IN THE SUPREME COURT OF THE STATE OF NEVADA

FIRST 100, LLC, a Nevada limited liability company; 1st ONE HUNDRED HOLDINGS, LLC, a Nevada limited liability company, Appellants vs. TGC/FARKAS FUNDING, LLC, Respondent.	Case No. 82794

APPEAL
from a decision in favor of Respondent
entered by the Eighth Judicial District Court, Clark County, Nevada
The Honorable Mark R. Denton, District Court Judge
District Court Case No. A-20-822273-C

APPELLANTS' REPLY BRIEF

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INTRODUCTION

In its Answering Brief, Respondent TGC/Farkas Funding, LLC contends that non-party Jay Bloom somehow had "standing" to be subjected to contempt proceedings and an alter ego ruling even though the underlying arbitration judgment was not issued against him and no alter ego cause of action was ever pursued, yet Appellants First 100, LLC and 1st One Hundred Holdings, LLC (collectively "First 100") lack "standing" to appeal all parts of the actual FFCL that the district court issued – even though First 100 is the only defendant in the underlying action. AB[1] at p. 30. This standing argument has no merit and is not supported by any applicable legal authority.

Next, Respondent TGC/Farkas Funding, LLC argues that non-party Bloom's contempt finding is based on his disobedience to a judgment that he was not personally subjected to, not a finding that he is First 100's alter ego. This is incorrect and contradicted by the actual language of the district court's FFCL, which found that Mr. Bloom was the "responsible party" for First 100, and he is purportedly the "alter ego" of First 100. AA1294-1295. Because there was never an alter ego cause of action brought, and that was not a designated topic for the evidentiary hearing, it was improper for the district court to find Mr. Bloom was the alter ego of First 100,

[1] "AB" refers to the Answering Brief submitted by Respondent.

and then use that as the basis for its decision to find Mr. Bloom *personally* in contempt of the arbitration order he was never subjected to. Additionally, it was improper to find that Mr. Bloom was the only responsible party for complying with the order on behalf of First 100.

Finally, Respondent TGC/Farkas Funding, LLC argues that the district court did not err in finding that the Settlement Agreement executed by Mr. Bloom on behalf of First 100 and by Matthew Farkas on behalf of TGC/Farkas Funding, LLC was unenforceable. According to TGC/Farkas Funding, LLC, the district court made a "credibility" determination as to all of Mr. Bloom's testimony on the Settlement Agreement. AB at p. 41. This is not accurate. The only credibility determination that the district court made in its FFCL was a limited one with respect to its finding that "the failure to produce even one record [in response to the arbitration order requiring the production of First 100 records] is not a credible excuse for [First 100's] disobedience of the order." AA1284.

Further, the evidence presented at trial indicated that TGC/Farkas Funding, LLC member Matthew Farkas did in fact have apparent authority to enter into the Settlement Agreement on behalf of TGC/Farkas Funding, LLC, especially in light of Adam Flatto's supplemental declaration dated August 13, 2020 and attached to the arbitration briefing, in which Flatto reneged on his prior representations that Matthew Farkas was not the manager of TGC/Farkas Funding, LLC, and instead

declared that "Matthew Farkas was, and still is, the 'Administrative Member' of [TGC/Farkas Funding, LLC], as that term is defined in the Operating Agreement." AA1064.

The TGC/Farkas Funding, LLC Operating Agreement defines "Administrative Member" as a manager of the company who is responsible for making "all business and managerial decisions for the company." AA1013. Moreover, Section 4.4 of the original "Limited Liability Company Agreement of TGC/Farkas Funding LLC" states that persons dealing with TGC/Farkas Funding, LLC "are entitled to rely conclusively upon the power and authority of the Administrative Member." AA1004. This is what Mr. Bloom relied on when discussing settlement with Matthew Farkas and coming to a resolution.

In an effort to boost its "fraud" argument regarding the Settlement Agreement (there was never a cause of action for fraud and no fraud claim was litigated during the evidentiary hearing) TGC/Farkas Funding, LLC goes far beyond merely reciting the district court's FFCL and alleges that First 100's counsel MGA "concealed the Settlement Agreement from TGC/Farkas Funding, LLC." AB 17. This was never a finding made by the district court, and is a huge overreach by TGC/Farkas Funding, LLC. The Settlement Agreement was attached in full to First 100's motion to enforce settlement, and TGC/Farkas Funding, LLC had complete access to it when conducting depositions and participating in the evidentiary hearing, so the notion

that MGA, or First 100, or anyone else, somehow "concealed" the Settlement Agreement from TGC/Farkas Funding, LLC is disingenuous.

Finally, the findings that the Settlement Agreement lacked a meeting of the minds and consideration were also made in error. Matthew Farkas had apparent authority to execute the Settlement Agreement, the material terms of the agreement are clearly stated, Matthew Farkas had the opportunity to make any changes he wanted to the Settlement Agreement (he admittedly chose not to make any changes), and admittedly nobody (including Jay Bloom) forced Mr. Farkas to sign off on the Settlement Agreement.

As for consideration, the Settlement Agreement specifically states that $1,000,000 will be paid to TGC/Farkas Funding, LLC, plus 6% interest. AA0167-169. Such payment will be made upon the sale of the Ngan Judgment. *Id.* The district court found that the consideration as inadequate because it does not go "beyond what [TGC/Farkas Funding, LLC] could ostensibly already be entitled to recover from First 100 following a sale of the Ngan Judgment." AA1279. But contrary to the district court's findings, First 100's Operating Agreement does not afford TGC/Farkas Funding, LLC to pro rata distributions. Members of First 100 are not entitled to a specific percentage of revenues; they are potentially entitled to profits or distributions of the company. AA0022. Thus, the consideration factor was not properly analyzed by the district court.

As set forth in the Opening Brief, the district court erred in (1) holding that non-party Jay Bloom was financially responsible for the failure to abide by an Arbitration order that he was never personally subjected to due to his unfounded status as the "alter ego" of First 100 (which was never a cause of action); and (2) holding that the Settlement Agreement was unenforceable.

The district court disregarded evidence showing that Mr. Farkas did in fact have apparent authority to bind TGC/Farkas Funding, LLC as its Administrative Member, and erred in finding that the settlement agreement was not negotiated in good faith and was not supported by consideration. It also erred in making an alter ego determination when that was not a cause of action, and using that as a basis to find non-party Jay Bloom in contempt of an order to which he was not subjected.

These errors warrant reversal of the district court's FFCL.

ARGUMENT

I. FIRST 100 HAS LEGAL STANDING TO CHALLENGE THE FFCL

To be clear, the only parties to the underlying action were TGC/Farkas Funding, LLC and First 100. It therefore follows that First 100 has standing to appeal the district court's FFCL, including the finding that "[First 100] and Bloom disobeyed and resisted the [Arbitration] Order in contempt of Court." AA1337.

Nevertheless, TGC/Farkas Funding, LLC insists that First 100 is not the real party in interest because Mr. Bloom (who was never a party in the underlying action)

did not file his own case appeal statement or Opening Brief. AB at p. 30. This argument is faulty and tellingly unsupported by any actual legal authority with a similar fact pattern. NRCP 17(a) provides that every "action must be prosecuted in the name of the real party in interest." "A real party in interest is one who possesses the right to enforce the claim and has a significant interest in the litigation. The inquiry into whether a party is a real party in interest overlaps with the question of standing." *Arguello v. Sunset Station, Inc.*, 127 Nev. 365, 368, 252 P.3d, 206 208 (2011) (internal citation and quotation marks omitted).

Here, First 100 has a significant interest in <u>all</u> of the findings of fact and conclusions of law issued by the district court in the underlying matter. Naturally, any finding that Mr. Bloom is in contempt, along with the finding that "[First 100] and Bloom are jointly and severally responsible for the payment of all the reasonable fees and costs incurred by [TGC/Farkas Funding, LLC] since entry of the Order for the purpose of coercing compliance with the Order in order to make them whole, inclusive of responding to the Motion to Enforce and bringing the Motion to Compel," is going to affect First 100 as it relates to the financial burden to purge the contempt. AA1338.

There is simply no support for TGC/Farkas Funding, LLC's argument that "First 100 has not been aggrieved by the finding that Bloom was in contempt and jointly and severally liable for the contempt sanctions." AB at p. 30. First 100 has

been aggrieved, as any "joint and several" ruling affecting First 100 gives First 100 a significant interest and a basis to appeal, as it has done here.

The *Detwiler* case that TGC/Farkas Funding, LLC relies on is not applicable. In *Detwiler v. Eighth Jud. Dist. Ct. in & for Cty. of Clark*, 137 Nev. Adv. Op. 18, 486 P.3d 710, 718 (2021), the district court specifically ordered Detwiler (who was a non-party but an agent of third-party claimant Harry Hildibrand, LLC ("HH") who voluntarily entered the litigation) to turn over vehicles "on penalty of contempt." *Id.* at 714 (2021). Detwiler and HH then violated that order that he was specifically subjected to, and thereafter were held in civil contempt of court for refusing to turn the vehicles over. *Id.* at 714 (2021).

The district court then ordered Detwiler to "pay the Bank's attorney fees incurred since HH filed its NRS Chapter 31 third-party claim to the Motorcoach in March 2018." Further, the district court imposed an additional fine of $100,000 payable to the Bank, which it explained was a fraction of the cars' value. *Id.* at 715 (2021). This Court ultimately held that the time-frame for the fees was improper, as well as the additional $100,000 sanction, but upheld the remainder of the contempt ruling. *Id.* at 721-722 (2021).

Detwiler was apparently the only one who ultimately opted to file a writ petition to request review of that contempt order. However, and crucially, that writ petition in *Detwiler* did not involve the question of whether Detwiler was the proper

party to pursue that writ. No legal authority has been submitted by TGC/Farkas Funding, LLC indicating that Mr. Bloom was required to file a writ petition to request review of the FFCL.

Indeed, there is actually an argument to be made that because he was never a party to the underlying litigation, Mr. Bloom would *not* be able to pursue his own appeal. *See Jones v. Terra Contracting, Inc.*, 126 Nev. 729, 367 P.3d 788 (2010) ("Appellants were never parties to the action below as trustees of the dissolved corporation. Therefore, they are not "aggrieved parties" under NRAP 3A(a) and do not have standing to challenge the final judgment.").

It is also worth looking at this Court's analysis in *Detwiler* on whether an alter ego relationship was properly found between HH and an individual party to the action without any alter ego independent action being made. *Detwiler*. at 718 (2021). This Court ruled that "Even if the district court did make an alter-ego finding—which is far from clear—due process would not be violated because HH entered this lawsuit of its own volition." *Id.* at 718 (2021). This case is different, as Mr. Bloom did <u>not</u> enter this lawsuit at all of his own volition. He was never a party or an attempted intervenor.

As such, this Court's ruling in *Detwiler* only provides further support for the argument that the alter ego finding was made in error.

II. MR. BLOOM'S CONTEMPT ORDER WAS BASED ON THE ALTER EGO FINDING

Respondent TGC/Farkas Funding, LLC also implies that the district court's alter ego finding has nothing to do with the contempt order. AB at p. 40. This is improper. In the FFCL, the district court ordered that Mr. Bloom was the "responsible party" for complying with the Arbitration Order on behalf of First 100, which the district court ruled applies particularly here "***when there are no formalities being followed*** and, at least at this juncture, Bloom is the alter ego of [First 100]." AA1334 (emphasis added). The following of formalities refers to the alter ego analysis. The district court then went into its alter ego analysis (which generally involved the finding that First 100 is influenced and governed by the same person but no other findings as to the other alter ego factors), and ordered that "equity must be applied such that Bloom will not be immune from consequences for his intentional conduct for the purpose of disobeying and/or resisting the Order." AA1335-1336.

Time and again, this Court has held that a "mere showing that one corporation is owned by another, or that the two share interlocking officers or directors is insufficient to support a finding of alter ego." *Bonanza Hotel Gift Shop, Inc. v. Bonanza No. 2,* 95 Nev. 463, 466, 596 P.2d 227, 229 (1979).

Despite that, the district court ruled that "in addition to the 'responsible party' rule that applies to contempt, there should be no immunity for liability when, as here,

Bloom is [First 100's] alter ego." AA1336.

Accordingly, the district court did in fact base its contempt ruling on an improper alter ego finding that should have never been made because Mr. Bloom was not put on notice of any alter ego cause of action. *See Callie v. Bowling*, 123 Nev. 181, 183, 185, 160 P.3d 878, 880–81 (2007) (holding that a motion to amend a judgment was not the correct procedure to allege an alter ego claim when the defendant who is subject to the alter ego claim was not part of the original complaint, as procedural due process safeguards required notice and an opportunity to be heard).

The district court also based its contempt order to Mr. Bloom on its "responsible party" analysis, which as detailed in the Opening Brief was improper, as that reasoning came from non-binding federal court cases which are not factually analogous to this case.

Further, Mr. Bloom explicitly testified that when First 100 wound up its operations in 2017, "Michael Henriksen, the [former First 100] financial controller . . . did take the . . . accounting computer to safeguard the information. And has that in his possession. The documents that they requested, would need to be reconstructed by Michael Henriksen." AA0941-942. Far from obstructing the district court's order confirming the Arbitration Award, Mr. Bloom testified that he conferred with Mr. Henriksen about compiling the business records, and Mr. Henriksen prepared

an outline as to what would need to be collected and sought further clarification from TGC/Farkas Funding, LLC's counsel as to funding and the timeline for such production. AA0942; AA1092-1093.

Ultimately, TGC/Farkas Funding, LLC refused to make any payment despite the fact that no court order stating TGC/Farkas Funding, LLC is absolved from having to pay for the production of books and records pursuant to First 100's Operating Agreement. AA0032-33. Mr. Bloom testified that First 100 "never denied [TGC/Farkas Funding, LLC] access" to the books and records documents from the time of the arbitration award and forward, it simply clarified that the company does not have bank accounts, much less any capital to pay the third-party (Mr. Henriksen) in possession of and responsible for compiling the records. AA0943.

Respondent TGC/Farkas Funding, LLC has proven unable or unwilling to accept the fact that the district court relied on both its "responsible party" analysis and its "alter ego" analysis in finding First 100 in contempt, choosing instead to merge the two concepts and insist that courts can "reach through the corporate veil" in making a "responsible party" finding, which is improper and only serves to conflate these issues. AB at p. 33.

Contrary to TGC/Farkas Funding, LLC's arguments otherwise, the district court did abuse its discretion in finding Mr. Bloom in contempt, especially as Mr. Bloom had no real "authority" or "power" to obtain corporate documents not in his

possession, as the First 100 business has not been operational since about 2017, and therefore has no office, no employees, no active bank accounts, no cash, and only a single asset in the form of a substantial judgment against an individual that breached a funding commitment to the company. AA0920. This is a unique situation where the controller, Michael Henriksen was in a unique position of having possession of and the ability to produce responsive records – not Mr. Bloom himself. AA0854.

Finally, First 100 is not arguing that NRS 86.371 "shields" Mr. Bloom from contempt, as TGC/Farkas Funding, LLC argues (AB at p. 36), but rather that NRS 86.371 needs to be considered in conjunction with any "responsible party" analysis that this Court determines applies (if any applies). A hardline rule on the ability to arbitrarily designate a company's member or manager as the "responsible party" and make that member of manager subject to persona contempt proceedings for failures or deficiencies on the part of the company would eviscerate the purpose of NRS 86.371, which states that "[u]nless otherwise provided in the articles of organization or an agreement signed by the member or manager to be charged, no member or manager of any limited-liability company formed under the laws of this State is individually liable for the debts or liabilities of the company."

Accordingly, the district court erred in both (1) its alter ego analysis; and (2) its responsible party analysis, which led to the error of finding Mr. Bloom in contempt and deeming him financially responsible for TGC/Farkas Funding, LLC's

attorneys' fees and costs.

III. MR. BLOOM WAS DENIED DUE PROCESS

TGC/Farkas Funding, LLC argues that Mr. Bloom "failed" to argue that he was wrongfully part of the contempt proceedings and being denied due process rights. AB at p. 39. This is false.

In its response to the motion for an order to show cause, First 100 adamantly argued that Mr. Bloom should not and is not even part of the underlying litigation:

> No judgment was obtained against Mr. Bloom in this action, therefore Mr. Bloom has zero personal liability for the judgment obtained against First 100, LLC and First One Hundred Holdings, LLC. Further, no alter ego findings were made in the action as it relates to Mr. Bloom and First 100, LLC and First One Hundred Holdings, LLC, and Mr. Bloom obviously would have made arguments establishing the lack of any alter ego relationship had he been put on notice of any such allegation which was never made.
>
> Nevertheless, Plaintiff is attempting to unilaterally pierce the corporate veil without having ever successfully obtained an alter ego finding, and without ever lodging an alter ego claim where Plaintiff would have been required to prove the existence of an alter ego relationship pursuant to the factors set forth in *LFC Marketing Group, Inc. v. Loomis*, 116 Nev. 896, 904, 8 P.3d 841, 846 (2000).

AA0211. There was no waiver of the argument, as it has always been clear in the underlying litigation that Mr. Bloom took issue with the lack of due process being afforded to him, especially as it related to the rogue alter ego arguments that were being made despite the lack of any corresponding alter ego cause of action.

While he put on evidence on behalf of First 100, Mr. Bloom was not entitled

to put on evidence on behalf of himself during the evidentiary hearing, or to conduct discovery during the discovery period prior to the hearing, nor was he on notice that he would potentially be subjected to an alter ego finding and personally liable for a fees and costs. Mr. Bloom was not able to take depositions or file dispositive motions as to himself personally, and was therefore precluded from exercising his right to due process under Section 1 of the Fourteenth Amendment to the Constitution of the United States. The district court only allowed the "parties" to conduct up to four depositions each – not the parties *and* Mr. Bloom. AA0737. Had Mr. Bloom been permitted to conduct his own discovery, he would have questioned TGC/Farkas Funding, LLC's members on the basis of their alter ego arguments and assumptions with respect to First 100 and Mr. Bloom.

Mr. Bloom's denial of his due process rights should not be overlooked, as every step of the way he was "treated" as a defendant (being served, being ordered to show cause why he should not be found in contempt) without being given the evidentiary and procedural due process rights of an actual party.

IV. THE SETTLEMENT AGREEMENT SHOULD HAVE BEEN ENFORCED

Respondent TGC/Farkas Funding, LLC contends that the district court's determination that the Settlement Agreement was unenforceable was "not clearly erroneous and its decision not to enforce the Settlement Agreement was not an abuse of discretion." AB at p. 41. This is wrong on both counts.

In support of its argument, TGC/Farkas Funding LLC urges this Court to disregard all of Mr. Bloom's testimony, and claims that the district court made a "credibility determination" regarding Mr. Bloom's testimony on the Settlement Agreement. AB at p. 41. In reality, the only "credibility determination" that the district court made was a limited one with respect to its finding that "the failure to produce even one record [in response to the arbitration order requiring the production of First 100 records] is not a credible excuse for [First 100's] disobedience of the order." AA1284. There was no wholesale finding from the district court that it would be disregarding all of Mr. Bloom's trial testimony. Thus, there is no issue with this Court reviewing that same testimony and determining if errors were made on the Settlement Agreement analysis.

Next, as set forth in the Opening Brief, Matthew Farkas did have apparent authority to execute the Settlement Agreement. It is important to look at the timeline of TGC/Farkas Funding, LLC first denying that Matthew Farkas was a manager with signing authority, and then completely retracting that in an declaration authored by Adam Flatto.

On July 13, 2017, TGC/Farkas Funding, LLC's counsel sent correspondence to First 100's counsel claiming that Mr. Farkas "is not the manager of TGC/Farkas Funding, LLC" and "does not have authority to bind TGC/Farkas Funding, LLC." AA1068. Three years later, Adam Flatto of TGC/Farkas Funding, LLC expressly

refuted that contention in a declaration dated August 13, 2020, in which he admitted that as of that point (August 2020), Mr. Farkas "was, and still is, the 'Administrative Member' of TGC/Farkas Funding, LLC," who does in fact have the power to bind TGC/Farkas Funding, LLC after consulting with all members. AA1064.

Matthew Farkas' status as the Administrative Member of TGC/Farkas Funding, LLC is imperative, as Mr. Bloom testified that based on Adam Flatto's August 2020 declaration (which was never withdrawn or amended), along with Mr. Farkas' representations as the agent that the settlement agreement was what Adam Flatto wanted, First 100 objectively accepted both of those representations in believing that Mr. Farkas had authority to act for TGC/Farkas Funding, LLC. AA09064. As Mr. Bloom testified, "Up to and through the signing of the settlement agreement . . . Matthew [Farkas] represented he had authority . . . As of the time the settlement agreement was signed, we understood Matthew [Farkas] to be the manager [of TGC/Farkas Funding, LLC, and Matthew [Farkas] continued to represent he was the manager, both in conversations and in a series of documents. AA0931-932.

Pursuant to Mr. Bloom's objectively reasonable reading of Adam Flacco's own declaration, Mr. Farkas was in fact an Administrative Member of TGC/Farkas Funding, LLC at the time the settlement negotiations were taking place, and Mr. Bloom understood that Mr. Farkas would be able to bind that TGC/Farkas Funding,

LLC as long as he complied with his obligations under the TGC/Farkas Funding, LLC Operating Agreement.

Accordingly, Adam Flatto's declaration (which went unacknowledged in the district court's FFCL) provided the subjective believe from Mr. Bloom that Matthew Farkas had authority to act for TGC/Farkas Funding, LLC, and that subjective belief was entirely reasonable in that it came directly from a representation made by Adam Flacco. *See Great Am. Ins. Co. v. Gen. Builders, Inc.*, 113 Nev. 346, 352, 934 P.2d 257, 261 (1997).

Just as the district court did, TGC/Farkas Funding, LLC heavily relies on the September 2020 amendment to the TGC/Farkas Funding, LLC operating agreement, which provided that TGC 100 managed by Flatto had "full, exclusive, and complete discretion, power and authority" . . . "to manage, control, administer and operate the business and affairs of [TGC/Farkas Funding, LLC]." AA1271. However, it is undisputed that at no point before the Settlement Agreement was executed did either Mr. Flatto or Mr. Farkas provide that amendment to Jay Bloom or anyone else at First 100. Indeed, it was not until later in January 2020 (after the Settlement Agreement was signed) that Mr. Bloom even saw that amendment for the first time. AA0933.

While TGC/Farkas Funding, LLC contends that First 100 acted to "defraud" TGC/Farkas Funding, LLC and the district court (AB at p. 46) it is important to

remember that there was no cause of action for fraud being disputed during the evidentiary hearing. Moreover, the manner in which Mr. Bloom went about conversing with Mr. Farkas, preparing a Settlement Agreement, and giving MR. Farkas the space to review and sign that Settlement Agreement on his own, is in no way "defrauding" any party. Accordingly, the arguments from TGC/Farkas Funding, LLC as to a "fraud" and a "scheme" and "duress" are all red herrings.

There was also adequate consideration for the Settlement Agreement. The Settlement Agreement specifically states that $1,000,000 will be paid to TGC/Farkas Funding, LLC, plus 6% interest. AA0167-169. Such payment will be made upon the sale of the Ngan Judgment. *Id.* The district court found that the consideration as inadequate because it does not go "beyond what [TGC/Farkas Funding, LLC] could ostensibly already be entitled to recover from First 100 following a sale of the Ngan Judgment." AA1279. But contrary to the district court's findings, First 100's Operating Agreement does not afford TGC/Farkas Funding, LLC to pro rata distributions. Members of First 100 are not entitled to a specific percentage of revenues; they are potentially entitled to profits or distributions of the company. AA0022.

Accordingly, the district court's failure to make any findings whatsoever with respect to the role that the August 2020 Flatto declaration had in creating apparent authority for Matthew Farkas to act as the Administrative Member of TGC/Farkas

Funding, LLC, along with the balance of the evidence indicating that apparent authority existed and the Settlement Agreement was negotiated in good faith with adequate consideration, all support a finding of error by the district court with respect to the motion to enforce the Settlement Agreement.

CONCLUSION

Based on the foregoing, this Court should find that the district court erred in (1) holding Jay Bloom to be the alter ego of First 100; (2) holding Jay Bloom to be jointly and severally liable for the six-figure attorneys' fees and costs award issued to TGC/Farkas Funding, LLC as a contempt sanction when he was never a party to the case who was subjected to the order confirming the Arbitration Award; and (3) denying the motion to enforce the Settlement Agreement. This Court should reverse the district court's FFCL accordingly.

DATED this 15th day of December, 2021.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE PURSUANT TO NRAP 28.2

I hereby certify that I have read this reply brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Rules of Appellate Procedure, and in particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found. I further 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 it has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point Times New Roman. I further certify that this brief complies with the page limitations of NRAP 32(a)(7)(A)(ii) because it does not exceed 7,000 words, as this brief contains 5,280 words.

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

DATED this 15th day of December, 2021.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 15th day of December, 2021, this document was electronically filed with the Nevada Supreme Court. Electronic service of the foregoing: **APPELLANTS' REPLY BRIEF** shall be made in accordance with the Master Service List as follows:

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