

1                                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2   DESERT VALLEY CONTRACTING, INC. a  
3   Nevada corporation,

4                   Appellant,

5   v.

6   IN-LO PROPERTIES, a Nevada limited  
7   liability company; and EUGENE INOSE, an  
8   individual,

9                   Respondents.

SUPREME COURT NO. 83338

**RESPONDENT'S RESPONSE TO  
CASE DOCKETING STATEMENT  
PURSUANT TO NRAP 14(f)**

Electronically Filed  
Aug 26 2021 11:13 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

8           Respondents strongly disagree with Appellant's statement of the case and issues on  
9   appeal and therefore submit this Response pursuant to NRAP 14(f).

10          (8) Nature of the Action: Appellant fails to mention that, following a bench trial, the  
11   district court held that Appellant also breached the contract between it and Respondents. The  
12   court further held that both parties failed to establish their damages by a preponderance of the  
13   evidence, thereby precluding an award for either side. Appellant further fails to mention the  
14   narrow reversal and remand by this Court on the sole ground that the district court  
15   misconstrued a scrivener's error in the contract as an "ambiguity" that could be resolved in  
16   favor of Respondents. On remand, the district court reversed its prior finding as to the  
17   scrivener's error, yet still held that the parties' mutual breach precluded an award of damages  
18   for either side, in addition to Desert Valley's failure to establish its purported damages by a  
19   preponderance of the evidence.

20          (9) Issues on Appeal: In light of the foregoing, the issues pertaining to this second appeal  
21   by Appellant are limited to whether, in light of Appellant's material breach of the construction  
22   contract, Appellant could still be entitled to an award of damages, and whether Appellant has  
23   proven its purported damages by a preponderance of the evidence.

24          Dated this 26th day of August 2021.   **HOLLEY DRIGGS**

25                                   /s/Brian W. Boschee

26                                   BRIAN W. BOSCHEE, ESQ. (NBN 7612)  
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*Attorneys for Respondents*

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/s/Madeline VanHeuvelen  
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