

Lucas M. Foletta (NSBN 12154)
MCDONALD CARANO LLP
100 West Liberty Street, 10th Floor
Post Office Box 2670
Reno, Nevada 89505-2670
lfoletta@mcdonaldcarano.com

Electronically Filed
Jun 01 2021 02:45 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Attorneys for Respondents

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

<p>SUSAN HOPKINS,</p> <p>Appellant,</p> <p>vs.</p> <p>CANNON COCHRAN MANAGEMENT SERVICES, INC. dba CCMSI; WASHOE COUNTY,</p> <p>Respondent.</p>	<p>Case No. 82894 District Ct. Case No.: CV20-01650</p>
---	---

RESPONDENTS' RESPONSE TO DOCKETING STATEMENT

Pursuant to NRAP 14(f), Respondents Washoe County and Cannon Cochran Management Services, Inc.,¹ (collectively, "Respondents") hereby submit this response to the docketing statement filed on May 26, 2021, by Appellant Susan Hopkins ("Appellant").

Respondents strongly disagree with the following representations by Appellant concerning the nature of the case and the issues on appeal:

¹ While Cannon Cochran Management Services, Inc. ("CCMSI") is also listed as a party, it is the self-insured employer Washoe County's third-party administrator and not a real party in interest. As such, this Response to Docketing Statement addresses Washoe County's position which is adopted by CCMSI.

“The injury occurred when the Appellant tripped and fell due to a defective sidewalk that was *under the control of the employer.*”

“Did the injury to Appellant ‘arise out of’ her employment where she was on a paid break when she fell due to a defect in a sidewalk *maintained by her employer . . .*”

(Appellant’s Docketing Statement, ¶¶ 8, 9 on file herein) (emphasis added).

This appeal challenges a district court order, dated April 23, 2021 (the “Order”), denying the Appellant’s petition for judicial review of a Department of Administration Appeals Officer Decision affirming Respondents’ denial of Appellant’s workers’ compensation claim. The Order does not address, and the parties did not litigate, the issue of whether Respondent Washoe County had control over or maintained the sidewalk. (*See id.* at Ex. 1.) Thus, that issue is not appealable under NRS 233B.150. Accordingly, Respondents respectfully submit sections 8 and 9 of Appellant’s docketing statement are inaccurate.

Further, Respondents strongly disagree with Appellant’s characterization of the appeal as involving a substantial issue of first impression. This Court has addressed numerous workers’ compensation claims involving employees injured during paid break periods, and that case law was correctly applied below. The fact that the Appellant’s injury occurred near the employer’s premises does not require that this Court create new case law on that precise issue. Moreover, Appellant’s statement that “[t]here are thousands of Nevada employees that enjoy compensated break times who are unsure of whether they will be covered by NIIA benefits if they are injured while engaged in contractually-mandated activities during break times” is misleading where it is undisputed that Appellant was not engaged in a contractually-mandated activity when she was injured during her break time. (*Id.* ¶ 12.) Administrative agency decisions involving workers’ compensation claims are presumptively assigned to the Court of Appeals pursuant to NRAP

17(b)(9). Respondents respectfully submit such assignment is appropriate here.

DATED this 1st day of June, 2021.

McDONALD CARANO LLP

By: /s/Lucas M. Foletta
Lucas M. Foletta, Esq.
100 West Liberty Street, 10th Floor
P.O. Box 2670
Reno, Nevada 89505-2670

*Attorneys for Respondents Washoe
County and CCMSI*

CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I hereby certify that on this 1st day of June, 2021, I caused a true and correct copy of the foregoing **RESPONDENTS' RESPONSE TO DOCKETING STATEMENT** to be served upon all parties registered for electronic service through filing with the Clerk of the Court by using the Supreme Court E-filing System and also served a copy of upon the Supreme Court Settlement Judge by mailing it first class mail with sufficient postage prepaid to the following address:

Settlement Judge David Wasick
P.O. Box 568
Glenbrook, NV 89413

/s/Carole Davis
An Employee of McDonald Carano LLP