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Nov 22 2021 04:39 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**SUPREME COURT
STATE OF NEVADA**

COMPLETE CARE CONSULTING, LLC,

Appellant,

vs.

SHANNON M. CHAMBERS, in her capacity
as the Labor Commissioner of the State of
Nevada; and the STATE OF NEVADA,
OFFICE OF THE LABOR COMMISSIONER,

Respondents.

APPELLANT'S APPENDIX

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Las Vegas, Nevada 89148
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Attorneys for Appellant Complete Care Consulting, LLC

AFFIRMATION

The undersigned does hereby affirm that this document DOES NOT contain the Social Security Number of any person.

DATED November 22, 2021

/S/ BRIAN MORRIS
BRIAN MORRIS

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(b), I certify that on November 22, 2021, I electronically filed the preceding document and the appendix with the Clerk of the Court by using the e-filing system, which will send a notice of electronic filing to Ms. Nichols.

DATED November 22, 2021

/S/ BRIAN MORRIS
BRIAN MORRIS

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1 Code: \$3550
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7 Attorney for Complete Care Consulting, LLC

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
10
11 IN AND FOR THE COUNTY OF WASHOE

12 COMPLETE CARE CONSULTING, LLC,)
13)
14 Petitioner/Plaintiff,)
15)
16 vs.) Case No.
17)
18 SHANNON M. CHAMBERS, in her capacity) Dept. No.
19 as the Labor Commissioner of the State of)
20 Nevada; and the STATE OF NEVADA,)
21 OFFICE OF THE LABOR COMMISSIONER,)
22)
23 Respondents/Defendants.)
24)

25
26 **PETITION FOR JUDICIAL REVIEW**
27 **and REQUEST FOR TRIAL DE NOVO**
28

29 Comes Now, Petitioner/Plaintiff Complete Care Consulting, LLC, by and through
30 undersigned counsel and files this Petition for Judicial Review, for a Trial De Novo, and related
31 actions.

- 32 1. This action is brought pursuant to N.R.S. § 607.215 and N.R.S. § 233B.130.
- 33 2. **A Trial De Novo is proper and is requested pursuant to N.R.S. § 607.215(3).**
- 34 3. The Office of the Labor Commissioner (“OLC”) purportedly issued a Subpoena to
35 Complete Care on August 11, 2020.
- 36 4. The OLC later issued a Determination against Complete Care Consulting, LLC
37 (“Complete Care”) on September 17, 2020 (Case #: NLC-20-003290).
- 38 5. Complete Care filed an Objection to the Determination, and requested a hearing on
39 October 2, 2020.

6. The OLC did not address Complete Care's objections, denied its request for a hearing, and issued its Final Order on November 12, 2020.
7. The Final Order against Complete Care, including an Administrative Penalty, totals more than One Hundred Fifty Thousand Dollars (\$150,000).
8. The entire process by the OLC, including its Determination and its Final Order, violated Complete Care's rights to due process.
9. The aforementioned procedures and decisions (decisions), including the Final Order, were not supported by the law.
10. Said decisions were based upon, and made after Complete Care's rights to due process were violated.
11. The OLC did not follow required processes, procedures, and legal obligations.
12. Said decisions were made and based upon unlawful procedure(s), and violated statutory, legal, and/or constitutional provisions or requirements.
13. Said decisions were not supported by proper, relevant and/or substantial evidence.
14. Said decisions were an abuse of discretion.
15. Said decisions were arbitrary and/or capricious.
16. Said decisions were erroneous and a clear error of law.
17. Said decisions should be reversed.
18. Complete Care has been required to hire an attorney to properly assert its rights and should be awarded fees and costs.

Affirmation

I certify that this filing does not contain the social security number of any person.

Dated this 14th day of December, 2020.



Brian R. Morris, Esq.
Attorney for Petitioner/Plaintiff

2315

AARON D. FORD
Attorney General
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Attorneys for Respondents

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

COMPLETE CARE CONSULTING, LLC.,

Petitioner,

vs.

SHANNON M. CHAMBERS, in her
capacity as the Labor Commissioner of the
State of Nevada and the STATE OF
NEVADA, OFFICE OF THE LABOR
COMMISSIONER,

Respondents.

Case No. CV20-02009

Dept. No. 6

**MOTION TO DISMISS FOR FAILURE TO EXHAUST ADMINISTRATIVE
REMEDIES**

Respondent, the State of Nevada ex rel. its Labor Commissioner, by and through
counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Andrea Nichols,
Senior Deputy Attorney General, hereby submits its Motion to Dismiss For Failure to
Exhaust Administrative Remedies. This Motion is made and based on the following Points
and Authorities together with the papers and pleadings on file herein.

POINTS AND AUTHORITIES

I. Introduction

Respondent, Nevada Labor Commissioner ("Labor Commissioner") requests this
Court dismiss Petitioner's Petition for Judicial Review because Petitioner, Complete Care

Consulting, LLC (“Complete Care”) failed to exhaust administrative remedies prior to seeking judicial review in this court.

II. Facts

The Office of the Labor Commissioner received an informal Complaint regarding Complete Care’s business operations, and commenced an investigation. After auditing Complete Care’s records, the Labor Commissioner issued a Final Order Setting Forth Findings of Fact and Conclusions of Law on November 12, 2020.

The Labor Commissioner received timely objections to the Final Order. Therefore, on January 6, 2021, the Labor Commissioner set the matter for a hearing to commence on January 28, 2021. Exhibit “1” attached hereto.

Complete Care filed its Petition for Judicial Review on December 14, 2020 but did not serve it until January 25, 2021. On January 26, 2021, Complete Care submitted a Notice of Want of Jurisdiction with Request to Vacate Hearing Set for January 28, 2021. Exhibit “2” attached hereto. That same day, January 26, 2021, the Labor Commissioner issued an Order vacating the hearing. Exhibit “3” attached hereto.

III. Argument

Rule 12(b)(5) of the Nevada Rules of Civil Procedure allows a party to move for dismissal based upon failure to state a claim upon which relief can be granted. This matter is not justiciable because Complete Care has not exhausted administrative remedies. Accordingly, dismissal is appropriate.

The doctrine of failure to exhaust administrative remedies is well established in Nevada. “Whether couched in terms of subject-matter jurisdiction or ripeness, a person generally must exhaust all available administrative remedies before initiating a lawsuit, and failure to do so renders the controversy nonjusticiable. *Allstate Insurance Co. v. Thorpe*, 123 Nev. 565, 571-72, 170 P.3d 989, 993-94 (2007). “The ‘exhaustion doctrine’ is sound judicial policy. If administrative remedies are pursued to their fullest, judicial intervention may become unnecessary.” *First American Title v. County of Douglas*, 91 Nev. 804, 806, 543 P.2d 1344, 1345 (1975). The administrative review process provides the

1 district court with a fully developed record and administrative decision including factual
2 findings by an administrative body with expertise in a particular area. *Benson v. State*
3 *Engineer*, 131 Nev, 772, 780, 358 P.3d 221, 226 (2015) citing to *Malecon Tobacco, LLC v.*
4 *State ex rel. Dep't of Taxation*, 118 Nev. 837, 840–41, 59 P.3d 474, 476 (2002). “Indeed,
5 resolving labor law complaints is perhaps one of the Labor Commissioner’s most significant
6 enforcement mechanisms. In this manner, the Labor Commissioner’s expertise is
7 optimized, and the parties then have an opportunity to petition the district court for judicial
8 review and, ultimately, appeal to [the Nevada Supreme] court.” *Baldonado v. Wynn Las*
9 *Vegas, LLC*, 124 Nev. 951, 963, 194 P.3d 96, 104 (2008).

10 Nevada law provides for administrative review by the Labor Commissioner. Briefly,
11 the Office of the Labor Commissioner is created by NRS 607.010. Pursuant to NRS
12 607.160, “[T]he Labor Commissioner shall enforce all labor laws of the State of Nevada. . .”
13 NRS 607.170 allows the Labor Commissioner to prosecute claims for wages and
14 commissions. The Labor Commissioner or her designee conducts hearings pursuant to NRS
15 607.207 and issues decisions pursuant to NRS 607.215. Here, Petitioner, Complete Care,
16 failed to exhaust administrative remedies since it did not participate in a hearing before
17 the Labor Commissioner prior to seeking judicial review.

18 Petitioner’s failure to exhaust administrative remedies makes this matter
19 nonjusticiable. Accordingly, dismissal of Complete Care’s Petition for Judicial Review is
20 warranted.

21 **IV. Conclusion**

22 In light of Petitioner, Complete Care Consulting, LLC’s failure to exhaust
23 administrative remedies, the Labor Commissioner respectfully requests that this Court
24 enter an order dismissing this action.

25 ///

26 ///

27 ///

28 ///

AFFIRMATION
(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding document, *Motion To Dismiss For Failure To Exhaust Administrative Remedies*, does not contain the social security number of any person.

Respectfully Submitted this 9th day of February 2021.

AARON FORD
Attorney General

By: /s/ Andrea Nichols
ANDREA NICHOLS, Bar No. 6436
Senior Deputy Attorney General

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Page 5 of 6

EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION	Number of Pages (Excluding tabs)
1	Notice of Hearing	4
2	Notice of Want of Jurisdiction with Request to Vacate Hearing Set for January 28, 2021	4
3	Order Vacating Hearing Set for January 28, 2021	2

EXHIBIT 1

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Clerk of the Court
Transaction # 8286760 : yvitoria

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EXHIBIT 1

1 **BEFORE THE NEVADA STATE LABOR COMMISSIONER**
2 **CARSON CITY, NEVADA**

3
4
5
6 **IN THE MATTER OF:**

NLC-20-003290

7 **OFFICE OF THE LABOR COMMISSIONER**
8 **/LABOR COMMISSIONER,**

9 **Complainants,**

10 **v.**

11 **COMPLETE CARE CONSULTING, LLC.,**

12 **Respondent.**

FILED

JAN 06 2021

NEVADA
LABOR COMMISSIONER-CC

13 **NOTICE OF HEARING**

14 This matter comes before the Office of the Labor Commissioner/Labor
15 Commissioner (OLC/LC) in response to Complaints filed against Complete Care
16 Consulting for alleged complaints of misclassification of employees as independent
17 contractors. A subpoena was issued on August 11, 2020, and a Determination was
18 issued by the OLC/LC on September 17, 2020, with regard to failure to pay overtime.
19 A Final Order was issued on November 12, 2020. Timely objections have been filed
20 with regard to the Office of the Labor Commissioner.

21 **HEARING**

22 A Hearing is now set before Labor Commissioner Shannon M. Chambers.

23 Therefore, IT IS HEREBY ORDERED that:

- 24 1. **Hearing.** A hearing in the above-captioned matter shall commence on
25 **Thursday, January 28, 2021, at 10:00 AM at the Office of the Labor**
26 **Commissioner, 1818 College Parkway, Suite 102, Carson City,**
27 **Nevada 89706,** and continue thereafter as deemed necessary by the
28 OLC/LC. Prior to the hearing on January 28, 2021, the OLC/LC will

1 advise the parties if the hearing will be an in person hearing or a hearing
2 conducted by electronic means and/or videoconference, or other web-
3 based hearing platform. Pursuant to Governor Sisolak's Declaration of
4 Emergency Directive 006 issued on March 22, 2020, certain
5 requirements of Nevada's Open Meeting Law were suspended, in
6 addition to some in-person meetings based on the COVID-19 public
7 health emergency.

8 **2. Issues.**

9 **A. Is Complete Consulting, LLC's staff being classified**
10 **correctly.**

11 **B. Is Complete Consulting, LLC. paying its employees the**
12 **appropriate overtime pursuant to NRS Chapter 608 and NAC**
13 **Chapter 608.**

14 **3. Witness List/Disclosures:** Each party shall exchange its witness list
15 and disclosures, with one another, no later than January 21, 2021. The
16 exchange of witness list and disclosures between the parties may be
17 done electronically via email. A hard copy of the witness lists and
18 disclosures *must* also be filed with the Office of the Labor
19 Commissioner, 1818 College Parkway, Suite 102, Carson City, Nevada
20 89706, no later than January 21, 2021.


21 **4. Order of Proceeding:** The order of the proceeding will be pursuant to
22 NAC 607.360. However, the Labor Commissioner may authorize a
23 different order of the proceeding if it is more expeditious or justified
24 based on the availability of the parties or witnesses.

25 **5. Record of Proceeding.** Pursuant to NAC 607.510, the Commissioner
26 will cause a record to be made of all formal hearings. Parties desiring a
27 copy of a transcript may request a copy from the OLC upon payment of
28 the proper fee.

///

However, parties may agree to use the services of a court reporter to facilitate a more accurate record of the hearing and if so desired, it is the responsibility of the parties to 1) arrange to have a court reporter present throughout all proceedings of the above-scheduled hearing, and 2) arrange for payment of said court reporter's services.

Dated this 6th day of January, 2021.


Sharon M. Chambers
Labor Commissioner
State of Nevada

1 **CERTIFICATE OF MAILING**

2 I, Rosiland M. Hooper, do hereby certify that I mailed a true and correct copy of
3 the foregoing **NOTICE OF HEARING**, via the United States Postal Service, Carson
4 City, Nevada, in a postage-prepaid envelope to the following:

5 Brian R. Morris, Esq.
6 Law Firm of Brian R. Morris
7 5455 So. Apache Road, #108-151
8 Las Vegas, Nevada 89148
9 *Counsel for Complete Care Consulting, LLC.*

10 Dated this 6th day of January, 2021.

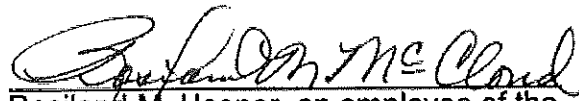
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12 Rosiland M. Hooper, an employee of the
13 Nevada State Labor Commissioner
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EXHIBIT 2

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Clerk of the Court
Transaction # 8286760 : yvitoria

EXHIBIT 2

BEFORE THE NEVADA STATE LABOR COMMISSIONER
CARSON CITY, NEVADA

IN THE MATTER OF:) Case No. NLC 20-003290
OFFICE OF THE LABOR COMMISSIONER,)
Claimant,)
vs.)
COMPLETE CARE CONSULTING, LLC,)
Respondent,)

**NOTICE OF WANT OF JURISDICTION WITH REQUEST TO VACATE
HEARING SET FOR JANUARY 28, 2021**

The Commissioner lacks jurisdiction because Respondent filed a petition for judicial review of the Commissioner's Final Order. Hence, the hearing should be vacated.

A petition for judicial review must "[b]e filed within 30 days after service of the final decision of the agency." NRS 233B.130(2)(d). "If the agency's decision is served by mail pursuant to NRCP 5(b)(2)(B), NRCP 6(e) adds three days to the time period for filing a petition for judicial review." *Mikohn Gaming v. Espinosa*, 122 Nev. 593, 598, 137 P.3d 1150, 1154 (2006). The time limit is jurisdictional. ". . .NRS 233B.130 is jurisdictional in nature. . ." *Bing Constr. Co. v. Nevada Dep't of Taxation*, 817 P.2d 710, 711 (Nev. 1991).

On November 12, 2020, the Commissioner entered its final order and served it by mail. On Monday, December 14, 2020, Respondents timely filed a petition for judicial review (Case No. CV20-02009, Second Judicial District Court, state of Nevada).¹ See Petition for Judicial Review attached hereto. On January 6, 2021, the Commissioner mailed a notice of hearing set to occur on January 28, 2021.

¹ Even without the three additional days for service by mail, the petition was timely filed due to the 30th day following the mailing of the Final Order fell on a weekend. NRCP 6(a)(1)(C)

1 The hearing cannot go forward because the Commissioner lost jurisdiction when
2 Respondent filed its petition for judicial review.

3 The law is uniform that the filing of a petition for judicial review of an administrative final
4 order divests the agency of jurisdiction. “[T]he filing of a proper petition for judicial review divests
5 the agency of jurisdiction. . .” *Christiansen v. Iowa Bd. of Educ. Examiners*, 831 N.W.2d 179, 190
6 (Iowa 2013). “The law is clear, however, that a petition for judicial review divests an
7 administrative agency of jurisdiction to reconsider its decision.” *Friends of Croom Civic Ass’n v.*
8 *Prince George’s County Planning Bd.*, 2017 Md. App. LEXIS 486 at *5 (Md. App. 2017). “[A]s a
9 general rule the filing of a notice of appeal seeking judicial review divests an administrative agency
10 of jurisdiction. . .” *Anstine v. Churchman*, 74 P.3d 451, (Colo. App. 2003) citing and quoting
11 *Fiebig v. Wheat Ridge Reg’l Ctr.*, 782 P.2d 814 (Colo. App. 1989).

12 Therefore, the hearing should be vacated as the Commissioner had no jurisdiction to set the
13 hearing, issue the notice, or to hold any hearing.

14
15 Dated this 26th day of January, 2021.

16
17
18 

19 Brian R. Morris, Esq.
20 5455 S. Fort Apache Rd 108-151
21 Las Vegas, Nevada 89148
22 Attorney for Respondent
23 brian@lawforthepeople.com
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COMPLETE CARE CONSULTING, LLC,)	
)	
Petitioner/Plaintiff,)	
)	
vs.)	Case No.
)	
SHANNON M. CHAMBERS, in her capacity)	Dept. No.
as the Labor Commissioner of the State of)	
Nevada; and the STATE OF NEVADA,)	
OFFICE OF THE LABOR COMMISSIONER,)	
)	
Respondents/Defendants.)	

Comes Now, Petitioner/Plaintiff Complete Care Consulting, LLC, by and through undersigned counsel and files this Petition for Judicial Review, for a Trial De Novo, and related actions.

- 17

6. The OLC did not address Complete Care's objections, denied its request for a hearing, and issued its Final Order on November 12, 2020.
7. The Final Order against Complete Care, including an Administrative Penalty, totals more than One Hundred Fifty Thousand Dollars (\$150,000).
8. The entire process by the OLC, including its Determination and its Final Order, violated Complete Care's rights to due process.
9. The aforementioned procedures and decisions (decisions), including the Final Order, were not supported by the law.
10. Said decisions were based upon, and made after Complete Care's rights to due process were violated.
11. The OLC did not follow required processes, procedures, and legal obligations.
12. Said decisions were made and based upon unlawful procedure(s), and violated statutory, legal, and/or constitutional provisions or requirements.
13. Said decisions were not supported by proper, relevant and/or substantial evidence.
14. Said decisions were an abuse of discretion.
15. Said decisions were arbitrary and/or capricious.
16. Said decisions were erroneous and a clear error of law.
17. Said decisions should be reversed.
18. Complete Care has been required to hire an attorney to properly assert its rights and should be awarded fees and costs.

Affirmation

I certify that this filing does not contain the social security number of any person.

Dated this 14th day of December, 2020.



Brian R. Morris, Esq.
Attorney for Petitioner/Plaintiff

EXHIBIT 3

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Jacqueline Bryant
Clerk of the Court
Transaction # 8286760 : yvitoria

EXHIBIT 3

1 **BEFORE THE NEVADA STATE LABOR COMMISSIONER**

2 **CARSON CITY, NEVADA**

3 **FILED**

4 **JAN 26 2021**

5 **NEVADA
LABOR COMMISSIONER-CC**

6 **IN THE MATTER OF:**

Case No. NLC-20-003290

7 **OFFICE OF THE LABOR COMMISSIONER,**

8 **Claimant,**

9 **vs.**

FINAL ORDER

10 **COMPLETE CARE CONSULTING, LLC.,**

11 **Respondent.**


12
13 **ORDER VACATING HEARING SET FOR JANUARY 28, 2021**

14 On January 26, 2021, Respondent, Complete Care Consulting, submitted its Request
15 to Vacate Hearing Set for January 28, 2021, in the above referenced matter, as Respondent
16 filed a Petition for Judicial Review in the Second Judicial District Court on December 14,
17 2020. Having reviewed Respondents request the Labor Commissioner finds good cause to
18 vacate the hearing. However, this Order shall not constitute a waiver of the right to file any
19 motion to dismiss the Petition for Judicial Review for lack of jurisdiction or any other reason.

20 **THEREFORE IT IS HEREBY ORDERED** that the hearing set for January 28, 2021 be
21 and hereby is **VACATED**.

22 Dated this 26th day of January, 2021.

23 **OFFICE OF THE LABOR COMMISSIONER**

24 
25 **SHANNON CHAMBERS**
26 Nevada Labor Commissioner

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CERTIFICATE OF SERVICE

I, Rosiland M. McCloud, hereby certify that I am an employee of the Office of the Labor Commissioner of the State of Nevada and that on this 26th day of January, 2021, I sent a true and correct copy of the foregoing **Order to Vacate Hearing Set for January 28, 2021** via email to the following interested parties:

Brian R. Morris, Esq.
Email: brian@lawforthepeople.com

Jeffrey A. Dickerson, Esq.
Email: jeff@gbis.com



Rosiland M. McCloud, an employee of the
Office of the Labor Commissioner

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Attorneys for Complete Care Consulting, LLC

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

COMPLETE CARE CONSULTING, LLC,)	
)	
Petitioner/Plaintiff,)	
)	
vs.)	Case No. CV20-02009
)	
SHANNON M. CHAMBERS, in her capacity)	Dept. No. 6
as the Labor Commissioner of the State of)	
Nevada; and the STATE OF NEVADA,)	
OFFICE OF THE LABOR COMMISSIONER,)	
)	
Respondents/Defendants.)	

**OPPOSITION TO:
MOTION TO DISMISS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES**

Comes Now, Petitioner/Plaintiff Complete Care Consulting, LLC, by and through undersigned counsel, and hereby opposes the motion to dismiss.

Contrary to the motion, Petitioner exhausted all available administrative remedies. Thus, the motion has zero merit and should therefore be denied.

On November 12, 2020, the Labor Commissioner ("LC") issued a Final Order Setting Forth Findings of Fact and Conclusions of Law ("Final Order"). Exhibit 1. As stated in the Final Order, the LC issued a subpoena for records, with which Petitioner complied. See Exhibit 1 (Final Order) at 2:12-13.

1 After review and audit of these materials, and nothing further, on September 17, 2020, the
2 LC issued its adverse Determination of Payroll Records Audit (“DPRA”) that 51 of Petitioner’s
3 caretaker employees had been misclassified as independent contractors, and that 28 of those had
4 been denied overtime pay on 2,037 occasions, for which amounts Petitioner was responsible to the
5 individual employees in many thousands of dollars with an additional penalty of \$127,500.00 to be
6 paid to the State. *See* Exhibit 2 (DPRA) at 4-5.

7 Pursuant to NAC 607.070(1), on October 2, 2020, Petitioner objected to the DPRA and
8 requested a hearing on the matter. *See* Exhibit 3 (Request for Hearing and Objection to
9 Determination).

10 NAC 607.070 Objection to determination; action by Commissioner following period for
11 objection

- 12 1. An employer or other person to whom a determination has been issued may file a
13 written objection to the determination with the Commissioner within 15 days after the
14 date of service of the determination to request a hearing on the matter.
- 15 2. . . .
- 16 3. Within 15 days after the last date on which an objection may be filed, the Commissioner
17 will:
 - 18 (a) Schedule a hearing on the matter if:
 - 19 (1) The objection is timely filed and the Commissioner determines that the
20 Objection is not frivolous or lacking merit; or
 - 21 (2) The Commissioner determines that a hearing on the matter is merited on
22 other grounds; or
 - 23 (b) Dismiss the objection and issue an order affirming the findings and proposed
24 penalties set forth in the determination. ***Such an order constitutes the final
25 order of the Commissioner on the matter.*** (emphasis added)

26 NAC 607.070

27 In the Request for Hearing and Objection, it was explained that a substantive response was not
28 possible because the DPRA did not discuss the factual basis of its DPRA. Exhibit 3. Within fifteen
(15) days of the October 2nd Objection, the LC was to either schedule a hearing or issue an order
affirming the findings of the Determination. (NAC 607.070(3)). The LC did not schedule a hearing
and instead, on November 12, 2020, the LC issued its Final Order. Exhibit 1. As stated in NAC
607.070(3)(b), “[s]uch an Order constitutes the final order of the Commissioner on the matter.” The
LC also acknowledges that it was a final order when it stated that “[t]he Labor Commissioner
received timely objections to the ***Final Order.***” *See* Motion to Dismiss; 2:8. (emphasis added).

1 Based on this Final Order, Petitioner Complete Care Consulting’s clock was now ticking to
2 file a Petition for Judicial Review. Petitioner then properly and timely filed the Petition for Judicial
3 Review on December 14, 2020. The final order on review was filed and served by mail on the
4 undersigned on November 12, 2020. In addition to NAC 607.070(3)(b) defining the order of the LC
5 as being a final order, the LC herself also designated the order as her “Final Order” in the title of the
6 order. *See* Exhibit 1. Petitioner thus had 30 days from the final order within which to file a petition
7 for judicial review. NRS 233B.130(2)(d) (“Petitions for judicial review must: Be filed within 30
8 days after service of the final decision of the agency.”). This deadline was jurisdictional. *Washoe*
9 *Cty. v. Otto*, 128 Nev. 424, 434-35, 282 P.3d 719, 727 (2012) (filing requirements under the APA,
10 including the time period for filing a petition, are “mandatory and jurisdictional.”). “If the agency's
11 decision is served by mail pursuant to NRCP 5(b)(2)(B), NRCP 6(e) adds three days to the time
12 period for filing a petition for judicial review.” *Mikohn Gaming v. Espinosa*, 122 Nev. 593, 598,
13 137 P.3d 1150, 1154 (2006). The Final Order was served by mail, so the December 14, 2020, filing
14 was timely.¹ Since the time limit is jurisdictional, Petitioner had no choice under these procedural
15 mechanisms but to file the petition after receipt of the “final order”. Otherwise, the LC could
16 contend the Court lacked jurisdiction for failure to timely file the petition – which the LC would
17 more than likely file as shown by the filing of the motion to dismiss.

18 The law is uniform that the filing of a petition for judicial review of an administrative final
19 order divests the agency of jurisdiction. “[T]he filing of a proper petition for judicial review divests
20 the agency of jurisdiction. . .” *Christiansen v. Iowa Bd. of Educ. Examiners*, 831 N.W.2d 179, 190
21 (Iowa 2013). “The law is clear, however, that a petition for judicial review divests an
22 administrative agency of jurisdiction to reconsider its decision.” *Friends of Croom Civic Ass’n v.*
23 *Prince George’s County Planning Bd.*, 2017 Md. App. LEXIS 486 at *5 (Md. App. 2017). “[A]s a
24 general rule the filing of a notice of appeal seeking judicial review divests an administrative agency
25

26 ¹ The thirtieth day from November 12, 2020 was December 12th – which fell on a Saturday, so the
27 Monday December 14th filing was timely due to the filing occurring on the next available judicial
28 day.

1 of jurisdiction. . .” *Anstine v. Churchman*, 74 P.3d 451, (Colo. App. 2003) citing and quoting
2 *Fiebig v. Wheat Ridge Reg'l Ctr.*, 782 P.2d 814 (Colo. App. 1989).

3 The Court thus has exclusive jurisdiction over the petition and should deny the motion to
4 dismiss. The petition is also ripe for this Court’s consideration, and the motion should be denied for
5 this reason too. The final decision is just that, final. Finality equates to ripeness.

6 **Affirmation**

7 **I certify that this filing does not contain the social security number of any person.**

8 Dated this 23rd day of February, 2021.

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12 _____
13 Brian R. Morris, Esq.
14 Attorney for Petitioner/Plaintiff
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CERTIFICATE OF SERVICE

I certify that on the 23rd day of February, 2021, I filed the foregoing with the Clerk of the Court, which sent notification of such filing using the eflex filing/notification system to:

Andrea Nichols
Office of the Attorney General
Carson City, Nevada 89701

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Index of Exhibits

Exhibit Number	Description	Number of Pages
1	Final Order of Labor Commissioner	10
2	Determination of Payroll Records Audit	6
3	Request for Hearing and objection to Determination	2

FILED
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CV20-02009
2021-02-23 06:42:14 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 8309442 : csulezic
EXHIBIT NUMBER 1

EXHIBIT NUMBER 1

EXHIBIT NUMBER 1

BEFORE THE NEVADA STATE LABOR COMMISSIONER
CARSON CITY, NEVADA

IN THE MATTER OF:

Case No. NLC 20-003290

OFFICE OF THE LABOR COMMISSIONER,

Claimant,

VS.

COMPLETE CARE CONSULTING, LLC.,

Respondent.

FILED

NOV 12 2026

NEVADA
LABOR COMMISSIONER-CC

**FINAL ORDER SETTING FORTH FINDINGS OF FACTS AND CONCLUSIONS
OF LAW**

The Office of the Labor Commissioner (OLC) is responsible for enforcing the “powers and duties” of the Office of the Labor Commissioner/Labor Commissioner (OLC/LC) pursuant to Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) Chapter 607, and for the enforcement of “Wage and Hour laws” pursuant to NRS and NAC Chapter 608.

On September 17, 2020, a Determination in the above-captioned matter was issued by Jennafer Jenkins, Auditor/Investigator, serving in her capacity on behalf of the OLC, pursuant to NAC 607.310. Brian Morris, Esq., represented Complete Care Consulting, LLC. (Respondent).

The Labor Commissioner finds the following after reviewing the investigative case file, documents, information submitted in this matter; the statutory and legal authority governing these matters; and the position of the Respondent.

I. PROCEDURAL HISTORY

This matter commenced on September 16, 2020, when issues regarding the

Respondent's business operations were brought to the attention of the OLC through an informal complaint. On August 11, 2020, a Subpoena was delivered by Senior Investigator David H. Gould (Investigator Gould) and Jennafer Jenkins, Auditor/Investigator (A/I Jenkins), at Complete Care Consulting, LLC., address of record, located at 641 Saint Lawrence Avenue, Reno, Nevada 89509. The Subpoena requested payroll/time records of individuals either employed or contracted to work during the period of May 1, 2018–May 20, 2020, pursuant to NRS 607.150, 607.160, and 608.115. The Subpoena also requested any, and all agreements/contracts of individuals either employed or contracted to work during the period of May 1, 2018–May 20, 2020, pursuant to NRS 607.150, 607.160, and 608.115.

The Respondent complied with the Subpoena and provided the requested records of which were subsequently audited and investigated by the OLC. It was found that at least 51 employees/workers had been intentionally misclassified as Independent Contractors resulting in over \$87,000 in unpaid overtime being owed to 28 employees/workers. An Administrative Penalty in the amount of \$127,500.00 was assessed/imposed based on the findings of the result of the audit and investigation pursuant to NRS 608.195.

On October 2, 2020, the Respondent issued a timely Objection/Appeal to the Determination. The Objection/Appeal did not reference or provide sufficient evidence/proof to justify the Objection/Appeal. Respondent was granted a 10–day extension to October 26, 2020, to provide a factual and legal Objection/Appeal detailing and addressing the allegations relating to why the individuals “employed” by Complete Care Consulting LLC. were in fact classified as “Independent Contractors” and not “Employees.”

On November 5, 2020, the Respondent submitted a response. The Respondent's response did not address the allegations in the original Determination and/or follow-up correspondence from the OLC, nor did it provide any legal analysis.

The Objection(s)/Appeal(s) are found to lack merit pursuant to NAC 607.070 and are denied.

II. APPLICABLE LAWS/REGULATIONS:

Nevada Revised Statutes 608.400 **Misclassification prohibited; administrative penalties; notice and opportunity for hearing.**

1. An employer shall not:

(a) Through means of coercion, misrepresentation, or fraud, require a person to be classified as an independent contractor or form any business entity in order to classify the person as an independent contractor; or

(b) Willfully misclassify or otherwise willfully fail to properly classify a person as an independent contractor.

NRS 608.010 "Employee" defined. "Employee" includes both male and female persons in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed.

NRS 608.011 "Employer" defined. "Employer" includes every person having control or custody of any employment, place of employment or any employee.

NRS 608.0155 Persons presumed to be independent contractor.

1. Except as otherwise provided in subsection 2, for the purposes of this chapter, a person is conclusively presumed to be an independent contractor if:

(a) Unless the person is a foreign national who is legally present in the United States, the person possesses or has applied for an employer identification number or social security number or has filed an income tax return for a business or earnings from self-employment with the Internal Revenue Service in the previous year;

(b) The person is required by the contract with the principal to hold any necessary state business license or local business license and to maintain any necessary occupational license, insurance, or bonding in order to operate in this State; and

(c) The person satisfies three or more of the following criteria:

(1) Notwithstanding the exercise of any control necessary to comply with any statutory, regulatory or contractual obligations, the person has control and discretion over the means and manner of the performance of any work and the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the principal in the contract.

(2) Except for an agreement with the principal relating to the completion schedule, range of work hours or, if the work contracted for is entertainment, the time such entertainment

1 is to be presented, the person has control over the time the
2 work is performed.

3 (3) The person is not required to work exclusively for one
4 principal unless:

5 (I) A law, regulation or ordinance prohibits the person
6 from providing services to
7 more than one principal; or

8 (II) The person has entered into a written contract to
9 provide services to only one
10 principal for a limited period.

11 (4) The person is free to hire employees to assist with
12 the work.

13 (5) The person contributes a substantial investment of
14 capital in the business of the
15 person, including, without limitation, the:

16 (I) Purchase or lease of ordinary tools, material and
17 equipment regardless of
18 source;

19 (II) Obtaining of a license or other permission from the
20 principal to access any work
21 space of the principal to perform the work for which the
22 person was engaged; and

23 (III) Lease of any workspace from the principal required
24 to perform the work for
25 which the person was engaged.

26 ↳The determination of whether an investment of capital is
27 substantial for the purpose of this subparagraph must be
28 made on the basis of the amount of income the person
receives, the equipment commonly used and the expenses
commonly incurred in the trade or profession in which the
person engages.

2. A natural person is conclusively presumed to be an
independent contractor if the
person is a contractor or subcontractor licensed pursuant to
chapter 624 of NRS or is directly compensated by a
contractor or subcontractor licensed pursuant to chapter 624
of NRS for providing labor for which a license pursuant to
chapter 624 of NRS is required to perform and:

(a) The person has been and will continue to be free from
control or direction over the
performance of the services, both under his or her contract
of service and in fact.

(b) The service is either outside the usual course of the
business for which the service is performed or that the
service is performed outside of all the places of business of
the enterprises for which the service is performed; and

(c) The service is performed in the course of an
independently established trade,
occupation, profession, or business in which the person is
customarily engaged, of the same nature as that involved in
the contract of service.

3. The fact that a person is not conclusively presumed to be
an independent contractor for failure to satisfy three or more
of the criteria set forth in paragraph (c) of subsection 1 does
not automatically create a presumption that the person is an
employee.

4. As used in this section:

(a) "Foreign national" has the meaning ascribed to it in NRS 294A.325.

(b) "Providing labor" does not include the delivery of supplies.

(Added to NRS by 2015, 1743; A 2019, 3159)

NRS 608.018 NRS 608.018 Compensation for overtime: Requirement; exceptions.

1. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate less than 1 1/2 times the minimum rate set forth in NRS 608.250 works:

(a) More than 40 hours in any scheduled week of work; or

(b) More than 8 hours in any workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

2. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate not less than 1 1/2 times the minimum rate set forth in NRS 608.250 works more than 40 hours in any scheduled week of work.

*Employees were not paid Overtime when applicable.

NRS 607.216 "Employee misclassification" defined. As used in NRS 607.216 to 607.2195, inclusive, unless the context otherwise requires, "employee misclassification" means the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.

III. ISSUES

The OLC contends that:

1. The Respondent did in fact intentionally misclassify at least 51 employees as Independent Contractors during the period covering January 7, 2020–August 4, 2020.

2. The Respondent subsequently failed to pay overtime to at least 28 different employees working over 40 hours a week on at least 2,037 separate occasions.

///

1 It is unclear as to what the Respondent contends as their basis for their
2 Objection/Appeal. The correspondence from the Respondent has failed to meet the
3 requirements of NAC 607.070.

4 **Issue No. 1: Did Respondent Violate NRS 607.216 and 608.400 Misclassification**
5 **Prohibited?**

6 (a) Were the individuals working for Respondent willfully misclassified or
7 otherwise improperly classified as Independent Contractors?

8 (b) Did the Respondent subsequently violate the provisions of NRS 608.010,
9 NRS 608.011 and NRS 608.0155?
10

11 **Issue No. 2: Did the Respondent Violate NRS 608.018 Compensation for**
12 **Overtime?**

13 (a) Did Employees work more than 40 hours in a work week without proper
14 compensation?

15 **Issue No. 3: Should Administrative Penalties be Imposed Against Respondent**
16 **for Potential Violations of NRS Chapter 608 and NAC Chapter 608, which govern**
17 **Nevada wage and hour laws?**

18 **IV. FINDINGS OF FACT**

19 1. Respondent is a Domestic Limited Liability Company licensed by the
20 State of Nevada.

21 2. The records and information provided by the Respondent document that
22 the employees were under the control and custody of the Respondent and were
23 employees.

24 3. Respondent misclassified employees as Independent Contractors.

25 4. Respondent failed to pay overtime to employees.

26 5. The employees of the Respondent are not subject to the provisions of a
27 collective bargaining agreement.
28

///

1 **V. CONCLUSIONS OF LAW**

2 1. A violation of NRS 607.216 and NRS 608.400 have occurred, which
3 state:

4 **NRS 607.216 "Employee misclassification" defined.**

5 As used in NRS 607.216 to 607.2195, inclusive, unless the
6 context otherwise requires, "employee misclassification"
7 means the practice by an employer of improperly classifying
8 employees as independent contractors to avoid any legal
9 obligation under state labor, employment and tax laws,
including, without limitation, the laws governing minimum
wage, overtime, unemployment insurance, workers'
compensation insurance, temporary disability insurance, wage
payment and payroll taxes. (Added to NRS by 2019, 3157) –
Senate Bill 493 80th Nevada Legislative Session (2019).

10 **NRS 608.400 Misclassification prohibited Misclassification**
11 **prohibited; administrative penalties; notice and**
12 **opportunity for hearing.**

13 1. An employer shall not:

14 (a) Through means of coercion, misrepresentation, or fraud,
15 require a person to be classified as an independent contractor
or form any business entity in order to classify the person as
an independent contractor; or

(b) Willfully misclassify or otherwise willfully fail to properly
classify a person as an independent contractor.

16 Respondent has failed to provide evidence nor any information regarding their
17 position as to why employees were classified as Independent Contractors.

18 2. A violation of NRS 608.018 has occurred, which states:

19 **NRS 608.018 NRS 608.018 Compensation for overtime:**
20 **Requirement; exceptions.**

21 1. An employer shall pay 1 1/2 times an employee's regular
22 wage rate whenever an employee who receives compensation
for employment at a rate less than 1 1/2 times the minimum rate
set forth in NRS 608.250 works:

23 (a) More than 40 hours in any scheduled week of work; or

24 (b) More than 8 hours in any workday unless by mutual
agreement the employee works a scheduled 10 hours per day
for 4 calendar days within any scheduled week of work.

25 2. An employer shall pay 1 1/2 times an employee's regular
26 wage rate whenever an employee who receives compensation
for employment at a rate not less than 1 1/2 times the minimum
rate set forth in NRS 608.250 works more than 40 hours in any
scheduled week of work.

27 *Employees were not paid overtime when applicable.

28 ///

Respondent has failed to provide evidence or any information regarding their position why employees were not paid required overtime.

3. Administrative penalties shall be imposed for the violations pursuant to **NRS 608.195, Criminal and administrative penalties**, which states:

1. Except as otherwise provided in NRS 608.0165, any person who violates any provision of NRS 608.005 to 608.195, inclusive, or 608.215, or any regulation adopted pursuant thereto, is guilty of a misdemeanor.

2. In addition to any other remedy or penalty, the Labor Commissioner may impose against the person an administrative penalty of not more than \$5,000 for each such violation.

Respondent has failed to provide evidence or any information regarding their position why administrative penalties should not apply for the violations committed.

VI. FINAL DECISION AND ORDER

IT IS ORDERED that:

Complete Care Consulting LLC has violated provisions of NRS Chapter 607 and NRS Chapter 608, Respondent failed to pay overtime to employees working over 40 hours in a work week, the amount due to the following employees is as follows:

1.	Aida Cloutier	\$ 194.25
2.	Amelia Cook	\$12,007.77
3.	Antonia Vella	\$ 7,950.00
4.	Ariel Cofer	\$ 205.43
5.	Ashley Touchstone	\$ 1,831.44
6.	Brittany Wells	\$ 3,264.00
7.	Chris Janus	\$ 56.76
8.	Connie Wallace	\$ 98.70
9.	Danny Waddington	\$ 63.00
10.	Daphne Tuamoheloa	\$ 2,402.52
11.	Diane Peterson	\$ 146.85
12.	Dorothy Rodriguez	\$ 1,668.38

Payments shall be made payable to the employees and proof provided to the Office of the Labor Commissioner within 15 days of the date of this Final Order Setting Forth Findings of Fact and Conclusions of Law. Complete Care Consulting, LLC. is subject to an Administrative Penalty of \$127,500.00 that shall be made

///

1 payable to the Office of the Labor Commissioner within 15 days of the date of this
2 Final Order Setting Forth Findings of Fact and Conclusions of Law.

3
4 Dated this 12th day of November, 2020.

5 

6 Shannon M. Chambers
7 Labor Commissioner
8 State of Nevada
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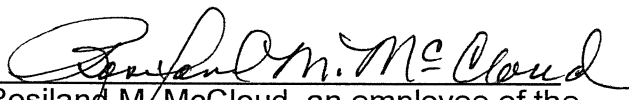
CERTIFICATE OF MAILING

I, Rosiland M. McCloud, do hereby certify that I mailed a copy of the foregoing
**FINAL ORDER SETTING FORTH FINDING OF FACTS AND CONCLUSIONS OF
LAW**, via the United States Postal Service, Carson City, Nevada, in a postage-prepaid
envelope to the following:

Brian R. Morris, Esq.
5455 So. Fort Apache Rd., #108-151
Las Vegas, Nevada 89148

Complete Care Consulting, LLC.
641 St. Lawrence Avenue
Reno, Nevada 89509

Dated this 12th day of November, 2020


Rosiland M. McCloud, an employee of the
Nevada State Labor Commissioner

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Jacqueline Bryant
Clerk of the Court
Transaction # 8309442 : csulezic
EXHIBIT NUMBER 2

EXHIBIT NUMBER 2

EXHIBIT NUMBER 2

STEVE SISOLAK
Governor

TERRY REYNOLDS
Director

SHANNON CHAMBERS
Labor Commissioner

STATE OF NEVADA



OFFICE OF THE LABOR COMMISSIONER
1818 E. COLLEGE PKWY, SUITE 102
CARSON CITY, NEVADA 89706
PHONE (775) 684-1890
FAX (775) 687-6409

Department of Business & Industry
OFFICE OF THE LABOR COMMISSIONER

<http://www.labor.nv.gov>

September 17, 2020

Complete Care Consulting LLC
641 St. Lawrence Avenue
Reno, Nevada 89509
Via Email: anna.aguirre.ops@gmail.com

RE: DETERMINATION OF PAYROLL RECORDS AUDIT
Complete Care Consulting, LLC - Respondent
(Case #:NLC-20-003290)

Ms. Aguirre and/or To Whom it Might Concern:

DETERMINATION

Pursuant to Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) Chapters 607 and 608, the Office of the Labor Commissioner has received alleged complaints and/or claims for potential wages owed against your business/company/operation/establishment, and as an employer, regarding violations of the following: NRS 608.400; NRS 608.010; NRS 608.011; NRS 608.016; NRS 608.018; and NRS 608.0155. The Office of the Labor Commissioner will refer to your business/company/operation/establishment and you as the employer, as "Respondent" in this Determination.

The alleged violations go back to January 7, 2020, and as recently as August 4, 2020. As such the Office of the Labor Commissioner conducted an audit on September 16, 2020. The Determination of the Office of the Labor Commissioner is set forth below in the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Violations Found Upon Inspection:

- **Nevada Revised Statutes (NRS) 608.400 Misclassification prohibited; administrative penalties; notice and opportunity for hearing.**
 1. An employer shall not:
 - (a) Through means of coercion, misrepresentation, or fraud, require a person to be classified as an independent contractor or form any business entity in order to classify the person as an independent contractor; or

(b) Willfully misclassify or otherwise willfully fail to properly classify a person as an independent contractor.

- **NRS 608.010 "Employee" defined.** "Employee" includes both male and female persons in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed.
- **NRS 608.011 "Employer" defined.** "Employer" includes every person having control or custody of any employment, place of employment or any employee.
- **NRS 608.0155 Persons presumed to be independent contractor.**

1. Except as otherwise provided in subsection 2, for the purposes of this chapter, a person is conclusively presumed to be an independent contractor if:

(a) Unless the person is a foreign national who is legally present in the United States, the person possesses or has applied for an employer identification number or social security number or has filed an income tax return for a business or earnings from self-employment with the Internal Revenue Service in the previous year;

(b) The person is required by the contract with the principal to hold any necessary state business license or local business license and to maintain any necessary occupational license, insurance or bonding in order to operate in this State; and

(c) The person satisfies three or more of the following criteria:

(1) Notwithstanding the exercise of any control necessary to comply with any statutory, regulatory or contractual obligations, the person has control and discretion over the means and manner of the performance of any work and the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the principal in the contract.

(2) Except for an agreement with the principal relating to the completion schedule, range of work hours or, if the work contracted for is entertainment, the time such entertainment is to be presented, the person has control over the time the work is performed.

(3) The person is not required to work exclusively for one principal unless:

(I) A law, regulation or ordinance prohibits the person from providing services to more than one principal; or

(II) The person has entered into a written contract to provide services to only one principal for a limited period.

(4) The person is free to hire employees to assist with the work.

(5) The person contributes a substantial investment of capital in the business of the person, including, without limitation, the:

(I) Purchase or lease of ordinary tools, material and equipment regardless of source;

(II) Obtaining of a license or other permission from the principal to access any work space of the principal to perform the work for which the person was engaged; and

(III) Lease of any work space from the principal required to perform the work for which the person was engaged.

È The determination of whether an investment of capital is substantial for the purpose of this subparagraph must be made on the basis of the amount of income the person receives, the equipment commonly used and the expenses commonly incurred in the trade or profession in which the person engages.

2. A natural person is conclusively presumed to be an independent contractor if the person is a contractor or subcontractor licensed pursuant to [chapter 624](#) of NRS or is directly

compensated by a contractor or subcontractor licensed pursuant to [chapter 624](#) of NRS for providing labor for which a license pursuant to [chapter 624](#) of NRS is required to perform and:

(a) The person has been and will continue to be free from control or direction over the performance of the services, both under his or her contract of service and in fact;

(b) The service is either outside the usual course of the business for which the service is performed or that the service is performed outside of all the places of business of the enterprises for which the service is performed; and

(c) The service is performed in the course of an independently established trade, occupation, profession or business in which the person is customarily engaged, of the same nature as that involved in the contract of service.

3. The fact that a person is not conclusively presumed to be an independent contractor for failure to satisfy three or more of the criteria set forth in paragraph (c) of subsection 1 does not automatically create a presumption that the person is an employee.

4. As used in this section:

(a) "Foreign national" has the meaning ascribed to it in [NRS 294A.325](#).

(b) "Providing labor" does not include the delivery of supplies.

(Added to NRS by [2015, 1743](#); A [2019, 3159](#))

- **NRS 608.018 NRS 608.018 Compensation for overtime: Requirement; exceptions.**

1. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate less than 1 1/2 times the minimum rate set forth in NRS 608.250 works:

(a) More than 40 hours in any scheduled week of work; or

(b) More than 8 hours in any workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

2. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate not less than 1 1/2 times the minimum rate set forth in NRS 608.250 works more than 40 hours in any scheduled week of work.

**Employees were not paid Overtime when applicable.*

- **NRS 607.216 "Employee misclassification" defined.** As used in [NRS 607.216](#) to [607.2195](#), inclusive, unless the context otherwise requires, "employee misclassification" means the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.

(Added to NRS by [2019, 3157](#))

Procedural History:

On May 28, 2020, the Respondent in this matter was the subject of a Wage Claim for unpaid wages (NLC-20-001981). The Wage Claim contained allegations that the Respondent failed to pay wages for all time worked, and specifically for overtime work, and that the Respondent had misclassified the Claimant as an Independent Contractor.

The Respondent chose to settle the claim by remitting payment of the requested wages plus the allowable penalty. The Respondent, however, chose not to include a formal response, nor make any effort to rectify the alleged violation(s).

Summary of Facts:

On May 7, 2020, the Office of the Labor Commissioner received a complaint containing allegations of violations of NRS 608.400, indicating that the Respondent was intentionally misclassifying the employees of Complete Care Consulting, LLC, whom were functioning as Caretakers, as Independent Contractors.

On August 11, 2020, a Subpoena was served on the Respondent, requesting, payroll/time records of individuals either employed or contracted to work during the period of May 01, 2018 - May 20, 2020 pursuant to Nevada Revised Statutes (NRS) sections 607.150, 607.160, and 608.115, in addition to any and all agreements/contracts of individuals either employed or contracted to work during the period of May 01, 2018 - May 20, 2020 pursuant to Nevada Revised Statutes (NRS) sections 607.150, 607.160, and 608.115.

The Respondent complied with the Subpoena and provided the requested documents, of which were subsequently audited by this office.

Decision:

It has been determined that violations of NRS 608 and NAC 607 have in fact occurred. The following sections of NRS 608 and NRS 607 were violated: NRS 608.400; NRS 608.010; NRS 608.011; NRS 608.016; NRS 608.018; and NRS 608.0155. Pursuant to NRS 608.195 except as otherwise provided in [NRS 608.0165](#), any person who violates any provision of [NRS 608.005](#) to [608.195](#), inclusive, or any regulation adopted pursuant thereto, is guilty of a misdemeanor. In addition to any other remedy or penalty, the Labor Commissioner may impose against the person an administrative penalty of not more than \$5,000 for each such violation.

The information and documents provided demonstrate that Respondent did in fact intentionally misclassify a minimum of 51 employees, who do not meet the requirements of NRS 608.0155 in order to be considered an Independent Contractor during the period of January 7, 2020 – August 4, 2020.

Due to the Employees being improperly classified, the Respondent failed to pay overtime to employees working over 40 hours in a work week, on at least 2,037 separate occasions to at least 28 different employees.

The amount due to the following employees is as follows:

1. Aida Cloutier: \$194.25
2. Amelia Cook: \$12,007.77
3. Antonia Vella: \$7,950
4. Ariel Cofer: \$205.43
5. Ashley Touchstone: \$1,831.44
6. Brittany Wells: \$3,264
7. Chris Janus: \$56.76
8. Connie Wallace: \$98.70
9. Danny Waddington: \$63.00
10. Daphne Tuamoheloa: \$2,402.52
11. Diane Peterson: \$146.85
12. Dorothy Rodriguez: \$1,668.38

13. Inshallah Baca: \$2,911.13
14. Jaqueline De La Cruz: \$196.88
15. Julia Shepherd: \$25,781.34
16. Karri Prather: \$6,542.60
17. Kevin Boten: \$672
18. Leticia Boten: \$13,514.12
19. Madison Hardy: \$45.00
20. Mashirley Holcomb: \$90.00
21. Maumele Vehikite: \$798.00
22. Norma Feliciano: \$6,828.00
23. Pam George: \$17,290.60
24. Rita Gorman: \$5,113.26
25. Syndi Jiminez: \$10,434.69
26. Theresa Wrede: \$612.00
27. Yanie Petre: \$2,569.50
28. Yen Salgado: \$360.00

Additionally, for failure to comply with the provisions of NRS 608 and NRS 607, a \$127,500.00 administrative penalty will apply. Along with a check made payable to each employee mentioned above, a check should be made payable to the Office of the Labor Commissioner in the amount of \$127,500.00 for the administrative penalty and submitted no later than **October 2, 2020**.

Failure to either settle or file a proper objection to this Determination with a request for a hearing within the time set forth below, will result in this Determination being incorporated into the Final Decision and Order of the Labor Commissioner in this matter. In addition, the Labor Commissioner may pursue criminal prosecution of this matter and the assessment of administrative fines. The final Order may be filed with the court for reduction to judgment and any other relief the court deems appropriate.

NRS 607.217 also requires the Office of the Labor Commissioner to share information on misclassification among other state agencies and the Attorney General.

NRS 607.217 Communication of information relating to employee misclassification among Labor Commissioner, certain state agencies and the Attorney General. The offices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General:

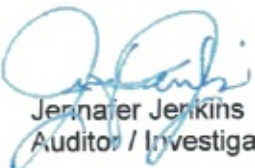
1. Shall communicate between their respective offices information relating to suspected employee misclassification which is received in the performance of their official duties and which is not otherwise declared by law to be confidential.
2. May communicate between their respective offices information relating to employee misclassification which is received in the performance of their official duties and which is otherwise declared by law to be confidential, if the confidentiality of the information is otherwise maintained under the terms and conditions required by law.

Appeal Rights:

Pursuant to NAC Chapter 607.070, a person who is served a copy of this Determination and who is aggrieved by the Determination may file a written objection within fifteen (15) days after the date of service of this Determination to request a hearing on the matter. The objection must identify the specific findings to which the aggrieved party is objecting and be accompanied by a short statement of the grounds for each objection and evidence substantiating the objection. Any objection filed must be submitted to:

Office of the Labor Commissioner
1818 College Parkway., Suite 102
Carson City, Nevada 89706

Sincerely,



Jennifer Jenkins
Auditor / Investigator

CC:

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Electronically
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Jacqueline Bryant
Clerk of the Court
Transaction # 8309442: csulezic
EXHIBIT NUMBER 3

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EXHIBIT NUMBER 3

BRIAN R. MORRIS
ATTORNEY AT LAW

October 2, 2020

Office of the Labor Commissioner
1818 College Parkway, Ste. 102
Carson City, Nevada 89706

Re: Request for Hearing and Objection to Determination in Case NLC-20-003290 (Complete Care Consulting, LLC)

Comes Now, Complete Care Consulting, LLC (Respondent), by and through its undersigned counsel, and hereby objects to the Determination made in the above referenced matter dated September 17, 2020. This Objection and Request for Hearing is based on the following.

Short Statement

Invalid Determination

Both due process and NAC 607.065 requires that the Determination contain, among other requirements, a clear and plain statement of each alleged violation, a citation to the statute or regulation alleged to have been violated, the relevant facts, and how the facts violate the relevant statutes. While the Determination is filled with a copy and paste of many statutes, there are absolutely no facts present or how they tie in with any statute listed. Instead, the entirety of the facts merely state that there was some sort of a Complaint (without providing further detail), that a Subpoena was issued, and that Respondent complied with the Subpoena. Immediately thereafter, there is simply a statement that the information provided by Respondent shows there was a misclassification of employees. There is no analysis whatsoever, especially tying the required findings of facts to relevant statutes, showing that there was any misclassification. Then a list of money owed is given along with a hefty penalty without even a scintilla of an attempt to show or explain the calculations used to derive the amount being claimed owed. The mere statement that money is owed along with a threat of criminal action, without more, epitomizes an actionable due process violation.

Based on no actual facts being contained in the Determination, it is not only facially invalid, but Respondent does not have the ability to refute a determination based on no facts other than to take the same approach as the Determination and simply deny that the alleged money is owed. Respondent now does that and states that there has not been a misclassification and/or in the event there was, the amount of money listed in the Determination is incorrect.

For further information, the undersigned contacted the investigator in this matter in an attempt to try to obtain some information and was rebuffed. The undersigned has had several dealings with the investigator in this matter over the years, and each time, information was freely

exchanged. But in regards to Respondent, the response from the investigator was to try to invade the attorney-client privilege by asking what information Respondent shared with the undersigned. When the undersigned denied this request and again asked for information, the Investigator refused and stated she would require a letter from the Respondent.¹ The investigator has never requested such information in the past from the undersigned's clients.

While the Determination itself is deficient and thus invalid, it has also yet to be properly served. But out of cautiousness, and without waiving any rights to proper service, Respondent is filing its Objection to the Determination in this matter.

Invalid Subpoena

In addition to the Determination violating NAC 607.065 and Respondent's rights to due process, the Determination was based on an illegal subpoena. As stated in the Determination, it's findings and determination were based on information it collected from a purported Subpoena that was issued to Respondent. In addition to being legally deficient with its content and service, the Subpoena threatened Respondent with a "penalty provided in NRS 607.170" for a failure to appear. There is no penalty in NRS 607.170 and such a statement is an illegal scare tactic to force the receiving party into submitting to an illegal process. As such, the information being referenced in the Determination itself was procured by an illegal means.

Request for Hearing


Respondent requests a hearing regarding the Determination in this matter.

Certificate of Service

The undersigned certifies that on October 2, 2020, this Objection and Request for Hearing was served upon the Office of the Labor Commissioner via both mail and e-mail as consented to and allowed by NRCP 5(b)(E) to:

Office of the Labor Commissioner
1818 College Parkway, Ste. 102
Carson City, Nevada 89706
Mail1@labor.nv.gov

Dated this 2nd day of October, 2020.



Brian Morris, Esq.
Attorney for Respondent

¹ Curiously, this request was not contained in the first email and only came after the undersigned would not disclose any information Respondent shared with him.

3790
AARON D. FORD
Attorney General
ANDREA NICHOLS
Senior Deputy Attorney General
Bar No. 6436
Office of the Attorney General
100 N. Carson Street
Carson City, NV 89701-4717
(775) 684-1218 (phone)
(775) 684-1156 (fax)

Attorneys for Respondents

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

COMPLETE CARE CONSULTING, LLC.,

Petitioner,

vs.

SHANNON M. CHAMBERS, in her
capacity as the Labor Commissioner of the
State of Nevada and the STATE OF
NEVADA, OFFICE OF THE LABOR
COMMISSIONER,

Respondents.

Case No. CV20-02009

Dept. No. 6

**REPLY TO OPPOSITION TO MOTION TO DISMISS FOR FAILURE TO
EXHAUST ADMINISTRATIVE REMEDIES**

Respondent, the State of Nevada ex rel. its Labor Commissioner, by and through
counsel, Aaron D. Ford, Attorney General of the State of Nevada, and Andrea Nichols,
Senior Deputy Attorney General, hereby submits its Reply to Petitioner's Opposition to
Motion to Dismiss For Failure to Exhaust Administrative Remedies. This Reply is made
and based on the following Points and Authorities together with the papers and pleadings
on file herein.

POINTS AND AUTHORITIES

I. Facts

The facts are set out more fully in Respondent's Motion to Dismiss. Briefly, it is
uncontroverted that Petitioner requested a hearing, and that the Labor Commissioner set

1 this matter for hearing.¹ The hearing was vacated at Petitioner, Complete Care
2 Consulting, LLC's, request.²

3 **II. Argument**

4 Complete Care Consulting, LLC. ("Complete Care") does not dispute that it
5 submitted a Request for Hearing.³ Nor does it dispute that the Labor Commissioner set
6 this matter for hearing.⁴ Rather, Complete Care argues that the filing of the Petition for
7 Judicial Review divests the Labor Commissioner of Jurisdiction.⁵ Notably, Complete Care
8 does not cite to any Nevada cases for this proposition.

9 The law in Nevada is not entirely clear. In the case of *City of Henderson v. Kilgore*,
0 the Nevada Supreme Court found that since Kilgore had failed to exhaust his
1 administrative remedies his motion to enforce a preliminary injunction was not ripe for the
2 district court's consideration.⁶ Thereafter, in *Allstate Ins. Co. v. Thorpe*, the Nevada
3 Supreme Court acknowledged that in the past it had held that failure to exhaust
4 administrative remedies deprives the district court of jurisdiction but in *Kilgore*, the Court
5 noted that failure to exhaust administrative remedies renders the matter unripe.⁷ The
6 Court stated,

7 Nevertheless, whether couched in terms of subject-matter
8 jurisdiction or ripeness, a person generally must exhaust all
9 available administrative remedies before initiating a lawsuit,
10 and failure to do so renders the controversy nonjusticiable. The
11 exhaustion doctrine gives administrative agencies an
12 opportunity to correct mistakes and conserves judicial resources,
13 so its purpose is valuable; requiring exhaustion of administrative
14 remedies often resolves disputes without the need for judicial
15 involvement.⁸

16 ///

17 ///

18 ¹ Respondent's Motion to Dismiss for Failure to Exhaust Administrative Remedies, Exhibit "1."

19 ² Respondent's Motion to Dismiss for Failure to Exhaust Administrative Remedies, Exhibit "2."

20 ³ Petitioner's Opposition to Motion to Dismiss for Failure to Exhaust Administrative Remedies, p. 2, l. 20.

21 ⁴ Respondent's Motion to Dismiss for Failure to Exhaust Administrative Remedies, Exhibit "1."

22 ⁵ Petitioner's Opposition to Motion to Dismiss for Failure to Exhaust Administrative Remedies, p. 3, l. 18 to
23 p. 4, l.2.

24 ⁶ *City of Henderson v. Kilgore*, 122 Nev. 331, 336-37, 131 P.3d 11, 14-15 (2006)

25 ⁷ *Allstate Insurance Co. v. Thorpe*, 123 Nev. 565, 571-72, 170 P.3d 989, 993-94 (2007).

26 ⁸ *Id.*

1 Complete Care argues that the Labor Commissioner's Determination lacks a
2 discussion of the factual basis.⁹ Yet Complete Care requested that the Labor Commissioner
3 vacate the hearing.¹⁰ A hearing before the Labor Commissioner would allow for
4 development of the relevant facts and would serve the purposes of the administrative
5 review process.

6 The administrative review process provides the district court with a fully developed
7 record and administrative decision including factual findings by an administrative body
8 with expertise in a particular area.¹¹ "The exhaustion doctrine gives administrative
9 agencies an opportunity to correct mistakes and conserves judicial resources, so its purpose
0 is valuable; requiring exhaustion of administrative remedies often resolves disputes
1 without the need for judicial involvement."¹²

2 In its Petition for Judicial Review, Complete Care argues that the Labor
3 Commissioner did not follow proper procedures and that the decision is not supported by
4 proper, relevant and/or substantial evidence. If the Labor Commissioner did in fact commit
5 some procedural error, the Labor Commissioner should be able to correct such a mistake.
6 A hearing before the Labor Commissioner serves the purposes of judicial review since the
7 matter could be resolved at the hearing. Further, if Complete Care seeks judicial review
8 after the hearing, the district court will have a fully developed record including factual
9 testimony.

20 As is set forth more fully in Respondent's Motion to Dismiss, Petitioner's failure to
21 exhaust administrative remedies makes this matter nonjusticiable. Accordingly, dismissal
22 of Complete Care's Petition for Judicial Review is warranted.

23 / / /

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25 ⁹ Petitioner's Opposition to Motion to Dismiss for Failure to Exhaust Administrative Remedies, p. 2, ll. 20-
26 21.

27 ¹⁰ Respondent's Motion to Dismiss for Failure to Exhaust Administrative Remedies, Exhibit "2."

28 ¹¹ *Benson v. State Engineer*, 131 Nev. 772, 780, 358 P.3d 221, 226 (2015) citing to *Malecon Tobacco, LLC v. State ex rel. Dep't. of Taxation*, 118 Nev. 837, 840-41, 59 P.3d 474, 476 (2002).

¹² *Mesagate Homeowners Assoc. v. City of Fernley*, 124 Nev. 1092, 1098, 194 P.3d 1248, 1252-53 (2008).

1 **III. Conclusion**

2 In light of Petitioner, Complete Care Consulting, LLC's failure to exhaust
3 administrative remedies, the Labor Commissioner respectfully requests that this Court
4 enter an order dismissing this action.

5 **AFFIRMATION**
6 **(Pursuant to NRS 239B.030)**

7 The undersigned does hereby affirm that the preceding document, *Reply to*
8 *Opposition to Motion to Dismiss for Failure to Exhaust Administrative Remedies*, does not
9 contain the social security number of any person.

0 Respectfully Submitted this 3rd day of March 2021.

1 AARON FORD
2 Attorney General

3 By: /s/ Andrea Nichols
4 ANDREA NICHOLS, Bar No. 6436
5 Senior Deputy Attorney General
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CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on the 3rd day of March 2021, I filed the foregoing document *Reply To Opposition To Motion To Dismiss For Failure To Exhaust Administrative Remedies* via this Court's electronic filing system. Parties that are registered with this Court's EFS will be served electronically.

Brian R. Morris
5455 S. Fort Apache Road 108-151
Las Vegas, NV 89148

Jeffrey A. Dickerson
305 W. Moana Lane, Ste. E
Reno, NV 89509

/s/ Susan Messina
an employee of the
Office of the Nevada Attorney General

1 CODE NO 2920
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF
7 THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE
8

9 COMPLETE CARE CONSULTING, LLC., Case No. CV20-02009

10 Petitioner,
11

Dept. No. 6

12 vs.
13

14 SHANNON M. CHAMBERS, in her
15 capacity as the Labor Commissioner of the
16 State of Nevada and the STATE OF
NEVADA, OFFICE OF THE LABOR
COMMISSIONER,

Respondents.

17 ORDER GRANTING MOTION TO DISMISS

18 Before the Court is Respondent, Nevada Labor Commissioner's Motion to Dismiss
19 for Failure to Exhaust Administrative Remedies filed February 9, 2021. Petitioner,
20 Complete Care Consulting, LLC, filed its Opposition on February 23, 2021. Petitioner filed
21 a Reply and submitted the matter for decision on March 3, 2021.

22 Accordingly, after extensive review of the papers and pleadings on file in this action
23 together with the applicable law, the Court sets forth its Order as follows.

24 I. FACTS AND PROCEDURAL HISTORY

25 The Nevada Labor Commissioner ("Labor Commissioner") issued a Determination
26 of Payroll Records Audit on September 17, 2020. Complete Care Consulting, LLC
27 ("Complete Care") submitted a Request for Hearing and Objection to Determination on
28 October 2, 2020. The Labor Commissioner issued a Final Order Setting Forth Findings of

1 Fact and Conclusions of Law on November 12, 2020. Complete Care filed its Petition for
2 Judicial Review in this Court on December 14, 2020 but did not serve it until January 25,
3 2021. In between the filing and service of the Petition for Judicial Review, on January 6,
4 2021, the Labor Commissioner set the matter for a hearing to commence on January 28,
5 2021. On January 26, 2021, one day after serving the Petition for Judicial Review Complete
6 Care submitted a Notice of Want of Jurisdiction with Request to Vacate Hearing Set for
7 January 28, 2021, to the Office of the Labor Commissioner. That same day, January 26,
8 2021, the Labor Commissioner issued an Order vacating the hearing.

9 **II. STANDARD OF REVIEW; LAW AND ANALYSIS**

10 Rule 12(b)(5) of the Nevada Rules of Civil Procedure allows a party to move for
11 dismissal based upon failure to state a claim upon which relief can be granted. The Labor
12 Commissioner argues that dismissal is warranted because Complete Care has not
13 exhausted administrative remedies.

14 The doctrine of failure to exhaust administrative remedies is well established in
15 Nevada. “Whether couched in terms of subject-matter jurisdiction or ripeness, a person
16 generally must exhaust all available administrative remedies before initiating a lawsuit,
17 and failure to do so renders the controversy nonjusticiable. *Allstate Insurance Co. v.*
18 *Thorpe*, 123 Nev. 565, 571-72, 170 P.3d 989, 993-94 (2007). “The ‘exhaustion doctrine’ is
19 sound judicial policy. If administrative remedies are pursued to their fullest, judicial
20 intervention may become unnecessary.” *First American Title v. County of Douglas*, 91 Nev.
21 804, 806, 543 P.2d 1344, 1345 (1975). The administrative review process provides the
22 district court with a fully developed record and administrative decision including factual
23 findings by an administrative body with expertise in a particular area. *Benson v. State*
24 *Engineer*, 131 Nev. 772, 780, 358 P.3d 221, 226 (2015) citing to *Malecon Tobacco, LLC v.*
25 *State ex rel. Dep’t of Taxation*, 118 Nev. 837, 840–41, 59 P.3d 474, 476 (2002). “Indeed,
26 resolving labor law complaints is perhaps one of the Labor Commissioner’s most significant
27 enforcement mechanisms. In this manner, the Labor Commissioner’s expertise is
28 optimized, and the parties then have an opportunity to petition the district court for judicial

1 review and, ultimately, appeal to [the Nevada Supreme] court.” *Baldonado v. Wynn Las*
2 *Vegas, LLC*, 124 Nev. 951, 963, 194 P.3d 96, 104 (2008).

3 This Court’s review of the Labor Commissioner’s Final Order is conducted pursuant
4 to NRS 233B.135. The Court may remand or affirm the final decision or set it aside in
5 whole or in part. When reviewing an administrative agency’s decision, the Court defers to
6 the agency’s findings of fact, but reviews questions of law de novo. *Bombardier*
7 *Transportation (Holdings) USA, Inc., v. Nevada Labor Commissioner*, 135 Nev. 15, 18, 433
8 P.3d 248, 252 (2019). Here the factual record is not fully developed because the Labor
9 Commissioner did not hold a hearing. Therefore, the Court finds this case should be
10 remanded to the Labor Commissioner for further proceedings.

11 Accordingly, and good cause appearing,

12 IT IS HEREBY ORDERED

13 1. Petitioner’s Motion to Dismiss is GRANTED.

14 2. This matter is REMANDED to the Labor Commissioner who shall
15 conduct a hearing and enter a final decision.

16 Dated this 11th day of April, 2021

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20 DISTRICT JUDGE
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1 CODE 2540
AARON D. FORD
2 Attorney General
ANDREA NICHOLS
3 Senior Deputy Attorney General
Bar No. 6436
4 State of Nevada
Office of the Attorney General
5 100 N. Carson Street
Carson City, NV 89701-4717
6 (775) 684-1218 (phone)
(775) 684-1156 (fax)

7 Attorneys for Respondents
8

9 IN THE SECOND JUDICIAL DISTRICT COURT OF
10 THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

11 COMPLETE CARE CONSULTING, LLC., Case No. CV20-02009

12 Petitioner, Dept. No. 6

13 vs.

14 SHANNON M. CHAMBERS, in her
15 capacity as the Labor Commissioner of the
State of Nevada and the STATE OF
16 NEVADA, OFFICE OF THE LABOR
COMMISSIONER,

17 Respondents.

18 NOTICE OF ENTRY OF ORDER

19 PLEASE TAKE NOTICE that on April 12, 2021 the above-entitled Court entered its
20 Order Granting Motion to Dismiss. A copy of said Order is attached as Exhibit "1."

21 Respectfully Submitted this 13th day of April 2021.

22 AARON FORD
23 Attorney General

24 By: /s/ Andrea Nichols
ANDREA NICHOLS, Bar No. 6436
25 Senior Deputy Attorney General
26
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AFFIRMATION
(Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceding document *Notice of Entry of Order*, does not contain the social security number of any person.

Respectfully Submitted this 13th day of April 2021.

AARON FORD
Attorney General

By: /s/ Andrea Nichols
ANDREA NICHOLS, Bar No. 6436
Senior Deputy Attorney General

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CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on the 13th day of April 2021, I filed the foregoing *Notice of Entry of Order* via this Court's electronic filing system which will send a notice of electronic filing to the following:

Brian R. Morris
5455 S. Fort Apache Road 108-151
Las Vegas, NV 89148

Jeffrey A. Dickerson
305 W. Moana Lane, Ste. E
Reno, NV 89509

/s/ Susan Messina
an employee of the
Office of the Nevada Attorney General

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SECOND JUDICIAL DISTRICT COURT
COMPLETE CARE CONSULTING v. STATE OF NEVADA

EXHIBIT NO.	DESCRIPTION	Number of Pages
1	Order Granting Motion to Dismiss (Respondents' Motion to Dismiss for Failure to Comply with NRS 233B.131(1)(a))	4

EXHIBIT 1

EXHIBIT 1

1 CODE NO 2920
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7 IN THE SECOND JUDICIAL DISTRICT COURT OF
8 THE STATE OF NEVADA IN AND FOR THE COUNTY OF WASHOE

9 COMPLETE CARE CONSULTING, LLC., Case No. CV20-02009

10 Petitioner,

Dept. No. 6

11 vs.
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17 ORDER GRANTING MOTION TO DISMISS

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7 *Transportation (Holdings) USA, Inc., v. Nevada Labor Commissioner*, 135 Nev. 15, 18, 433
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11 Accordingly, and good cause appearing,

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16 Dated this 11th day of April, 2021

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20 DISTRICT JUDGE
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BRIAN MORRIS, ESQ.
ANDREA NICHOLS, ESQ.
JEFF DICKERSON, ESQ.

And, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true and correct copy of the attached document addressed as follows:

Heidi Boe

Brian R. Morris
Nevada Bar No. 5431
5455 S. Fort Apache Rd 108-151
Las Vegas, Nevada 89148
702-551-6583

Jeffrey A. Dickerson
NSB 2690
305 W. Moana Ln. Ste. E
Reno NV 89509
775-786-6664

Attorneys for Complete Care Consulting, LLC

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

COMPLETE CARE CONSULTING, LLC,

Case No. CV20-02009

Petitioner,

Dpt. 6

vs.

SHANNON M. CHAMBERS, in her capacity
as the Labor Commissioner of the State of
Nevada; and the STATE OF NEVADA,
OFFICE OF THE LABOR COMMISSIONER,

Respondents/Defendants.

NOTICE OF APPEAL

Petitioner appeals from the order of the Court filed April 12, 2021, written notice of entry
of which was served on April 13, 2021.

I certify this document does not have the SSN of any person.

Dated May 5, 2021

____/s/Jeffrey A. Dickerson____

JEFFREY A. DICKERSON

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Dated May 5, 2021

JEFFREY A. DICKERSON

AFFIRMATION

I affirm this document does **NOT** contain the Social Security Number of any person.

Dated May , 2021

___/s/Jeffrey A. Dickerson___

JEFFREY A. DICKERSON