IN THE SUPREME COURT OF THE STATE OF NEVADA

OCWEN LOAN SERVICING, LLC, A FOREIGN LIMITED LIABILITY COMPANY, Appellant, vs. CHERSUS HOLDINGS, LLC, A DOMESTIC LIMITED LIABILITY COMPANY; and SOUTHERN TERRACE HOMEOWNERS ASSOCIATION, A DOMESTIC NON-PROFIT CORPORATION, Respondents.	**Appeal Case No. 82680** District Court Case No. A696327

PETITION FOR EN BANC RECONSIDERATION

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I. INTRODUCTION

Appellant, Ocwen Loan Servicing, LLC ("Ocwen") respectfully brings this Petition for En Banc Reconsideration, pursuant to NRAP 40A(a), in order to maintain the uniform application of the Court's opinions concerning evidence of fraud, oppression and unfairness in a voidable homeowners' association foreclosure sale. Specifically, the terms of the Factoring Agreement between the foreclosing homeowners' association, its foreclosure trustee and a pre-determined buyer at the foreclosure sale were deemed to be evidence of fraud, oppression and unfairness in *U.S. Bank National Ass'n v. The Gifford W. Cochran Revocable Living Trust*, No. 77642, 2020 WL 2521786 (Nev. May 15, 2020) ("*Cochran Trust*") and *Lahrs Family Trust v. JP Morgan Chase Bank, N.A.,* 74059, 2019 WL 4054161 (Nev. Aug. 27, 2019) ("*Lahrs Family Trust*"). Yet, in this action, those identical terms presented in the identical Factoring Agreement involving identical parties were not considered to meet the same slight evidence of fraud, oppression and unfairness, despite even more egregious behavior (sale price refund provision) evidenced in this action.

En banc reconsideration is also required to avoid creating a substantial precedential issue and matter of public policy where the current ruling creates uncertainty for a party and courts within this jurisdiction, generally, in determining what action, if any, is sufficient to "confer a benefit" within the context of a claim for unjust enrichment. The ruling also improperly permits an award of damages

where no actual detriment was suffered by the claimant, Respondent Chersus Holdings, LLC ("Chersus"), who voluntarily ceased leasing the Property. Lastly, en banc reconsideration is necessary where the district court's ruling, affirmed by a panel of this Court, failed to enforce Chersus' disclosure requirements under NRCP 16.1(a)(2), which creates an issue of public policy. Chersus, its counsel and future litigants will be emboldened to flaunt the rules of civil procedure because they know that the trial and appellate level courts will not hold them responsible for their failure to comply. Such ruling, if upheld, creates an inherent unfairness in the litigation process that undoubtedly was unintended by the Legislature. For each of these reasons, en banc reconsideration should be granted.

II. ARGUMENT

a. Legal standard for rehearing.

Pursuant to NRAP 40A(a), en banc reconsideration may be ordered when: "(1) reconsideration by the full court is necessary to secure or maintain uniformity of decisions of the Supreme Court or Court of Appeals, or (2) the proceeding involves a substantial precedential, constitutional or public policy issue."

b. Rehearing is necessary to maintain the uniformity of decisions considering the identical Factoring Agreement terms set forth in *Cochran Trust* and *Lahrs Family Trust.*

En banc reconsideration by the Court is necessary to maintain the uniform ruling concerning the fraud, oppression and unfairness presented by the identical

Factoring Agreement considered by the Court in *Cochran Trust* and *Lahrs Family* Trust. Although the *Cochran Trust* and *Lahrs Family Trust* courts concluded that the Factoring agreement terms were evidence of fraud, oppression and unfairness, the district court here, affirmed by a panel of this Court, found that the identical terms were suddenly not even *slight* evidence of fraud, oppression or unfairness. The district court committed reversible error by not uniformly applying *Cochran Trust* and *Lahrs Family Trust* to the identical Factoring Agreement terms presented upon summary judgment.

The panel of this Court concluded in the Order Affirming in Part, Reversing in Part and Remanding, entered on September 15, 2022, that "[b]ased on the arguments presented to the district court, however, we are not persuaded that the district court erred in finding that there was no evidence of fraud, unfairness, or oppression in this case." Order at 3. The panel added:

> To the extent that appellant contends this case is identical to *U.S. Bank National Ass'n v. The Gifford W. Cochran Revocable Living Trust*, No. 77642, 2020 WL 2521786 (Nev. May 15, 2020) (Order Vacating Judgment and Remanding), we are not persuaded, as this case contains different evidence. Similarly, *Lahrs Family Trust v. JP Morgan Chase Bank, N.A.,* 74059, 2019 WL 4054161 (Nev. Aug. 27, 2019) (Order of Affirmance), is distinguishable because the winning bid in that case was only $100, *id.* at *1.

Order at 3, fn. 3.

Respectfully, this Court overlooked the underlying facts of this matter when it concluded that "this case contains different evidence" to the evidence presented in

Cochran Trust, in which the court deemed the identical factoring agreement terms were sufficient evidence of fraud, oppression or unfairness to declare the homeowner's association lien foreclosure sale voidable as to its effect on the first position deed of trust.[1] Although the $3,500 sale price at the subject HOA Sale was purportedly higher compared with the $100 sale price in *Cochran Trust* and *Lahrs Family Trust*, Chersus did not dispute that the identical factoring agreement terms involving United Legal Services (the preferred HOA foreclosure agent mandated by the Factoring Agreement) and First 100, LLC (the intended purchaser at the foreclosure sale and party to the pre-foreclosure Factoring Agreement) were involved in this action, as well as *Cochran Trust* and *Lahrs Family Trust*, and did not dispute that the Factoring Agreement in this case **provided for a refund of the sale price back to First 100**.[2] This refund provision weighs even more heavily in favor of a finding of fraud, oppression and unfairness because it confirms that First 100 did not actually pay <u>any</u> amount at the foreclosure sale. The refund provision of the Factoring Agreement further negates any effect that the allegedly higher sale price had because it was nothing more than a number on paper and the record reflects

[1] *See* Opening Brief at 17-22.

[2] *See* Answering Brief at 24-25 arguing active bidding, without any supporting evidence, and ignoring the Factoring Agreement provision, which expressly provided for a refund of the sale price back to First 100 and the undisputed fact that First 100 actually paid nothing to acquire the Property at the HOA Sale because of that refund provision.

that no money was actually exchanged between First 100 and the HOA. Chersus' silence on this point was a confession of error, and an acknowledgement that the false sale price and terms of the Factoring Agreement were, in fact, evidence of collusion, fraud, oppression or unfairness in exactly the same manner as the *Cochran Trust* and *Lahrs Family Trust* courts previously concluded. *See also Ozawa v. Vision Airlines, Inc.*¸125 Nev. 556, 563, 216 P.3d 788, 793 (2009) (citing *Bates v. Chronister*, 100 Nev. 675, 682, 601 P.2d 865, 870 (1984) (treating failure to respond to argument as a confession of error)).[3]

In *Cochran Trust*, the Court concluded that the factoring agreement between ULS, First 100 and the foreclosing homeowner's association "required the HOA to use First 100's preferred foreclosure agent and prevented the HOA from bidding any higher than the agreed-upon starting bid of $99[.]" 2020 WL 2521786. at *2. This undisputed fact, along with the undisputed fact that First 100 purchased the property at the foreclosure sale, "support[s] a conclusion that bidding was chilled." *Id*. (citing *Yfantis,* 173 F. Supp. 3d at 1058 (noting that collusion between the winning bidder and the entity selling the property may constitute fraud, oppression, or unfairness);

[3] *See* Reply Brief at 8-9, setting forth that Chersus admitted that *Lahrs Family Trust* confirmed that provisions in an identical Factoring Agreement "suggest that there was some unfairness in the foreclosure process that affected the sale[,]" notably that there was a lack of competitive bidding because the opening bid was set at $99.00 and the Factoring Agreement terms forbid the HOA from credit bidding. *See* Answering Brief at 35.

Country Exp. Stores, Inc. v. Sims, 87 Wn. Ap.. 741, 943 P.2d 374, 379 (Wash. Ct. App. 1997) (noting that one type of chilled bidding "is intentional, occurring where there is collusion for the purpose of holding down the bids.")).

Here, ULS, First 100 and the HOA entered into an identical Factoring Agreement as the one in *Cochran Trust*. [III:AA0396-412.] Pursuant to the terms of the Factoring Agreement, in pertinent part, the HOA sold its interest in both the delinquent assessments and its right to collect future delinquent assessments. *Id*. at ¶¶ 2.01 and 4.02(h). The Factoring Agreement prohibited the HOA from continuing to use its preferred foreclosure agent, Red Rock, and required ULS to be used as the foreclosure agent. *Id*. at ¶ 3.02(a). Again, in the same manner as the factoring agreement in *Cochran Trust,* the Factoring Agreement required ULS to pre-set the opening bid at the reduced amount of $99, instead of the actual amount of the HOA's lien at the time of the foreclosure sale, and forbid the HOA from bidding any higher or sending a person or agent to the foreclosure sale to credit bid or bid any amount higher than the pre-set $99 opening bid. *Id*. at ¶ 3.02(l) and ¶ 4.02(i). First 100 was the winning bidder in *Cochran Trust* and was the winning bidder at the subject HOA Sale. [II:AA0243-45.]

Accordingly, the identical, undisputed facts that this Court in *Cochran Trust* deemed sufficient evidence of collusion to present slight evidence of fraud, oppression or unfairness, were overlooked by the district court and the panel on the

record here. This identical evidence meets the *very slight* evidence of fraud, oppression or unfairness necessary to deem the HOA Sale voidable as to the Deed of Trust. It remains undisputed that the HOA Sale price was a mere 2.6% of the fair market value of the Property. [IV:AA0681-708.] As such, only ***very slight*** evidence of fraud, oppression or unfairness was necessary. The "relationship [between price and sale irregularities] is hydraulic: 'where the inadequacy [of price] is palpable and great, very slight additional evidence of unfairness or irregularity is sufficient to authorize the granting of the relief sought.'" *U.S. Bank National Association v. Resources Group, LLC*, 135 Nev. Adv. Op. 26, 444 P.3d 442 (2019) (emphasis added) (citing *Nationstar Mortgage, LLC v. Saticoy Bay LLC Series 2227 Shadow Canyon*, 133 Nev. 740, 746, 405 P.3d 641, 646 (2017); quoting *Golden v. Tomiyasu*, 79 Nev. 503, 515, 387 P.2d 989, 995 (1963)). En banc reconsideration is necessary to maintain the uniform application of the holding of *Cochran Trust* to the identical Factoring Agreement at issue here.

To the extent this Court believes that the HOA Sale price here, an alleged $3,500, was a sufficient amount to no longer be evidence of fraud, oppression or unfairness, compared with the $100 sale price in *Cochran Trust* and *Lahrs Family Trust* (Order at 3, fn. 3), the difference in sale price cannot be viewed in a vacuum. The difference in alleged sale price actually weighs in Ocwen's favor and against Chersus when viewed in light of certain overlooked terms within the Factoring

Agreement.[4] Specifically, neither the panel of this Court nor the district court considered the undisputed fact that the sale price was irrelevant because, as noted, First 100 paid nothing for the Property: the Factoring Agreement **guaranteed that any amounts collected by ULS at the HOA Sale would be paid back to First 100**. [III:AA0401 at 4.02(a).] So whatever amount First 100 bid and allegedly paid at the HOA Sale was immediately returned to First 100. Consequently, the facts here are even more egregious than the $100 sale price fact presented in *Cochran Trust* and *Lahrs Family Trust*. Again, it did not matter how much First 100 allegedly bid at the HOA Sale because it was guaranteed a full refund. Additional evidence was presented to confirm this: the HOA's ledger reflects that First 100 simply wrote off the remaining amount of the HOA's lien as "bad debt" instead of paying the HOA for the remaining portion of its lien [IV:AA0596] and then disbursing the excess proceeds resulting from the sale price, if any, in accordance with the distribution statute, NRS 116.31164(3)(c).[5] This is further evidence of collusion, fraud, unfairness and oppression; First 100 would outbid any other bidder (if there were any, there was no admissible evidence of competitive bidding submitted in the record of this action) to guarantee that it was the winning bidder because it knew it would obtain ownership of the Property ***without actually paying any money*** at the

[4] *See* Opening Brief at 14-15.
[5] The version of the statute in effect at the time of the HOA Sale.

HOA Sale. Chersus did not dispute this fact before the district court or this Court, nor could it because it was not the purchaser at the HOA Sale, First 100 was.[6] *See Ozawa*, 125 Nev. at 563, 216 P.3d at 793. En banc reconsideration is necessary in order to maintain the uniform application of rulings concerning the ULS and First 100 Factoring Agreements, where identical facts are presented in this action to *Cochran Trust* and *Lahrs Family Trust*, and First 100 paid nothing to acquire the Property as a result of the Factoring Agreement terms that reflect pre-foreclosure collusion between ULS, First 100 and the foreclosing HOA.

c. Reconsideration is necessary as the district court and the panel of this Court misapplied the applicable law in concluding that the district court correctly admitted Chersus' expert witness' testimony to support Chersus' alleged unjust enrichment damages.

To the extent that this Court does not grant en banc reconsideration as to the quiet title judgment in favor of Chersus and against Ocwen (which would necessitate reversal of the unjust enrichment damages award), reconsideration should nonetheless be granted as to the unjust enrichment damages awarded against Ocwen because the district court misapplied the applicable law.

1. Chersus did not "confer" a benefit upon Ocwen nor did Ocwen "receive" any benefit from Chersus.

The panel of this Court disagreed with Ocwen's challenge to the propriety of entering judgment in favor of Chersus on its claim for unjust enrichment, concluding

[6] *See* footnote 3, *supra*.

that "the 'benefit' that [Chersus] 'conferred' upon [Ocwen] was the *ability* to use the property as a source of income." Order at 5 (emphasis in original). But in doing so, the panel upheld the district court's improper application of the law concerning unjust enrichment, which requires an affirmative act by Chersus to "confer" a benefit upon Ocwen and not just passive inaction.[7]

This Court's holdings in *Certified Fire Prot., Inc. v. Precision Const. Inc.*, 128 Nev. 371, 381, 283 P.3d 250, 257 (2012), and *Leasepartners Corp. v. Robert L. Brooks r. Dated Nov. 12, 1975*, 113 Nev. 747, 756,, 942 P.2d 182, 187 (1997) were misapplied to the facts of this case and failed to secure a uniform application of those opinions. Both cases confirm that: (1) an affirmative act to confer a benefit to another must occur; and (2) there must be an actual benefit received in order for a party to be unjustly enriched. Neither element occurred here.

In *Precision Const.*, Certified Fire Protection ("Certified") submitted a bid to Precession Construction, Inc. ("Precision") for the design and installation of a sprinkler system. 128 Nev. at 375, 283 P.3d at 253. Certified won the bid and obtained a copy of the subcontract with a set of construction plans and sprinkler system specifications. *Id*. Certified objected to the subcontract as imposing terms that differed from the bid specifications and did not sign the subcontract, despite starting work preparing sprinkler system designs. 128 Nev. at 376, 283 P.3d at 254.

[7] *See* Opening Brief at 35-38.

Due to the failure to sign the subcontract and errors in the sprinkler system designs, Precision terminated its relationship with Certified. *Id*. Certified sought damages for unjust enrichment, arguing that it had conferred a benefit upon Precision through the design work it had already undertaken. *Id*. The district court concluded, and this Court affirmed, that Precision **had not used and, consequently, had not benefitted** from, the design drawings. Therefore, Precision had not been unjustly enriched by Certified. *Id*.

In *LeasePartners*, this Court considered whether LeasePartners Corporation's ("LeasePartners") installation of new signs that were bigger, more attractive and more state of the art than the old signs that they replaced conferred a benefit upon the Robert L. Brooks Trust Dated Nov. 12, 1975 ("Brooks Trust"). 113 Nev. at 756, 942 P.3d at 187. Brooks Trust was satisfied with the old signs, which were destroyed, and argued that any benefit conferred on it was unwanted. *Id*. Although the Court remanded the appeal back to the district court to determine whether Brooks Trust was unjustly enriched, the *LeasePartners* fact pattern again shows that an affirmative act must be undertaken in order to "confer" a benefit on another party.

Precision Const. and *LeasePartners* were not uniformly applied to this case. Unlike *Precision Const.* and *LeasePartners*, there is no evidence in the record here that Chersus undertook any action to confer any benefit upon Ocwen to Chersus' detriment. Chersus did not purchase any goods or provide any service to Ocwen.

Rather, Ocwen enforced its contractual power of sale and foreclosed on its Deed of Trust lien interest against title to the Property as a result of the Borrower's failure to comply with his Loan repayment obligations thereunder, which pre-dated the HOA's lien and of which Chersus had notice when it acquired its interest in the Property. Neither Chersus nor its predecessor, First 100, sought to enjoin the Deed of Trust foreclosure or otherwise pay monies to reinstate the Loan to avoid foreclosure. Further, Chersus and Ocwen had not entered into a quasi- or implied contract and had no pre-existing relationship at any time prior to or after foreclosure under the Deed of Trust proceeded. There is no evidence in the record that Chersus or First 100 ever even attempted to contact Ocwen. But the evidentiary record does show, and Chersus never disputed, that Chersus knew it was not purchasing clear title from First 100, would have to litigate a quiet title action and may have acquired title to the Property subject to the Deed of Trust. [XVII:AA3386-90.]

Moreover, there is no evidence in the record that Ocwen *received* and *retained* a benefit from Chersus. Although the panel of this Court noted that the potential to lease out the Property was a benefit that Ocwen allegedly received, the fact is Ocwen did not lease the Property to a tenant and, consequently, did not actually "appreciate" any benefit that would be inequitable for it to retain without payment to Chersus. To the contrary, the undisputed record reflects instead that Chersus leased the Property to a tenant **even after Ocwen foreclosed**. [XVIII:AA3546, lines 2-3.] There is no

evidence in the record that Ocwen then prevented Chersus from continuing to lease the Property to a tenant or that Ocwen took monthly rental income from Chersus' tenant and refused to hand over that rental income to Chersus. Accordingly, there is no evidence in the record to support the district court's finding, and the panel's affirmance, that Chersus conferred a benefit upon Ocwen and that Ocwen appreciated the benefit to Chersus' detriment. This ruling reflects that *Precision Const.* and *LeasePartners* were not uniformly applied to the facts of this case.

The ruling also creates a substantial precedential issue and matter of public policy concern as it creates uncertainty for a party and a court in determining what action (or inaction) is deemed sufficient to "confer a benefit" upon another and creates further uncertainty on whether any actual detriment must even be incurred before a windfall of damages can be awarded. Here, Chersus has never disputed that it knew it would have to pursue a quiet title action to determine the quality of title that it acquired, that there was a substantial chance that it acquired the Property subject to the Deed of Trust and that the terms of the Deed of Trust permitted Ocwen to proceed with the power of sale upon a breach of the borrower's repayment obligation. Despite this knowledge, Chersus rented out the Property after Ocwen's foreclosure and then voluntarily ceased the lease. Ocwen did not undertake any act to interfere with Chersus leasing the Property after it foreclosed during the pendency of this lawsuit. Chersus acted voluntarily and it was reversible error for the district

court, and then the panel of this Court, to conclude that Chersus is entitled to a windfall of damages against Ocwen caused exclusively by Chersus' own actions. At every turn of this lawsuit, Chersus has failed to meet its evidentiary burdens and instead fabricated blame upon Ocwen. Chersus' legal arguments and failure to comply with procedural rules have repeatedly been shown by Ocwen to be improper to affirm the district court's erroneous ruling. En banc reconsideration should be awarded to prevent the creation of uncertain precedent based on this improper record created by Chersus.

2. En banc reconsideration is necessary to maintain the uniform application of the expert witness disclosure requirements under NRCP 16.1(a)(2)(B).

The panel of this Court concluded that "[a]lthough appellant did not disclose its expert witness until October 2019, which was after the close of discovery, the prove-up hearing was not held until March 2021…We conclude that the necessary implication behind the district court's decision is that the untimely disclosure was harmless[.]" Order at 6. Respectfully, the egregiously untimely disclosure was not harmless when taking into account the undisputed fact that Chersus' expert witness disclosure completely failed to comply with any of the requirements set forth in NRCP 16.1(a)(2)(B).[8] Ocwen's objection to the disclosure of Chersus' expert witness during the damages hearing in March 2021 did not absolve Chersus of

[8] *See* Opening Brief at 39-43.

complying with the expert disclosure requirements. **Chersus did not deny its non-compliant expert witness disclosure**, and presented no justification to the district court or this Court other than improperly shifting blame and burden to Ocwen for not objecting sooner.[9] The panel of this Court overlooked Chersus' failure to address Ocwen's argument that the disclosure of Mr. Zimmer failed to comply with the requirements of NRCP 16.1(a)(2)(B). This should have been deemed a **confession of error**. *See Ozawa*, 125 Nev. at 563, 216 P.3d at 793 (citing *Bates*, 100 Nev. at 682, 601 P.2d at 870).

Even if this Court looks past Chersus' failure to respond, it should nonetheless grant en banc reconsideration to maintain the uniform application of NRCP 16.1(a). Chersus attempted to absolve itself of any wrongdoing in its egregiously untimely and wholly insufficient expert witness disclosure, which failed to satisfy *any* of the requirements of NRCP 16.1(a)(2)(B). Chersus' expert report did not contain: any expert opinion(s) and the basis and reason for them (NRCP 16.1(a)(2)(B)(i)); the facts and data, or any exhibits, considered by the witness in forming its expert opinion(s) (NRCP 16.1(a)(2)(B)(ii)-(iii)); the witness' qualifications, list of publications, list of all other cases in which the witness testified as an expert, and a statement of the witness' compensation for the report and testimony (NRCP

[9] *See* Answering Brief at 52-56. Chersus is silent regarding Ocwen's challenge that Chersus' expert witness disclosure failed to comply with the requirements of NRCP 16.1(a)(2)(B).

16.1(a)(2)(B)(iv)-(vi)). And the record reflects that no questions were actually posed to Mr. Zimmer regarding his qualifications and experience with rental income valuation, his employment or his prior experience as an expert witness, if any. The only questions posed to Mr. Zimmer by Chersus' counsel were to inquire about how Mr. Zimmer "[ran] a summary report, a CMA." [XVIII:AA3546-47.] Mr. Zimmer responded "I put in all the different listings around the neighborhoods **and stuff**[.]" [*Id*. at AA3547, lines 2-3 (emphasis added).]

Permitting a party to absolve itself of compliance and then rewarding the noncompliance by awarding damages based on the improper expert witness disclosure would simply operate to set a negative precedent where litigants could disregard longstanding rules of civil procedure. Endorsing Chersus' lack of diligence and failure to comply with the expert witness disclosure requirements of NRCP 16.1(a)(2)(A)-(B) tacitly tells Chersus, its counsel and future litigants that it is an acceptable practice to not comply with discovery rules and then lie in wait to see if the opposing party objects. This creates a significant public policy concern and an inherent unfairness in the litigation process that was undoubtedly unintended by the Legislature when it placed affirmative disclosure obligations within NRCP 16.1 and provided numerous rules for sanctions against a party for its failure to comply with discovery disclosure requirements. *See* NRCP 16.1(e), NRCP 26(g), NRCP 37(c).

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III. CONCLUSION

For all the foregoing reasons, Ocwen respectfully requests that this Court grant the Petition for En Banc Reconsideration, thereby reversing the ruling of the district court granting summary judgment in favor of Chersus and against Ocwen, and directing the district court to enter judgment of quiet title in favor of Ocwen, confirming that the Deed of Trust was not extinguished by the HOA's foreclosure sale and that Chersus acquired its interest in the Property subject to the Deed of Trust.

DATED this 17th day of November, 2022.

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ATTORNEY'S CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6), because:

(a) This brief has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in Times New Roman, font size 14.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 40 because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is

(a) Proportionately spaced, has a typeface of 14 points or more, and contains 4,106 words.

DATED this 17th day of November, 2022.

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CERTIFICATE OF SERVICE

I certify that I electronically filed on the 17th day of November, 2022, the foregoing **PETITION FOR EN BANC RECONSIDERATION** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal either are registered with the CM/ECF or have consented to electronic service.

[X] (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

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Vernon A. Nelson, Esq.

[X] (Nevada) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Tonya Sessions
An Employee of WRIGHT, FINLAY & ZAK, LLP