *In re Forfeiture of \$5,264*, 439
9 N.W.2d 246, 252 (Mich. 1989).

10 Thus, the Court disagrees with NPRI’s interpretation of NRS 218F.720(2)(b) because such an
11 interpretation would disregard the plain meaning of the statutory language by ignoring the plain meaning
12 of the words “including, without limitation,” which are expressly set forth in the statute. The Court
13 finds that the “including, without limitation,” provision places no limitation on the Legislature’s broad
14 authority to intervene as of right under the statute. Instead, this provision merely serves as an
15 illustrative—but not exhaustive—list of examples which describe some—but not all—of the
16 circumstances under which the Legislature may exercise its broad authority to intervene as of right
17 under the statute. Accordingly, the Court concludes that NRS 218F.720(2)(b) gives the Legislature an
18 unconditional right to intervene in this action in order to defend against NPRI’s constitutional challenge
19 because it involves allegations concerning the meaning, intent, purpose, scope, applicability and
20 enforceability of the separation-of-powers provision with regard to members of the Legislature who hold
21 positions of public employment with the state executive branch or with local governments.

22 **2. Intervention as a matter of right under NRCP 24(a)(1) and NRS 218F.720(2)(a).**

23 The Legislature contends that NRS 218F.720(2)(a) gives it an unconditional right to intervene in
24 this action in order to defend against NPRI’s constitutional challenge because it involves allegations that

1 the Legislature has violated the Nevada Constitution through its appropriation of public money in
2 violation of the separation-of-powers provision with regard to members of the Legislature who hold
3 positions of public employment with the state executive branch or with local governments. The Court
4 agrees.

5 In its amended complaint, NPRI has alleged that “*legislative expenditures or appropriations and*
6 *taxpayer monies* will be paid to [the Legislator-Defendants] in violation of Nevada Const. Art. 3, §1, ¶1,
7 and irrevocable and irreparable harm will occur to the rights provided under this provision of the Nevada
8 Constitution.” *Am. Compl.* ¶ 28 (emphasis added). Based on NPRI’s allegations, the Court finds that
9 NRS 218F.720(2)(a) gives the Legislature an unconditional right to intervene in this action in order to
10 defend against NPRI’s constitutional challenge.

11 In its opposition, NPRI acknowledges that “[t]he Court may take judicial notice that legislators are
12 compensated by Legislative expenditure, per statutory requirement.” *NPRI’s Opp’n at 6.* However,
13 NPRI argues that it “is in no way challenging the Legislature’s carrying out of or compliance with these
14 [statutory] requirements.” *Id.* Even though NPRI’s amended complaint includes allegations of the
15 unconstitutional payment of “legislative expenditures or appropriations and taxpayer monies” to the
16 Legislator-Defendants, NPRI’s amended complaint is silent with regard to the governmental body that
17 authorizes the payment of those “legislative expenditures or appropriations and taxpayer monies” to the
18 Legislator-Defendants. Nevertheless, under Nevada law, the Legislature is the only governmental body
19 whose actions can authorize the payment of those “legislative expenditures or appropriations and
20 taxpayer monies” to the Legislator-Defendants. Nev. Const. art. 4, § 19; NRS 218A.150; *State ex rel.*
21 *Davis v. Eggers*, 29 Nev. 469, 484-85, 91 P. 819, 824 (1907) (explaining that “all appropriations must be
22 within the legislative will.”). Therefore, given that the Legislature is the only governmental body which
23 authorizes the appropriation of public money that NPRI alleges is being paid to the Legislator-
24 Defendants in violation of the separation-of-powers provision, the Court concludes that

1 NRS 218F.720(2)(a) gives the Legislature an unconditional right to intervene in this action because it
2 involves allegations that the Legislature has violated the Nevada Constitution through its appropriation
3 of public money with regard to members of the Legislature who hold positions of public employment
4 with the state executive branch or with local governments.

5 **3. Intervention as a matter of right under NRCP 24(a)(2).**

6 The Legislature contends that it is entitled to intervention as a matter of right under
7 NRCP 24(a)(2), which provides that, on timely motion, the Court must permit anyone to intervene who
8 “claims an interest relating to the property or transaction that is the subject of the action, and is so
9 situated that disposing of the action may as a practical matter impair or impede the movant’s ability to
10 protect its interest, unless existing parties adequately represent that interest.” To qualify for intervention
11 as of right under NRCP 24(a)(2), the movant must establish that: (1) the movant has sufficient interests
12 in the subject matter of the litigation; (2) the movant’s ability to protect those interests could be impaired
13 if the movant is not permitted to intervene; (3) the movant’s interests may not be adequately represented
14 by the existing parties; and (4) the motion to intervene is timely. *Am. Home Assurance Co. v. Eighth*
15 *Jud. Dist. Ct.*, 122 Nev. 1229, 1238, 147 P.3d 1120, 1126 (2006). The Court finds that the Legislature
16 has established the requirements for intervention as a matter of right under NRCP 24(a)(2).

17 First, the Court finds that when the Legislature filed its motion to intervene, this action had not
18 progressed beyond its initial and preliminary stages. Therefore, because the Legislature sought
19 intervention during the earliest stages of this action, the Court determines that the Legislature’s motion
20 to intervene was timely and that its intervention will not delay the proceedings, complicate management
21 of the case or cause any prejudice to the existing parties.

22 Next, the Court finds that the Legislature has substantial institutional interests in the subject matter
23 of this action. The Legislature has substantial institutional interests in the meaning, intent, purpose,
24 scope, applicability and enforceability of the separation-of-powers provision because that constitutional

1 provision governs the powers of the legislative branch and the Legislature's administration of its
2 constitutional functions and the conduct of its members, including the Legislator-Defendants. *See*
3 *Heller v. Legislature*, 120 Nev. 456, 93 P.3d 746 (2004); *Comm'n on Ethics v. Hardy*, 125 Nev. 285,
4 212 P.3d 1098 (2009). The Legislature also has substantial institutional interests in defending the
5 validity of its legislative actions in exercising the constitutional power of appropriation, including the
6 appropriation of public money for the payment of legislative compensation to the Legislator-Defendants.
7 *See State of Nev. Employees Ass'n v. Daines*, 108 Nev. 15, 21, 824 P.2d 276, 279 (1992) (explaining that
8 "it is well established that the power of controlling the public purse lies within legislative, not executive
9 authority."). The Legislature also has substantial institutional interests in ensuring that the broadest
10 spectrum of the citizenry is represented in the Legislature's membership in order to promote the public
11 policy of this State that:

12 State Legislators serve as "*citizen Legislators*" who have other occupations and business
13 interests, who are expected to have particular philosophies and perspectives that are
14 necessarily influenced by the life experiences of the Legislator, including, without
15 limitation, professional, family and business experiences, and who are expected to
16 contribute those philosophies and perspectives to the debate over issues with which the
17 Legislature is confronted.

18 NRS 281A.020(2)(c) (emphasis added).

19 Finally, the Court finds that the Legislature's ability to protect its institutional interests in this
20 action could be impaired if the Legislature is not permitted to intervene and that its institutional interests
21 may not be adequately represented by the existing parties. Because the Legislature's institutional
22 interests are unique to the Legislature as the constitutional body charged with the legislative and policy-
23 making power of this State, the individual Legislator-Defendants are not in a position to adequately
24 represent the separate and distinct institutional interests of the Legislature that are at stake in this action.
Under such circumstances, the Court determines that the Legislature's separate and distinct institutional
interests are not adequately represented by the existing parties. As a result, the Court concludes that the

1 Legislature is entitled to intervention as a matter of right under NRCP 24(a)(2).

2 **4. Permissive intervention under NRCP 24(b).**

3 Under NRCP 24(b), on timely motion, the court may permit anyone to intervene who “has a claim
4 or defense that shares with the main action a common question of law or fact.” NRCP 24(b)(1)(B).
5 Additionally, the court may permit a governmental officer or agency to intervene if a party’s claim or
6 defense is based on “a statute or executive order administered by the officer or agency.”
7 NRCP 24(b)(2)(A). Permissive intervention under NRCP 24(b) is wholly discretionary with the district
8 court. *Hairr v. First Jud. Dist. Ct.*, 132 Nev. 180, 187, 368 P.3d 1198, 1202 (2016).

9 Under NRCP 24(b), when the intervenor is a governmental agency, permissive intervention
10 ordinarily should be granted to the agency where the legal issues in the case may have a substantial
11 impact on “the maintenance of its statutory authority and the performance of its public duties.” *SEC v.*
12 *U.S. Realty & Impr. Co.*, 310 U.S. 434, 460 (1940). Thus, where the governmental agency’s interest in
13 the case “is a public one” and it intends to raise claims or defenses concerning questions of law involved
14 in the case, permissive intervention should be granted, especially when the agency’s intervention “might
15 be helpful in [a] difficult and delicate area.” *United States v. Local 638, Enter. Ass’n of Pipefitters*, 347
16 F. Supp. 164, 166 (S.D.N.Y. 1972) (quoting *SEC v. U.S. Realty & Impr. Co.*, 310 U.S. 434, 460 (1940)).

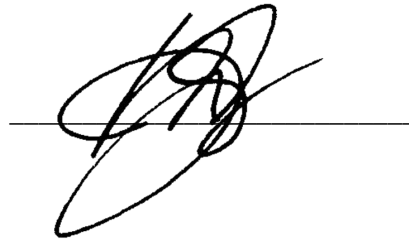
17 In this action, even assuming that the Legislature was not otherwise entitled to intervene as a
18 matter of right under NRCP 24(a)(1) and NRCP 24(a)(2), the Court chooses to exercise its discretion
19 and grants the Legislature permissive intervention under NRCP 24(b). The Court finds that the
20 Legislature’s permissive intervention under NRCP 24(b) would facilitate a more comprehensive and
21 thorough presentation of the controlling law and a better understanding of the issues, and such
22 intervention would ensure that the views of the Legislature are fairly and adequately represented and are
23 not prejudiced by this case. Therefore, even if the Legislature was only entitled to seek permissive
24 intervention in this action, the Court chooses to exercise its discretion and grants the Legislature

1 permissive intervention under NRCP 24(b).

2 **CONCLUSION**

3 For the reasons set forth herein, IT IS HEREBY ORDERED THAT the Legislature's motion to
4 intervene as a defendant is GRANTED.

Dated this 8th day of December, 2020

5
6
7 

8 Order submitted by:

9 /s/ Kevin C. Powers

10 **KEVIN C. POWERS**, General Counsel
Nevada Bar No. 6781
LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION
401 S. Carson St.
Carson City, NV 89701
Tel: (775) 684-6830; Fax: (775) 684-6761
Email: kpowers@lcb.state.nv.us
13 *Attorneys for Intervenor-Defendant Legislature of the State of Nevada*

91A D5B BDAD D58C
Jim Crockett
District Court Judge

14 Order reviewed by:

15 /s/ Refused to Sign Order

16 **DEANNA L. FORBUSH, ESQ.**
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18 *Attorneys for Plaintiff Nevada Policy*
Research Institute

19 /s/ Bradley Schrager

20 **BRADLEY SCHRAGER, ESQ.**
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23 *Attorneys for Defendants Brittney Miller*
and Selena Torres

/s/ Berna L. Rhodes-Ford

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Heidi Seevers Gansert and Dina Neal

/s/ Jonathan D. Blum

JONATHAN D. BLUM, ESQ.
WILEY PETERSEN
jblum@wileypetersenlaw.com
Attorneys for Defendants Jason Frierson
and Nicole Cannizzaro

Powers, Kevin

From: Bradley Schrager <BSchrager@wrslawyers.com>
Sent: Thursday, December 3, 2020 5:25 AM
To: Powers, Kevin; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; Daniel Bravo; jblum@wileypetersenlaw.com; Berna Rhodes-Ford
Cc: Nita Armendariz
Subject: RE: A-20-817757-C_Nevada Policy Research Institute v Cannizzaro_Proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant

Approved on our end, Counsel

Bradley S. Schrager
Areas of Practice: Politics & Government – Appeals & Writs – Wage & Labor
Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP
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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: dforbush@foxrothschild.com; cmccarty@foxrothschild.com; Bradley Schrager; Daniel Bravo; jblum@wileypetersenlaw.com; Berna Rhodes-Ford
Cc: Nita Armendariz
Subject: A-20-817757-C_Nevada Policy Research Institute v Cannizzaro_Proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant

CAUTION:EXTERNAL EMAIL

Counsel:

Please review the attached proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant.

Please let me know whether you have any proposed revisions and whether you agree to the use of your electronic signature on 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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Powers, Kevin

From: Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>
Sent: Thursday, December 3, 2020 6:45 AM
To: Powers, Kevin
Cc: dforbush@foxrothschild.com; cmccarty@foxrothschild.com;
bschrager@wrslawyers.com; dbravo@wrslawyers.com; jblum@wileypetersenlaw.com;
Nita Armendariz
Subject: Re: A-20-817757-C_Nevada Policy Research Institute v Cannizzaro_Proposed Order
Granting Nevada Legislature's Motion to Intervene as Defendant

Approved.

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

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On Dec 2, 2020, at 11:32 PM, Powers, Kevin <kpowers@lcb.state.nv.us> wrote:

Counsel:

Please review the attached proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant.

Please let me know whether you have any proposed revisions and whether you agree to the use of your electronic signature on the proposed order.

Thanks.

Kevin C. Powers
General Counsel
Nevada Legislative Counsel Bureau, Legal Division
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Carson City, NV 89701-4747
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<2020_12-02_01_A-20-817757-C_Proposed Order Granting Legislature's Motion to Intervene as Defendant.pdf>

Powers, Kevin

From: jblum@wileypetersenlaw.com
Sent: Thursday, December 3, 2020 10:25 AM
To: Powers, Kevin; dforbush@foxrothschild.com; cmccarty@foxrothschild.com; bschrager@wrslawyers.com; dbravo@wrslawyers.com; 'Berna Rhodes-Ford'
Cc: 'Nita Armendariz'; ibautista@wileypetersenlaw.com
Subject: RE: A-20-817757-C_Nevada Policy Research Institute v Cannizzaro_Proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant 00618

You may affix my e-signature. Thanks.

Jonathan D. Blum, Esq.



1050 Indigo Drive, Suite 200B
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From: Powers, Kevin <kpowers@lcb.state.nv.us>
Sent: Wednesday, December 2, 2020 11:32 PM
To: dforbush@foxrothschild.com; cmccarty@foxrothschild.com; bschrager@wrslawyers.com; dbravo@wrslawyers.com; jblum@wileypetersenlaw.com; Berna Rhodes-Ford <Berna.Rhodes-Ford@nsc.edu>
Cc: Nita Armendariz <Nita.Armendariz@nsc.edu>
Subject: A-20-817757-C_Nevada Policy Research Institute v Cannizzaro_Proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant

Counsel:

Please review the attached proposed Order Granting Nevada Legislature's Motion to Intervene as Defendant.

Please let me know whether you have any proposed revisions and whether you agree to the use of your electronic signature on the proposed order.

Thanks.

Kevin C. Powers

General Counsel

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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

JA000597

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.



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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
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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. Cannizzaro 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

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 Crocket'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.

<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 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

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Las Vegas, NV 89135

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
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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 Granting Motion 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

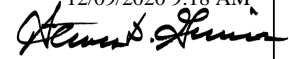
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Berna Rhodes-Ford

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
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
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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 SELENA 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.

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1 Accordingly, IT IS HEREBY ORDERED that NPRI's Motion to Disqualify the Official
2 Attorneys is DENIED. Dated this 9th day of December, 2020

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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
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1664 North Virginia Street/MS 0550
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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*

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/s/ Jonathan D. Blum
Jonathan D. Blum, Esq.
WILEY PETERSEN
Email: jblum@wileypetersenlaw.com
*Attorneys for Defendants Jason Frierson
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-Ford

OFFICE **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 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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Fox Rothschild LLP
ATTORNEYS AT LAW

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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

JA000617

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

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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. Cannizzaro 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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Office 702.910.3329 | Mobile 702.443.0677
jblum@wileypetersenlaw.com
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<image002.png>

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

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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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Las Vegas, Nevada 89145
Office 702.910.3329 | Mobile 702.443.0677
jblum@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
BE INFORMED Visit nsc.edu for campus news and program information
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Nevada Policy Research
7 Institute, Plaintiff(s)

CASE NO: A-20-817757-C

8 vs.

DEPT. NO. Department 24

9 Nicole Cannizzaro, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

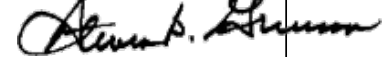
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13 Court. The foregoing Order was served via the court's electronic eFile system to all
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19 Kevin Powers	kpowers@lcb.state.nv.us
20 Deanna Forbush	dforbush@foxrothschild.com
21 Colleen McCarty	cmccarty@foxrothschild.com
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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Berna Rhodes-Ford	Berna.Rhodes-Ford@nsc.edu
Gary Cardinal	gcardinal@unr.edu



1 **NEOJ**

2 DEANNA L. FORBUSH, ESQ.

3 Nevada Bar No. 6646

4 dforbush@foxrothschild.com

5 COLLEEN E. MCCARTY, ESQ.

6 Nevada Bar No. 13186

7 cmccarty@foxrothschild.com

8 **FOX ROTHSCHILD LLP**

9 1980 Festival Plaza Drive, Suite 700

10 Las Vegas, Nevada 89135

11 Telephone: (702) 262-6899

12 Facsimile: (702) 597-5503

13 Attorneys for Plaintiff

14 Nevada Policy Research Institute

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 NEVADA POLICY RESEARCH INSTITUTE, a
18 Nevada domestic nonprofit corporation,

19 Plaintiff,

20 vs.

21 NICOLE J. CANNIZZARO, an individual engaging
22 in dual employment with the Nevada State Senate
23 and Clark County District Attorney; KASINA
24 DOUGLASS-BOONE, an individual engaging in
25 dual employment with the Nevada State Assembly
26 and Clark County School District; JASON
27 FRIERSON, an individual engaging in dual
28 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.: XXIV

**NOTICE OF ENTRY OF ORDER
DENYING PLAINTIFF'S MOTION
TO SERVE BY PUBLICATION
DEFENDANTS GLEN LEAVITT,
JAMES OHRENSCHALL, AND
MELANIE SCHEIBLE**

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.

PLEASE TAKE NOTICE that an Order Denying Plaintiff's Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible, was entered in the above-entitled matter on the 4th day of December, 2020, a copy of which is attached hereto.

Dated this 9th day of December, 2020.

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

Telephone: (702) 262-6899

Attorneys for Plaintiff

Nevada Policy Research Institute

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Fox Rothschild LLP and that on this 9th day of December, 2020, I caused the foregoing document entitled **NOTICE OF ENTRY OF ORDER DENYING PLAINTIFF'S MOTION TO SERVE BY PUBLICATION DEFENDANTS GLEN LEAVITT, JAMES OHRENSCHALL, AND MELANIE SCHEIBLE** 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.
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP
3556 E. Russell Road, Second Floor
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
1050 Indigo Drive, Suite 200B
Las Vegas, Nevada 89145
Email: jblum@wileypetersenlaw.com
Attorneys for Defendant Jason Frierson

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

1 **ODM**
2 DEANNA L. FORBUSH, ESQ.
3 Nevada Bar No. 6646
4 dforbush@foxrothschild.com
5 COLLEEN E. MCCARTY, ESQ.
6 Nevada Bar No. 13186
7 cmccarty@foxrothschild.com
8 **FOX ROTHSCHILD LLP**
9 1980 Festival Plaza Drive, Suite 700
10 Las Vegas, Nevada 89135
11 Telephone: (702) 262-6899
12 Facsimile: (702) 597-5503
13 Attorneys for Plaintiff
14 Nevada Policy Research Institute

15 **DISTRICT COURT**
16 **CLARK COUNTY, NEVADA**

17 NEVADA POLICY RESEARCH INSTITUTE, a
18 Nevada domestic nonprofit corporation,

19 Plaintiff,

20 vs.

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23 and Clark County District Attorney; KASINA
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26 and Clark County School District; JASON
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BRITTNEY MILLER, an individual engaging in
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and Clark County School District; DINA NEAL, an

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

**ORDER DENYING PLAINTIFF'S
MOTION FOR ORDER TO SERVE
BY PUBLICATION DEFENDANTS
GLEN LEAVITT, JAMES
OHRENSCHALL, AND MELANIE
SCHEIBLE**

1 individual engaging in dual employment with the
2 Nevada State Assembly and Nevada State College;
3 JAMES OHRENSCHALL, an individual engaging
4 in dual employment with the Nevada State Senate
5 and Clark County Public Defender; MELANIE
6 SCHEIBLE an individual engaging in dual
7 employment with the Nevada State Senate and Clark
8 County District Attorney; TERESA BENITEZ-
9 THOMPSON, an individual engaging in dual
10 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.

11
12 Nevada Policy Research Institute (“NPRI”), by and through its attorneys of record, Deanna
13 L. Forbush, Esq. and Colleen E. McCarty, Esq., of Fox Rothschild LLP, having filed its Motion for
14 Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible
15 (“Motion”) on September 29, 2020, and no timely opposition having been filed thereto;

16 The Court, having considered the papers and pleadings on file, finds as follows:

17 IT IS HEREBY ORDERED that NPRI’s Motion is DENIED. The attempted publication
18 would conclude beyond the 120 day time period in which to effectuate personal service.

19 IT IS FURTHER ORDERED that NPRI submit a new Motion accompanied by the requisite
20 Motion for Enlargement of Time, which includes a discussion of the factors set forth in *Scrimmer v.*
21 *Eighth Judicial Dist. Court*, 116 Nev. 507, 516-517, 998 P.2d 1190, 1195-96 (2000), and good cause
22 as to why the Amended Complaint was not timely served.

23 ///

24
25 ///

26
27 ///

1 IT IS HEREBY FURTHER ORDERED that NPRI shall re-title the exhibits listed as
2 Affidavits of Due Diligence to Declarations in the new Motion. Dated this 4th day of December, 2020

3
4
5
6


7 Respectfully submitted by:

8 **FOX ROTHSCHILD LLP**

9F9 B9D DE6C BA33
Jim Crockett
District Court Judge

10 By: /s/ Deanna L. Forbush
11 DEANNA L. FORBUSH
12 Nevada Bar No. 6646
13 COLLEEN E. MCCARTY
14 Nevada Bar No. 13186
15 1980 Festival Plaza Drive, Suite 700
16 Las Vegas, Nevada 89135
17 Telephone: (702) 262-6899
18 Attorneys for Plaintiff
19 Nevada Policy Research Institute
20
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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
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**

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13 Court. The foregoing Order Denying Motion 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: 12/4/2020

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
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IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA POLICY RESEARCH
INSTITUTE,

Appellant,

vs.

NICOLE J. CANNIZZARO, an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; JASON FRIERSON, an individual engaging in dual employment with the Nevada State Assembly and Clark County Public Defender; 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 engagement in dual employment with the Nevada State Senate and Nevada State College; JAMES OHRENSCHALL, an individual engaging in dual employment with the Nevada State Senate and Clark County Public Defendant; MELANIE SCHEIBLE, an individual engagement 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;

Supreme Court Case No.: 82341

[District Court Case No.:
A-20-817757-C]

and SELENA TORRES, an individual
engaging in dual employment with the
Nevada State Assembly and Clark County
School District,

Respondents,

and Legislature of the State of Nevada,

Intervenor-Respondent.

JOINT APPENDIX VOLUME 6 of 7

Appeal from the Eighth Judicial District Court,
Orders Granting Motions to Dismiss and Joinders Thereto;
Order Granting Motion to Intervene; and Order Denying Motion to Disqualify
The Honorable Jim Crockett (Ret.), District Court Judge

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CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of June, 2021, I caused the foregoing to be served on all parties to this action by electronically filing it with the Court's e-filing system, which will electronically serve the following:

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Gansert and Dina Neal*

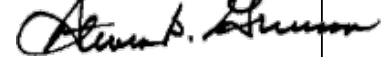
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*Attorneys for Defendants
Osvaldo Fumo, Heidi Seevers Gansert,
Dina Neal and Jill Tolles*

**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

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/s/ Gary A. Cardinal
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*Attorneys for Defendants
Osvaldo Fumo, Heidi Seevers Gansert,
Dina Neal and Jill Tolles*

1 **CERTIFICATE OF SERVICE**

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

7 ☒

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

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and Selena Torres

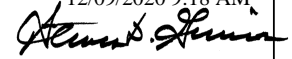
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Kevin C. Powers
LEGISLATIVE COUNSEL BUREAU
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Attorneys for Nevada Legislature

23 ☐

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

26
27 *Nita Armendariz*
28 An employee of the Office of General Counsel
Nevada State College


CLERK OF THE COURT

ORDR

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*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
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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
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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 SELENA 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.

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1 Accordingly, IT IS HEREBY ORDERED that NPRI's Motion to Disqualify the Official
2 Attorneys is DENIED. Dated this 9th day of December, 2020

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Respectfully submitted this 8th day of December, 2020 369 4DE F4A1 5A64
Jim Crockett
District Court Judge

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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-Ford

OFFICE **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 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,

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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ATTORNEYS AT LAW

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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

JA000651

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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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
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Subject: [EXT] Re: NPRI v. Cannizzaro 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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Cc: 'Martinez, Natasha' <NMartinez@foxrothschild.com>; ibautista@wileypetersenlaw.com

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

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Jon

Jonathan D. Blum, Esq.

<image001.jpg>

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Office 702.910.3329 | Mobile 702.443.0677
jblum@wileypetersenlaw.com
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<image002.png>

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

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Colleen

Colleen E. McCarty

Attorney

Fox Rothschild LLP

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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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jblum@wileypetersenlaw.com
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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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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
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**

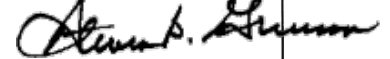
12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

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
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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.: XXIV

ACCEPTANCE OF SERVICE

1 individual engaging in dual employment with the
2 Nevada State Assembly and Nevada State College;
3 JAMES OHRENSCHALL, an individual engaging
4 in dual employment with the Nevada State Senate
5 and Clark County Public Defender; MELANIE
6 SCHEIBLE an individual engaging in dual
7 employment with the Nevada State Senate and Clark
8 County District Attorney; TERESA BENITEZ-
9 THOMPSON, an individual engaging in dual
10 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.

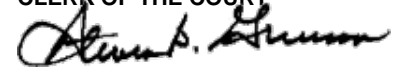
11
12 I, Jonathan D. Blum, Esq. of Wiley Petersen Law Offices, hereby accept service of the
13 Summons and Amended Complaint, filed on July 28, 2020, on behalf of Defendant Melanie
14 Schieble, in the above-captioned matter.

15 Dated this 9 day of December, 2020.

16 **WILEY PETERSEN LAW OFFICES**

17
18 By: 

Jonathan D. Blum, Esq.
1050 Indigo Drive, Suite 200B
Las Vegas, Nevada 89145
E-Mail: jblum@wileypetersenlaw.com
Attorneys for Defendant
Melanie Schieble



Affidavit of Publication

STATE OF NEVADA }
COUNTY OF CLARK } SS

I, Scott Sibley state:

That I am Publisher of the Nevada Legal News, a daily newspaper of general circulation, printed and published in Las Vegas, Clark County, Nevada; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

Nov 12, 2020
Nov 19, 2020
Nov 25, 2020
Dec 03, 2020
Dec 10, 2020

That said newspaper was regularly issued and circulated on those dates. I declare under penalty of perjury that the foregoing is true and correct.

DATED: Dec 10, 2020



Scott Sibley

04100258 00485571 (702)597-5503

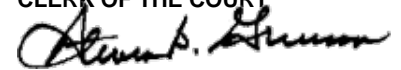
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LAS VEGAS, NV 89135

DISTRICT COURT
CLARK COUNTY, NEVADA
Case No.: A-20-817757-C Dept. No.: II
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 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.

SUMMONS - CIVIL

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU FILE A RESPONSE WITH THE COURT WITHIN 21 DAYS. READ THE INFORMATION BELOW CAREFULLY. TO THE DEFENDANT: GLEN LEAVITT A civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint. Object of Action: This is a Complaint for Declaratory and Injunctive Relief. 1. If you intend to defend this lawsuit, within 21 calendar days after this Summons is served on you, exclusive of the day of service, you must: a. File with the Clerk of the Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, and the appropriate filing fee. b. Serve a copy of your response upon the attorney whose name and address is shown below. 2. Unless you respond, your default will be entered upon application of the Plaintiff and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint. 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time. 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint. STEVEN D. GRIERSON, CLERK OF THE COURT, By: Demond Palmer, Deputy Clerk, Date 8/3/2020, Regional Justice Center, 200 Lewis Avenue, Las Vegas, NV 89155, Submitted by: FOX ROTHSCHILD LLP, By: DEANNA L. FORBUSH, ESQ., Nevada Bar No. 6646, dforbush@foxrothschild.com, COLLEEN E. MCCARTY, ESQ., Nevada Bar No. 13186, cmccarty@foxrothschild.com, 1980 Festival Plaza Drive, Suite 700, Las Vegas, Nevada 89135, Telephone: (702) 262-6899, Facsimile: (702) 597-5503, Attorneys for Plaintiff, Nevada Policy Research Institute

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November 12, 19, 25, December 3, 10, 2020



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Scott Sibley

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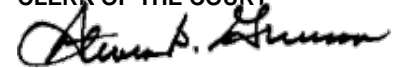
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DISTRICT COURT
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DISTRICT COURT
CLARK COUNTY, NEVADA
Case No.: A-20-817757-C Dept. No.: II
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SUMMONS - CIVIL

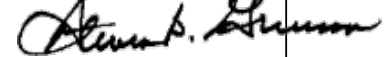
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Attorneys for Plaintiff
Nevada Policy Research Institute

DISTRICT COURT
CLARK COUNTY, NEVADA

NEVADA POLICY RESEARCH INSTITUTE, a
Nevada domestic nonprofit corporation,

Plaintiff,

vs.

NICOLE J. CANNIZZARO, an individual engaging
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Case No.: A-20-817757-C
Dept. No.: XXIV

**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**

Date of Hearing: December 17, 2020
Time of Hearing: 9:00 a.m.

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”), by and through its attorneys of record, Deanna L. Forbush, Esq. and Colleen E. McCarty, Esq., of Fox Rothschild LLP, hereby submits its Notice of Non-Opposition to the Joint Countermotion to Dismiss All Remaining Defendants Based on Plaintiff’s Lack of Standing (“Countermotion”) filed by Intervenor-Defendant, Nevada Legislature, on behalf of all participating Defendants. NPRI specifically sought NRCP 54(b) certification in its Motion for the Court’s Clarification of Its Decision to Grant Defendants’ Motions to Dismiss Based on Plaintiff’s Lack of Standing (“Motion for Clarification”) (*see* Motion for Clarification at 8:6-8) to facilitate timely and meaningful appellate review and appreciates Defendants’ joinder to this request.

NPRI hereby further submits its Limited Reply to the Joint Opposition to Plaintiff’s Motion for Clarification (the “Limited Reply” and “Opposition,” respectively). The gravamen of Defendants’ Opposition is that the Court has not entered final orders that can be clarified. (*See* Opposition at 4:19-5:16.) The Court addressed this issue on December 8, 2020 when it signed Defendants’ proposed Omnibus Order Granting Motion to Dismiss (“Omnibus Order”). All other matters in the Opposition being resolved by Defendants’ Countermotion and NPRI’s non-opposition thereto, this matter is now ripe for the Court’s clarification of how it found NPRI lacked either its own particularized harm or the ability to meet the public-importance exception set forth in *Schwartz*

1 v. *Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894 (2016).

2 NPRI's Non-Opposition and Limited Reply are made and based on the following
3 Memorandum of Points and Authorities, the pleadings and papers already on file, and any oral
4 argument the Court may permit at a hearing of this matter.

5 Dated this 14th day of December, 2020.

6
7 **FOX ROTHSCHILD LLP**

8 By: /s/ Deanna L. Forbush

9 DEANNA L. FORBUSH

10 Nevada Bar No. 6646

11 COLLEEN E. MCCARTY

12 Nevada Bar No. 13186

13 1980 Festival Plaza Drive, Suite 700

14 Las Vegas, Nevada 89135

15 Telephone: (702) 262-6899

16 Attorneys for Plaintiff

17 Nevada Policy Research Institute

18
19 **PLAINTIFF'S STATEMENT OF NON-OPPOSITION**
20 **TO DEFENDANTS' JOINT COUNTERMOTION**
21

22 **PLEASE TAKE NOTICE** that, to conserve the Court's and the parties' time and resources,
23 NPRI does not oppose Defendants' Countermotion that joins NPRI's request for the Court to direct
24 final judgment as to all remaining Defendants, pursuant to NPCR 54(b). As reflected in the record
25 of the Court, Defendant Melanie Scheible officially accepted service of the Summons and Amended
26 Complaint on file herein through her counsel on December 9, 2020. The remaining Defendants,
27 Glen Leavitt and James Ohrenschall, were officially served by publication effective December 10,
28 2020. And, while NPRI would have preferred these elected officials and, in the case of Defendants
Scheible and Ohrenschall, these officers of the Court, to have not evaded service long enough to
avoid filing their own responsive pleadings, NPRI recognizes the judicial and party economy served
by the Court dismissing these remaining Defendants on the same grounds as those who did properly
respond and certifying this matter for immediate appeal.

1 In making its statement of non-opposition, NPRI does not agree that it lacks either its own
2 particularized harm to confer standing, or that it failed to meet any one or more of the three (3)
3 factors to obtain standing under the public importance exception set forth in *Schwartz v. Lopez*. As
4 stated in the Motion for Clarification, all motions to dismiss were summarily decided against NPRI
5 in the Court’s November 18, 2020 minute order, and the parties had argued for and against NPRI’s
6 standing in varying ways. The record at that time, therefore, was not clear as to the Court’s basis(es)
7 for finding that “Nevada Policy Research Institute simply lacks standing to bring this suit.” (*See*
8 Minute Order dated November 18, 2020 at p. 2 of 4.) And, the record is still unclear, where the
9 Omnibus Order merely posits that NPRI cannot show particularized harm (*see* Omnibus Order at
10 2:26-3:5), without any discussion of NPRI’s actual particularized harm argument (*see* Opposition to
11 Defendant Miller’s Motion to Dismiss, filed October 2, 2020, at 10:9-11:13). Additionally, the
12 Omnibus Order merely assumes, arguendo, that the first factor stated in *Schwartz v. Lopez* of
13 significant public importance may exist. (*See* Omnibus Order at 3:19). And, finally, the Omnibus
14 Order includes never previously asserted and unsupported findings about NPRI’s purported effort to
15 “create a wholly-new and separate category of defendant” to dispute the second factor stated in
16 *Schwartz v. Lopez* of a challenge to a legislative expenditure or appropriation (*see* Omnibus Order at
17 4:6-9), and about NPRI needing to be the “sole and appropriate party to bring this suit” to dispute
18 NPRI’s status as an appropriate party to meet the third and final *Schwartz v. Lopez* factor (*see*
19 Omnibus Order at 4:17-18) (emphasis added).

20 Accordingly, NPRI does not waive and expressly reserves the right to continue to challenge
21 the Court’s standing determination including, but not limited to, through appellate court review.

22 23 **LIMITED REPLY IN SUPPORT OF MOTION FOR CLARIFICATION**

24 **I.**

25 **INTRODUCTION**

26 While NPRI is disappointed that the Court chose to sign Defendants’ respective Orders,
27 including the Omnibus Order Granting Motions to Dismiss, after setting its Motion for Clarification
28 for hearing on Order Shortening Time, in so doing it also removed the only impediment asserted by

1 Defendants to granting the relief sought therein. Defendants had argued, albeit incorrectly, that
2 NPRI's Motion for Clarification was procedurally improper because the Court had not yet entered its
3 final Orders. (*See* Opposition at 4:19-5:16.) On the contrary, no rule actually precluded the Court
4 from exercising its discretion to provide clarification of its November 18, 2020 Minute Order, but
5 this is no longer an issue as the Court's Omnibus Order has been entered and noticed effective
6 December 8, 2020. Accordingly, this matter is now ripe for the Court to provide the requested and
7 necessary clarification of precisely why NPRI lacked standing to bring the instant lawsuit.
8 Specifically, the record remains unclear as to how NPRI lacked either its own particularized harm or
9 lacked the ability to meet the public-importance exception under *Schwartz v. Lopez*.

10 II.

11 ARGUMENT IN REPLY

12 A. NPRI Argued Organizational and Associational Injuries-in-Fact to Confer 13 Standing to Raise the Instant Constitutional Challenge.

14 The Omnibus Order, following the Court's November 18, 2020 Minute Order, simply states
15 that NPRI is "an organization rather than a particularly-aggrieved individual harmed by any alleged
16 dual employment of any defendant," and that "[i]t is quite clear that NPRI does not allege any
17 particularized harm beyond that of any ordinary taxpayer." (*See* Omnibus Order at 2:26-3:1.) These
18 statements, however, do not appear to take into account that NPRI did, in fact, argue both
19 organizational and associational injuries-in-fact, which it believes conferred upon it the requisite
20 standing. Specifically, in its Opposition to Defendant Brittany Miller's Motion to Dismiss filed
21 October 2, 2020, NPRI argued that although it chose to assert standing based on the public-
22 importance exception in its Amended Complaint, this is in no way preclusive to NPRI also asserting
23 standing based on its own organizational and associational injuries-in-fact. (*See* Opposition to
24 Defendant Miller's Motion to Dismiss at 10:9-11:13)

25 As argued by NPRI in the instant case, Defendants' individual and collective violations of
26 the Separation of Powers doctrine set forth in Article 3, Section 1 of the Nevada Constitution caused
27 NPRI to divert and expend its valuable resources specifically to challenge those violations,
28 significantly impairing its ability to accomplish its stated missions to defend transparency in

1 government and challenge wasteful government spending. To accomplish its missions, NPRI uses a
2 combination of research, litigation, advocacy, and public education. Its research efforts regularly
3 include filing state public records requests and reviewing the records obtained, and by publicizing
4 the results of its research, NPRI keeps the public informed about government officials, and in turn,
5 deters violations of law.

6 In the instant case, the time and resources NPRI had to use to challenge Defendants'
7 violations of the Separation of Powers doctrine were diverted from other legal projects and activities
8 that NPRI would have otherwise engaged. And, except for the expenses involved in preparing for
9 this instant litigation, NPRI would have suffered the harm described even if it had not filed this case.
10 In addition, NPRI has a specific interest in challenging Defendants' violations of the Separation of
11 Powers doctrine because a number of its board members are duly qualified, hold the job
12 requirements for, and could earnestly seek the paid positions with the state or local government held
13 by Defendants. Defendants' constitutional violations, therefore, create immediate irreparable harm
14 to the legally protectable interests of its board members.

15 For all of these reasons, NPRI respectfully asserts that it is incumbent upon the Court to
16 clarify whether it accounted for these arguments in finding that NPRI did not and, indeed, could not
17 demonstrate particularized harm beyond that of an ordinary taxpayer.

18 **B. The Court's Omnibus Order Still Requires Clarification Regarding the Specific**
19 **Basis(es) to Find Plaintiff Lacked Standing to File Suit Under *Schwartz v. Lopez*.**

20 As the Supreme Court held in *Schwartz v. Lopez*, cases of significant public importance such
21 as the instant matter enjoy an exception to the basic standing requirement of showing a particularized
22 injury. *Schwartz*, 132 Nev. at 743, 382 P.3d at 894. Although the exception is identified as being
23 narrow, the Supreme Court ultimately set forth three clear criteria for the application of the
24 exception, each of which NPRI argued applied in the instant case. First, for the public importance
25 standing exception to apply, the case must involve an issue of significant public importance.
26 *Schwartz*, 132 Nev. at 743, 382 P.3d at 894 (citation omitted). The Omnibus Order simply assumes
27 this factor, arguendo, without actually making the necessary finding. (*See Omnibus Order at 3:19.*)
28

1 NPRI respectfully requests the Court confirm that this matter does, in fact, meet the first public
2 importance exception requirement of involving an issue of significant public importance.

3 Second, the public importance exception requires that a case involve a challenge to a
4 legislative expenditure or appropriation on the basis that it violates a specific provision of the
5 Nevada Constitution. *Schwartz*, 132 Nev. at 743, 382 P.3d at 894 (citation omitted). NPRI argued it
6 made the necessary allegation and asked the Court to take judicial notice of the fact that Legislators
7 are compensated by Legislative Department expenditure. Some Defendants directly opposed
8 NPRI's standing on this point, and others did not. The Omnibus Order, however, incorporated both
9 arguments that were previously made by the Defendants, as well as completely unsupported
10 arguments that were never previously made, i.e. that NPRI "seeks, unsuccessfully, to create a
11 wholly-new and separate category of defendant here, sued neither in his or her official capacity as
12 legislator nor as public employee, in an attempt to disqualify institutional attorneys from
13 representing Defendants." (See Omnibus Order at 4:6-9.) To the extent NPRI alleged that
14 Defendant Miller and her co-Defendants are compensated as a result of legislative expenditure or
15 appropriation and that said compensation violates Article 3, Section 1 of the Nevada Constitution,
16 NPRI respectfully seeks clarification why this second factor for application of the public importance
17 exception was not satisfied.

18 Finally, for a party to be granted standing under the public importance exception, it must
19 show that it is an appropriate party to bring the lawsuit and that it is fully capable of advocating its
20 position in court. *Schwartz*, 132 Nev. at 743, 382 P.3d at 894-95 (citation omitted). NPRI argued it
21 is the only entity to date to challenge Legislators engaging in dual employment as a violation of the
22 Separation of Powers. Again, some Defendants directly opposed NPRI's standing on this point, and
23 others did not. The Omnibus Order, however, contains a finding that implies, if not expressly states,
24 that NPRI needed to be the "sole and appropriate party to bring this suit," which appears to go
25 beyond the *Schwartz v. Lopez* holding. (See Omnibus Order at 4:18.)

26 Additionally, in attempting to address the third factor for application of the public importance
27 exception, the Omnibus Order references the purported "direction provided by the Nevada Supreme
28 Court in *Heller v. Legislature*, 120 Nev. 456, 472-473, 93 P.3d 746, 757 (2004)" that such a suit

1 could be brought by a person seeking the executive branch position held by the legislator. (See
2 Omnibus Order at 4:19-22.) NPRI correctly argued that this example of standing set forth in the
3 *Heller* case was exactly that, an example, and NPRI respectfully seeks the further important
4 clarification of this Court's interpretation of the Supreme Court's ruling in *Heller* as it applies to the
5 instant case.

6 **III.**

7 **CONCLUSION**

8 For the foregoing reasons, as well as those set for in the original motion, NPRI respectfully
9 requests this court clarify its decision to grant Defendants' motions to dismiss based on Plaintiff's
10 lack of standing and to certify this matter for immediate appeal, pursuant to NRCP 54(b).

11 Dated this 14th day of December, 2020.

12 **FOX ROTHSCHILD LLP**

13 By: /s/ Deanna L. Forbush
14 DEANNA L. FORBUSH, ESQ.
15 Nevada Bar No. 6646
16 COLLEEN E. MCCARTY, ESQ.
17 Nevada Bar No. 13186
18 1980 Festival Plaza Dr., Suite 700
19 Las Vegas, Nevada 89135
20 Telephone: (702) 262-6899
21 Attorneys for Plaintiff
22 Nevada Policy Research Institute
23
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28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Fox Rothschild LLP and that on this 14th day of December, 2020, I caused the foregoing document entitled **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** 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
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Reno, Nevada 89557-0550
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*Attorneys for Defendants Osvaldo Fumo,
Heidi Seevers Gansert and Dina Neal*

Bradley Schrager, Esq.
Daniel Bravo, Esq.
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*Attorneys for Defendants Brittney Miller and
Selena Torres*

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Attorneys for Defendant Jason Frierson

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

/s/ Doreen Loffredo

An Employee of Fox Rothschild LLP

**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

PRINT DATE: 12/16/2020

Page 1 of 2

Minutes Date: December 15, 2020

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

1 **SAO**
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12 Facsimile: (702) 597-5503
13 Attorneys for Plaintiff
14 Nevada Policy Research Institute

DISTRICT COURT
CLARK COUNTY, NEVADA

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

17 Plaintiff,

18 vs.

19 NICOLE J. CANNIZZARO, an individual engaging
20 in dual employment with the Nevada State Senate
21 and Clark County District Attorney; KASINA
22 DOUGLASS-BOONE, an individual engaging in
23 dual employment with the Nevada State Assembly
24 and Clark County School District; JASON
25 FRIERSON, an individual engaging in dual
26 employment with the Nevada State Assembly and
27 Clark County Public Defender; OSVALDO FUMO,
28 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.: XXIV

**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**

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”), by and through its attorneys of record, Deanna L. Forbush, Esq. and Colleen E. McCarty, Esq., of Fox Rothschild LLP, and Defendant Jill Tolles (“Ms. Tolles”), by and through her attorneys of record, Berna L. Rhodes-Ford, General Counsel for Nevada State College, and Gary A. Cardinal, Assistant General Counsel for the University of Nevada, Reno, hereby agree and stipulate as follows:

1. NPRI filed a Notice of Voluntary Dismissal of Defendants Osvaldo Fumo and Jill Tolles on November 16, 2020;

2. The Parties agree and stipulate that the dismissal of Ms. Tolles only, shall be vacated and set aside in the above-captioned litigation.

3. Upon entry of this Stipulation and Order, Ms. Tolles is reinstated as a Defendant in the instant matter, with all of her defenses reserved, including the right to argue that she is not an employee of the Nevada System of Higher Education or the University of Nevada, Reno.

4. The Parties further agree and stipulate that the Omnibus Order Granting Motions to Dismiss entered on December 8, 2020 and the Order Denying Plaintiff’s Motion to Disqualify Official Attorneys entered on December 9, 2020 shall apply to Ms. Tolles without the need to re-litigate the motions decided therein.

///

1 Dated this 15th day of December, 2020.

2 **FOX ROTHSCHILD LLP**

3
4 /s/ Deanna L. Forbush

5 Deanna L. Forbush, Esq.
6 Colleen E. McCarty, Esq.
7 1980 Festival Plaza Drive, Suite 700
8 Las Vegas, Nevada 89135
9 Telephone: (702) 262-6899

10 Dated this 11th day of December, 2020

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

13
14 /s/ Bradley Schrager

15 Bradley Schrager, Esq.
16 Daniel Bravo, Esq.
17 3556 E. Russell Road, Second Floor
18 Las Vegas, Nevada 89120
19 Attorneys for Defendants Brittney Miller
20 and Selena Torres

21 Dated this 11th day of December, 2020

22 **LEGISLATIVE COUNSEL BUREAU,**
23 **LEGAL DIVISION**

24 /s/ Kevin C. Powers

25 Kevin C. Powers, General Counsel
26 401 S. Carson Street
27 Carson City, Nevada 89701
28 Attorneys for Nevada Legislature

Dated this 11th day of December, 2020

NEVADA SYSTEM OF HIGHER
EDUCATION

/s/ Berna L. Rhodes-Ford

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

/s/ Gary A. Cardinal

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

Dated this 11th day of December, 2020

WILEY PETERSEN

/s/ Jonathan D. Blum

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


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ORDER

IT IS HEREBY ORDERED that the voluntary dismissal of Defendant Jill Tolles be vacated in the above-captioned litigation and that Ms. Tolles be reinstated as a Defendant with all defenses reserved, including Ms. Tolles' right to argue that she is not an employee of the Nevada System of Higher Education or the University of Nevada, Reno.

IT IS FURTHER ORDERED that the Omnibus Order Granting Motions to Dismiss entered on December 8, 2020 and the Order Denying Plaintiff's Motion to Disqualify Official Attorneys entered on December 9, 2020 shall apply equally to Ms. Tolles such that all parties are bound thereby.

Dated this 16th day of December, 2020



FOX ROTHSCHILD LLP

08A 456 00E0 EB6E
Jim Crockett
District Court Judge

/s/ Deanna L. Forbush
Deanna L. Forbush
Nevada Bar No. 6646
Colleen E. McCarty
Nevada Bar No. 13186
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Las Vegas, Nevada 89135
Tel: (702) 262-6899
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Attorneys for Plaintiff

From: Gary A Cardinal <gcardinal@unr.edu>
Sent: Friday, December 11, 2020 2:36 PM
To: McCarty, Colleen E.; Forbush, Deanna L.
Cc: Martinez, Natasha; 'Powers, Kevin'; 'jblum@wileypetersenlaw.com'; 'Bradley Schrager'; 'Berna Rhodes-Ford'
Subject: [EXT] Tolles Stipulation
Attachments: 117034125_1_SAO to Vacate Dismissal of Tolles FINAL 12-11-20-C1.DOC

Dear Counsel,

Attached is a revised SAO that incorporates the recommendation by Kevin Powers for a change in reference from the minute order to the entered orders. If you approve of these changes, you may affix the e-signatures for Berna Rhodes-Ford and for me. You should have also received emails from Jon Blum, Brad Schrager and Kevin Powers approving the change and granting permission to affix their e-signatures.

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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From: Powers, Kevin <kpowers@lcb.state.nv.us>
Sent: Friday, December 11, 2020 11:38 AM
To: Gary A Cardinal <gcardinal@unr.edu>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>; 'Bradley Schrager' <BSchrager@wrslawyers.com>; 'jblum@wileypetersenlaw.com' <jblum@wileypetersenlaw.com>
Cc: Forbush, Deanna L. <DForbush@foxrothschild.com>; McCarty, Colleen E. <CMcCarty@foxrothschild.com>; Martinez, Natasha <NMartinez@foxrothschild.com>; Michelle A Ene' <mene@unr.edu>
Subject: [EXT] RE: Stipulation regarding Jill Tolles

Given that the district court has signed and filed (1) the Omnibus Order Granting Motions to Dismiss and (2) the Order Denying Plaintiff's Motion to Disqualify the Official Attorneys—and a Notice of Entry has been filed for each Order—LCB Legal recommends revising paragraph 4 on page 2 and the second paragraph on page 4 to refer to those approved Orders instead of the “Minute Order filed on November 18, 2020.”

With those revisions, I agree to the use of my electronic signature on the Stipulation and Order.

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

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To: 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>; 'Bradley Schrager' <BSchrager@wrslawyers.com>; Powers, Kevin <kpowers@lcb.state.nv.us>; 'jblum@wileypetersenlaw.com' <jblum@wileypetersenlaw.com>
Cc: Forbush, Deanna L. <DForbush@foxrothschild.com>; 'McCarty, Colleen E.' <CMcCarty@foxrothschild.com>; Martinez, Natasha <NMartinez@foxrothschild.com>; Michelle A Ene' <mene@unr.edu>
Subject: FW: Stipulation regarding Jill Tolles

Dear Counsel,

I am following up on the attached stipulation. Would you kindly advise if you have objections or concerns. Otherwise, may I have your permission to attach your e-signatures to the document?

From: jblum@wileypetersenlaw.com
Sent: Friday, December 11, 2020 11:44 AM
To: 'Powers, Kevin'; 'Gary A Cardinal'; 'Berna Rhodes-Ford'; 'Bradley Schrager'
Cc: Forbush, Deanna L.; McCarty, Colleen E.; Martinez, Natasha; 'Michelle A Ene';
ibautista@wileypetersenlaw.com
Subject: [EXT] RE: Stipulation regarding Jill Tolles

I agree with that change, too. Thanks.

Jonathan D. Blum, Esq.



1050 Indigo Drive, Suite 200B
Las Vegas, Nevada 89145
Office 702.910.3329 | Mobile 702.443.0677
jblum@wileypetersenlaw.com
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From: Powers, Kevin <kpowers@lcb.state.nv.us>
Sent: Friday, December 11, 2020 11:38 AM
To: Gary A Cardinal <gcardinal@unr.edu>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>; 'Bradley Schrager' <BSchrager@wrslawyers.com>; 'jblum@wileypetersenlaw.com' <jblum@wileypetersenlaw.com>
Cc: Forbush, Deanna L. <DForbush@foxrothschild.com>; 'McCarty, Colleen E.' <CMcCarty@foxrothschild.com>; Martinez, Natasha <NMartinez@foxrothschild.com>; Michelle A Ene' <mene@unr.edu>
Subject: RE: Stipulation regarding Jill Tolles

Given that the district court has signed and filed (1) the Omnibus Order Granting Motions to Dismiss and (2) the Order Denying Plaintiff's Motion to Disqualify the Official Attorneys—and a Notice of Entry has been filed for each Order—LCB Legal recommends revising paragraph 4 on page 2 and the second paragraph on page 4 to refer to those approved Orders instead of the "Minute Order filed on November 18, 2020."

With those revisions, I agree to the use of my electronic signature on the Stipulation and Order.

Kevin C. Powers
General Counsel
Nevada Legislative Counsel Bureau, Legal Division

From: Bradley Schrager <BSchrager@wrslawyers.com>

Sent: Friday, December 11, 2020 11:42 AM

To: 'Powers, Kevin' <kpowers@lcb.state.nv.us>; Gary A Cardinal <gcardinal@unr.edu>; 'Berna Rhodes-Ford' <Berna.Rhodes-Ford@nsc.edu>; 'jblum@wileypetersenlaw.com' <jblum@wileypetersenlaw.com>

Cc: Forbush, Deanna L. <DForbush@foxrothschild.com>; McCarty, Colleen E. <CMcCarty@foxrothschild.com>; Martinez, Natasha <NMartinez@foxrothschild.com>; Michelle A Ene' <mene@unr.edu>

Subject: [EXT] RE: Stipulation regarding Jill Tolles

Concur, on behalf of my clients

Bradley S. Schrager

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

Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP

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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: Friday, December 11, 2020 11:38 AM

To: Gary A Cardinal; 'Berna Rhodes-Ford'; Bradley Schrager; 'jblum@wileypetersenlaw.com'

Cc: Forbush, Deanna L.; 'McCarty, Colleen E.'; Martinez, Natasha; Michelle A Ene'

Subject: RE: Stipulation regarding Jill Tolles

CAUTION:EXTERNAL EMAIL

Given that the district court has signed and filed (1) the Omnibus Order Granting Motions to Dismiss and (2) the Order Denying Plaintiff's Motion to Disqualify the Official Attorneys—and a Notice of Entry has been filed for each Order—LCB Legal recommends revising paragraph 4 on page 2 and the second paragraph on page 4 to refer to those approved Orders instead of the "Minute Order filed on November 18, 2020."

With those revisions, I agree to the use of my electronic signature on the Stipulation and Order.

Kevin C. Powers

General Counsel

Nevada Legislative Counsel Bureau, Legal Division

401 S. Carson Street

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
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 Stipulation and 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: 12/16/2020

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Gary Cardinal

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IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA POLICY RESEARCH
INSTITUTE,

Appellant,

vs.

NICOLE J. CANNIZZARO, an individual engaging in dual employment with the Nevada State Senate and Clark County District Attorney; JASON FRIERSON, an individual engaging in dual employment with the Nevada State Assembly and Clark County Public Defender; 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 engagement in dual employment with the Nevada State Senate and Nevada State College; JAMES OHRENSCHALL, an individual engaging in dual employment with the Nevada State Senate and Clark County Public Defendant; MELANIE SCHEIBLE, an individual engagement 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;

Supreme Court Case No.: 82341

[District Court Case No.:
A-20-817757-C]

and SELENA TORRES, an individual
engaging in dual employment with the
Nevada State Assembly and Clark County
School District,

Respondents,

and Legislature of the State of Nevada,

Intervenor-Respondent.

JOINT APPENDIX VOLUME 7 of 7

Appeal from the Eighth Judicial District Court,
Orders Granting Motions to Dismiss and Joinders Thereto;
Order Granting Motion to Intervene; and Order Denying Motion to Disqualify
The Honorable Jim Crockett (Ret.), District Court Judge

DEANNA L. FORBUSH
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Attorneys for Appellant
Nevada Policy Research Institute

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5	Affidavit of Service	9/16/2020	1	JA000020 – JA000022
6	Affidavit of Service	9/16/2020	1	JA000023 – JA000025
7	Notice of Voluntary Dismissal of Defendant Teresa Benitez-Thompson	9/17/2020	1	JA000026 – JA000028
8	Defendant Brittney Miller's Motion to Dismiss Complaint	9/18/2020	1	JA000029 – JA000054
9	Affidavit of Service	9/22/2020	1	JA000055 – JA000057
10	NSHE Defendants Fumo, Gansert, and Neal's Joinder in Defendant Brittney Miller's Motion to Dismiss Complaint	9/24/2020	1	JA000058 – JA000061
11	Plaintiff's Motion to Disqualify the Official Attorneys from Representing Defendants Osvaldo Fumo, Heidi Seevers Gansert and Dina Neal	9/25/2020	1	JA000062 – JA000070
12	Notice of Voluntary Dismissal of Defendant Kasina Douglass-Boone	9/28/2020	1	JA000071 – JA000073
13	Plaintiff's Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible	9/29/2020	1	JA000074 – JA000090
14	Nevada Legislature's Motion to Intervene as Defendant	9/30/2020	1	JA000091 – JA000163
15	Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's	9/30/2020	1	JA000164 – JA000198

Tab	Document	Date	Volume	Pages
	Motion to Dismiss Pursuant to NRC 12(b)(5) and NRC 12(b)(6)			
16	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	10/2/2020	1	JA000199 – JA000219
17	NSHE Defendants Fumo, Gansert and Neal's Notice of Non-Opposition to Nevada Legislature's Motion to Intervene as Defendant	10/2/2020	2	JA000220 – JA000223
18	Defendant Jason Frierson's Motion to Dismiss	10/5/2020	2	JA000224 – JA000240
19	Defendant Jason Frierson's Notice of Non-Opposition to Defendant Nevada Legislature's Motion to Intervene as Defendant	10/5/2020	2	JA000241 – JA000243
20	Defendant Jason Frierson's Joinder to Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Motion to Dismiss Pursuant to NRC 12(b)(5) and NRC 12(b)(6)	10/5/2020	2	JA000244 – JA000246
21	Defendant Jason Frierson's Joinder to Defendant Brittney Miller's Motion to Dismiss Complaint	10/5/2020	2	JA000247 – JA000249
22	Defendant Selena Torres's Joinder to Brittney Miller's Motion to Dismiss Complaint	10/6/2020	2	JA000250 – JA000252
23	Defendants Brittney Miller and Selena Torres's Joinder to Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Motion to Dismiss	10/6/2020	2	JA000253 – JA000255
24	Defendants Brittney Miller and Selena Torres's Joinder to Defendant Jason Frierson's Motion to Dismiss	10/6/2020	2	JA000256 – JA000258
25	Plaintiff's Opposition to Motion to Dismiss filed by Defendants Osvaldo	10/8/20	2	JA000259 – JA000272

Tab	Document	Date	Volume	Pages
	Fumo, Heidi Seevers Gansert, and Dina Neal and Joinders Thereto filed by Defendants Jason Frierson, Brittney Miller, and Selena Torres			
26	Defendants Osvaldo Fumo, Heidi Seevers Gansert and Dina Neal's Opposition to Plaintiff's Motion to Disqualify the Official Attorneys from Representing Defendants	10/9/2020	2	JA000273 – JA000285
27	Notice of Non-Opposition to Plaintiff's Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible	10/14/2020	2	JA000286 – JA000289
28	Plaintiff's Opposition to Nevada Legislature's Motion to Intervene as Defendant	10/14/2020	2	JA000290 – JA000301
29	Defendants Osvaldo Fumo, Heidi Seevers Gansert, and Dina Neal's Reply to Plaintiff's Opposition to Motion to Dismiss and to Plaintiff's Opposition to Joinder in Defendant Miller's Motion to Dismiss	10/16/2020	2	JA000302 – JA000312
30	Affidavit of Service	10/16/2020	2	JA000313 – JA000315
31	Plaintiff's Ex Parte Application for Order Shortening Time to: 1) Hear Motion to Disqualify the Official Attorneys from Representing Defendants Osvaldo Fumo, Heidi Seevers Gansert and Dina Neal, and 2) Re-Set All Other Pending Matters to the Court's Earliest Available Offset Calendar	10/17/2020	2	JA000316 – JA000323
32	Minute Order	10/19/2020	2	JA000324
33	Defendant Nicole Cannizzaro's Motion to Dismiss	10/19/2020	3	JA000325 – JA000340

Tab	Document	Date	Volume	Pages
34	Plaintiff's Opposition to Motion to Dismiss Filed by Defendant Jason Frierson and Joinders Thereto Filed by Brittney Miller and Selena Torres	10/19/2020	3	JA000341 – JA000354
35	Defendant Nicole Cannizzaro's Joinder to Defendant Brittney Miller's Motion to Dismiss Complaint	10/19/2020	3	JA000355 – JA000357
36	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)	10/19/2020	3	JA000358 – JA000360
37	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	10/20/2020	3	JA000361 – JA000380
38	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	10/21/2020	3	JA000381 – JA000386
39	Nevada Legislature's Reply in Support of Motion to Intervene as Defendant	10/21/2020	3	JA000387 – JA000402
40	Errata to Plaintiff's Opposition to Nevada Legislature's Motion to Intervene as Defendant	10/22/2020	3	JA000403 – JA000419
41	Plaintiff's Opposition to Motion to Dismiss Filed by Defendant Nicole Cannizzaro	11/2/2020	3	JA000420 – JA000424
42	Plaintiff's Opposition to Joinders to Defendant Brittney Miller's Motion to Dismiss Complaint filed by	11/2/2020	3	JA000425 – JA000428

Tab	Document	Date	Volume	Pages
	Defendants Jason Frierson, Selena Torres, and Nicole Cannizzaro			
43	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	11/2/2020	3	JA000429 – JA000432
44	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	11/4/2020	3	JA000433 – JA000436
45	Order Granting Plaintiff's Motion for Enlargement of Time to Serve Amended Complaint and Order to Serve by Publication Defendants Glen Leavitt, and James Ohrenschall, and Melanie Scheible	11/4/2020	3	JA000437 – JA000441
46	Reply to Plaintiff's Opposition to Jason Frierson's Motion to Dismiss	11/12/2020	3	JA000442 – JA000450
47	Reply to Plaintiff's Opposition to Nicole Cannizzaro's Motion to Dismiss	11/12/2020	4	JA000451 – JA000459
48	Plaintiff's Reply In Support of Motion to Disqualify the Official Attorneys from Representing Defendants Osvaldo Fumo, Heidi Seevers Gansert and Dina Neal	11/12/2020	4	JA000460 – JA000468
49	Defendant Brittney Miller's Reply In Support of Motion to Dismiss, and Defendant Selena Torres' Joinder Thereto	11/12/2020	4	JA000469 – JA000476

Tab	Document	Date	Volume	Pages
50	Notice of Voluntary Dismissal of Defendants Osvaldo Fumo and Jill Tolles	11/16/2020	4	JA000477 – JA000479
51	Minute Order	11/18/2020	4	JA000480 – JA000483
52	Journal Entries	11/19/2020	4	JA000484
53	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	12/1/2020	4	JA000485 – JA000495
54	Order Denying Plaintiff's Motion for Order to Serve by Publication Defendants Glen Leavitt, James Ohrenschall, and Melanie Scheible	12/04/2020	4	JA000496 – JA000500
55	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 Countermotion to Dismiss All Remaining Defendants Based on Plaintiff's Lack of Standing	12/7/2020	4	JA000501 – JA000510
56	Order Granting Nevada Legislature's Motion to Intervene as Defendant	12/08/2020	4	JA000511 – JA000538
57	Omnibus Order Granting Motions to Dismiss	12/08/2020	4	JA000539 – JA000556
58	Notice of Entry of Omnibus Order Granting Motions to Dismiss	12/08/2020	4	JA000557 – JA000577
59	Notice of Entry of Order Granting Nevada Legislature's Motion to Intervene as Defendant	12/8/2020	5	JA000578 – JA000608
60	Order Denying Plaintiff's Motion to Disqualify Official Attorneys	12/9/2020	5	JA000609 – JA000630
61	Notice of Entry of Order Denying Plaintiff's Motion to Serve by Publication Defendants Glen Leavitt,	12/9/2020	5	JA000631 – JA000638

Tab	Document	Date	Volume	Pages
	James Ohrenschall, and Melanie Scheible			
62	Notice of Entry of Order Denying Plaintiff's Motion to Disqualify Official Attorneys	12/9/2020	6	JA000639 – JA000664
63	Acceptance of Service	12/9/2020	6	JA000665 – JA000666
64	Affidavit of Publication	12/10/2020	6	JA000667
65	Affidavit of Publication	12/10/2020	6	JA000668
66	Affidavit of Publication	12/10/2020	6	JA000669
67	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	12/14/2020	6	JA000670 – JA000678
68	Court Minutes	12/15/2020	6	JA000679 – JA000680
69	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	12/16/2020	6	JA000681 – JA000690
70	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	7	JA000691 – JA000719

Tab	Document	Date	Volume	Pages
71	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	12/28/2020	7	JA000720 – JA000751
72	Notice of Appeal	1/8/2021	7	JA000752 – JA000754
73	Notice of Posting Bond	1/19/2021	7	JA000755 – JA000759

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of June, 2021, I caused the foregoing to be served on all parties to this action by electronically filing it with the Court's e-filing system, which will electronically serve the following:

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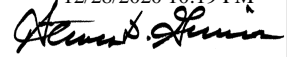
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/s/ Natasha Martinez
An Employee of Fox Rothschild
LLP


CLERK OF THE COURT

ORDER

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**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 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-

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

**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,

Defendants, and

THE LEGISLATURE OF THE STATE OF
NEVADA,

Intervenor-Defendant.

BACKGROUND

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

16 On December 8, 2020, the Court entered an Order Granting Nevada Legislature’s Motion to
17 Intervene as an Intervenor-Defendant (the “Legislature”). The Legislature is represented by Kevin C.
18 Powers, General Counsel, Legislative Counsel Bureau, Legal Division, under NRS 218F.720.
19 Additionally, on December 8, 2020, the Court entered an Omnibus Order Granting Motions to Dismiss
20 in favor of the following individual Defendants based on NPRI’s lack of standing: (1) Defendants
21 Brittney Miller and Selena Torres,¹ who are represented by Bradley Schrager, Esq., and Daniel Bravo,
22 Esq., of Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP; (2) Defendants Jason Frierson and Nicole

23
24 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.

23 //

24 //

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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.

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



/s/ Kevin C. Powers
KEVIN C. POWERS, General Counsel
 Nevada Bar No. 6781
 LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION
 401 S. Carson St.
 Carson City, NV 89701
 Tel: (775) 684-6830; Fax: (775) 684-6761
 Email: kpowers@lcb.state.nv.us
Attorneys for Intervenor-Defendant Legislature of

D49 621 CDB2 0D29
Jim Crockett
District Court Judge

//

//

//

1 Order reviewed by:

2 /s/ Colleen E. McCarty

3 **DEANNA L. FORBUSH, ESQ.**

4 **COLLEEN E. MCCARTY, ESQ.**

5 FOX ROTHSCHILD LLP

6 dforbush@foxrothschild.com

7 cmccarty@foxrothschild.com

8 *Attorneys for Plaintiff Nevada Policy*
9 *Research Institute*

10 /s/ Bradley Schrager

11 **BRADLEY SCHRAGER, ESQ.**

12 **DANIEL BRAVO, ESQ.**

13 WOLF, RIFKIN, SHAPIRO, SCHULMAN &
14 RABKIN LLP

15 bschrager@wrslawyers.com

16 dbravo@wrslawyers.com

17 *Attorneys for Defendants Brittney Miller*
18 *and Selena Torres*

/s/ Berna L. Rhodes-Ford

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 Schragger; 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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Sent: Friday, December 18, 2020 5:10 PM

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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
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

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CAUTION:EXTERNAL EMAIL

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

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Sent: Thursday, December 24, 2020 8:12 AM
To: Powers, Kevin; 'McCarty, Colleen E.'; 'Forbush, Deanna L.'
Cc: 'Bradley Schrager'; 'Daniel Bravo'; 'Gary A Cardinal'; 'Berna Rhodes-Ford';
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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You may affix my e-signature.

Happy Holidays to all,
Jon

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From: Gary A Cardinal <gcardinal@unr.edu>
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To: 'jblum@wileypetersenlaw.com'; 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

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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Nevada Legislative Counsel Bureau, Legal Division

401 S. Carson Street

Carson City, NV 89701-4747

(775) 684-6830

(775) 684-6761-Fax

ATTENTION

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Powers, Kevin

From: McCarty, Colleen E. <CMcCarty@foxrothschild.com>
Sent: Monday, December 28, 2020 11:41 AM
To: Powers, Kevin; Forbush, Deanna L.
Cc: 'Bradley Schrager'; '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

You may affix my e-signature. Thank you.

From: Powers, Kevin <kpowers@lcb.state.nv.us>
Sent: Wednesday, December 23, 2020 5:04 PM
To: McCarty, Colleen E. <CMcCarty@foxrothschild.com>; 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: [EXT] RE: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment

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
401 S. Carson Street
Carson City, NV 89701-4747

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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

4
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
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22 Colleen McCarty	cmccarty@foxrothschild.com
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Chastity Dugenia

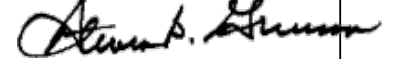
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gcardinal@unr.edu



1 **NEOJ**

2 KEVIN C. POWERS, General Counsel

3 Nevada Bar No. 6781

4 LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION

5 401 S. Carson St.

6 Carson City, NV 89701

7 Tel: (775) 684-6830; Fax: (775) 684-6761

8 Email: kpowers@lcb.state.nv.us

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

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 NEVADA POLICY RESEARCH INSTITUTE, a
9 Nevada domestic nonprofit corporation,

10 Plaintiff,

11 vs.

12 NICOLE J. CANNIZZARO, an individual engaging
13 in dual employment with the Nevada State Senate
14 and Clark County District Attorney; KASINA
15 DOUGLASS-BOONE, an individual engaging in
16 dual employment with the Nevada State Assembly
17 and Clark County School District; JASON
18 FRIERSON, an individual engaging in dual
19 employment with the Nevada State Assembly and
20 Clark County Public Defender; OSVALDO FUMO,
21 an individual engaging in dual employment with the
22 Nevada State Assembly and University of Nevada,
23 Las Vegas; HEIDI SEEVERS GANSERT, an
24 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-

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

**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 SELINA TORRES, an individual
7 engaging in dual employment with the Nevada State
8 Assembly and Clark County School District,

Defendants, and

THE LEGISLATURE OF THE STATE OF
NEVADA,

Intervenor-Defendant.

9
10 **NOTICE OF ENTRY OF ORDER**

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

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

17 Respectfully submitted,

18 By: /s/ Kevin C. Powers

KEVIN C. POWERS

General Counsel

Nevada Bar No. 6781

LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION

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Attorneys for Intervenor-Defendant

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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jblum@wileypetersenlaw.com
Attorneys for Defendants Jason Frierson, Nicole Cannizzaro and Melanie Scheible

/s/ Kevin C. Powers
An Employee of the Legislative Counsel Bureau

ORDER

KEVIN C. POWERS, General Counsel
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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.

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-

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

**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,

Defendants, and

THE LEGISLATURE OF THE STATE OF
NEVADA,

Intervenor-Defendant.

BACKGROUND

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

16 On December 8, 2020, the Court entered an Order Granting Nevada Legislature’s Motion to
17 Intervene as an Intervenor-Defendant (the “Legislature”). The Legislature is represented by Kevin C.
18 Powers, General Counsel, Legislative Counsel Bureau, Legal Division, under NRS 218F.720.
19 Additionally, on December 8, 2020, the Court entered an Omnibus Order Granting Motions to Dismiss
20 in favor of the following individual Defendants based on NPRI’s lack of standing: (1) Defendants
21 Brittney Miller and Selena Torres,¹ who are represented by Bradley Schrager, Esq., and Daniel Bravo,
22 Esq., of Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP; (2) Defendants Jason Frierson and Nicole

24 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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1 Order reviewed by:

2 /s/ Colleen E. McCarty

3 **DEANNA L. FORBUSH, ESQ.**

4 **COLLEEN E. MCCARTY, ESQ.**

5 FOX ROTHSCHILD LLP

6 dforbush@foxrothschild.com

7 cmccarty@foxrothschild.com

8 *Attorneys for Plaintiff Nevada Policy*
9 *Research Institute*

10 /s/ Bradley Schrager

11 **BRADLEY SCHRAGER, ESQ.**

12 **DANIEL BRAVO, ESQ.**

13 WOLF, RIFKIN, SHAPIRO, SCHULMAN &
14 RABKIN LLP

15 bschrager@wrslawyers.com

16 dbravo@wrslawyers.com

17 *Attorneys for Defendants Brittney Miller*
18 *and Selena Torres*

/s/ Berna L. Rhodes-Ford

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

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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 Schragger; 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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<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
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

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

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Sent: Thursday, December 24, 2020 8:12 AM
To: Powers, Kevin; 'McCarty, Colleen E.'; 'Forbush, Deanna L.'
Cc: 'Bradley Schrager'; 'Daniel Bravo'; 'Gary A Cardinal'; 'Berna Rhodes-Ford';
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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You may affix my e-signature.

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Jon

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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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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

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.

If you have received this message in error, please immediately notify the sender and/or the Legal Division of the Legislative Counsel Bureau by telephone at (775) 684-6830 and delete or destroy any copy of this message as well as any attachments.

This email contains information that may be confidential and/or privileged. If you are not the intended recipient, or the employee or agent authorized to receive for the intended recipient, you may not copy, disclose or use any

contents in this email. If you have received this email in error, please immediately notify the sender at Fox Rothschild LLP by replying to this email and delete the original and reply emails. Thank you.

Powers, Kevin

From: McCarty, Colleen E. <CMcCarty@foxrothschild.com>
Sent: Monday, December 28, 2020 11:41 AM
To: Powers, Kevin; Forbush, Deanna L.
Cc: 'Bradley Schrager'; '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

You may affix my e-signature. Thank you.

From: Powers, Kevin <kpowers@lcb.state.nv.us>
Sent: Wednesday, December 23, 2020 5:04 PM
To: McCarty, Colleen E. <CMcCarty@foxrothschild.com>; 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: [EXT] RE: A-20-817757-C, NPRI v Cannizzaro: Proposed Order and Final Judgment

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
401 S. Carson Street
Carson City, NV 89701-4747

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

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Sent: Tuesday, December 22, 2020 12:11 PM
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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,

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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>
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Kevin C. Powers

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
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

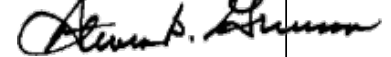
cdugenia@wileypetersenlaw.com

Berna Rhodes-Ford

Berna.Rhodes-Ford@nsc.edu

Gary Cardinal

gcardinal@unr.edu



1 **NOAS**

2 DEANNA L. FORBUSH, ESQ.

3 Nevada Bar No. 6646

4 dforbush@foxrothschild.com

5 COLLEEN E. MCCARTY, ESQ.

6 Nevada Bar No. 13186

7 cmccarty@foxrothschild.com

8 **FOX ROTHSCHILD LLP**

9 1980 Festival Plaza Drive, Suite 700

10 Las Vegas, Nevada 89135

11 Telephone: (702) 262-6899

12 Facsimile: (702) 597-5503

13 Attorneys for Plaintiff

14 Nevada Policy Research Institute

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 NEVADA POLICY RESEARCH INSTITUTE, a
18 Nevada domestic nonprofit corporation,

19 Plaintiff,

20 vs.

21 NICOLE J. CANNIZZARO, an individual engaging
22 in dual employment with the Nevada State Senate
23 and Clark County District Attorney; KASINA
24 DOUGLASS-BOONE, an individual engaging in
25 dual employment with the Nevada State Assembly
26 and Clark County School District; JASON
27 FRIERSON, an individual engaging in dual
28 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 SELENA 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*

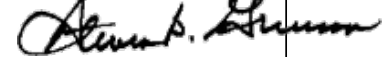
Bradley Schrager, Esq.
Daniel Bravo, Esq.
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP
3556 E. Russell Road, Second Floor
Las Vegas, Nevada 89120
Email: bschrager@wrslawyers.com
Email: dbravo@wrslawyers.com
*Attorneys for Defendants Brittney Miller and
Selena Torres*

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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



1 **NPP**

2 DEANNA L. FORBUSH, ESQ.

3 Nevada Bar No. 6646

4 dforbush@foxrothschild.com

5 COLLEEN E. MCCARTY, ESQ.

6 Nevada Bar No. 13186

7 cmccarty@foxrothschild.com

8 **FOX ROTHSCHILD LLP**

9 1980 Festival Plaza Drive, Suite 700

10 Las Vegas, Nevada 89135

11 Telephone: (702) 262-6899

12 Facsimile: (702) 597-5503

13 Attorneys for Plaintiff

14 Nevada Policy Research Institute

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 NEVADA POLICY RESEARCH INSTITUTE, a
18 Nevada domestic nonprofit corporation,

19 Plaintiff,

20 vs.

21 NICOLE J. CANNIZZARO, an individual engaging
22 in dual employment with the Nevada State Senate
23 and Clark County District Attorney; KASINA
24 DOUGLASS-BOONE, an individual engaging in
25 dual employment with the Nevada State Assembly
26 and Clark County School District; JASON
27 FRIERSON, an individual engaging in dual
28 employment with the Nevada State Assembly and
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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 POSTING BOND

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.

TO ALL INTERESTED PARTIES:

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, deposited with the Clerk of the Eighth Judicial District Court a bond for costs on appeal in the amount of Five Hundred Dollars and 00/100 (\$500.00), pursuant to NRAP 7. A copy of the receipt is attached hereto as Exhibit 1.

Dated this 19th 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

Telephone: (702) 262-6899

Attorneys for Plaintiff

Nevada Policy Research Institute

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Fox Rothschild LLP and that on this 19th day of January, 2021, I caused the foregoing document entitled **NOTICE OF POSTING BOND** 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.
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP
3556 E. Russell Road, Second Floor
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
1050 Indigo Drive, Suite 200B
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

EXHIBIT 1

OFFICIAL RECEIPT

District Court Clerk of the Court 200 Lewis Ave, 3rd Floor Las Vegas, NV 89101

Payor
Fox Rothschild LLP

Receipt No.
2021-03189-CCCLK

Transaction Date
01/19/2021

Description	Amount Paid
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On Behalf Of Nevada Policy Research Institute

A-20-817757-C

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

Appeal Bond

Appeal Bond

500.00

SUBTOTAL

500.00

PAYMENT TOTAL

500.00

Wire Transfer (Ref #20210150470500)

500.00

Tendered

Total Tendered

500.00

Change

0.00

Notice of Appeal - file 1/8/2021 (WT 20210150470500 1/15/2021)

01/19/2021

11:29 AM

Cashier

Station RJCC1

Audit

37733560

OFFICIAL RECEIPT

JA000759