

1 **2515**  
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2 Nevada Bar No. 004665  
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7 Attorneys for Appellants  
CARSON TAHOE HEALTH SYSTEM and  
8 GALLAGHER BASSETT SERVICES, INC.

Electronically Filed  
Oct 27 2021 09:08 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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

12 CARSON TAHOE HEALTH SYSTEM and  
13 GALLAGHER BASSETT SERVICES, INC.,

CASE NO: CV21-00809

DEPT. NO.: VIII

14 Appellants,

15 vs.

16 STEPHEN YASMER,

17 Respondent.

18 **NOTICE OF APPEAL**

19 TO: STEPHEN YASMER, Respondent and,

20 TO: EVAN BEAVERS, ESQ., NEVADA ATTORNEY FOR INJURED WORKERS,  
21 counsel of record for Respondent.

22 NOTICE IS HEREBY GIVEN that Appellants, CARSON TAHOE HEALTH SYSTEM and  
23 GALLAGHER BASSETT SERVICES, INC., (hereinafter referred to as "Appellants"), in the above-  
24 entitled action, hereby appeal to the Supreme Court of the State of Nevada from the attached "Order  
25 Granting Motion to Dismiss Petition For Judicial Review entered in this action on September 20, 2021  
26

27 . . .

28 . . .

1 which dismissed Appellants' Petition for Judicial Review and the "Notice of Entry of Order" filed on  
2 October 14, 2021.

3 DATED this 21<sup>st</sup> day of October, 2021.

4 Respectfully submitted,

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6  
7 By: /s/ L. Michael Friend

8 JOHN P. LAVERY, ESQ.

9 Nevada Bar No. 004665

10 L. MICHAEL FRIEND, ESQ.

11 Nevada Bar No. 011131

12 2300 West Sahara Avenue, Suite 900, Box 28

13 Las Vegas, NV 89102

14 Phone: (702) 893-3383

15 Fax: (702) 366-9563

16 Attorneys for Appellants

17 CARSON TAHOE HEALTH SYSTEM and

18 GALLAGHER BASSETT SERVICES, INC.

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**Index of Documents**

Exhibit 1      Notice of Entry of Order, CV21-00809      1-12

1 **CERTIFICATE OF MAILING**

2 Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 21<sup>st</sup> day of  
3 October, 2021, service of the foregoing **NOTICE OF APPEAL** was made this date by depositing a  
4 true copy of the same for mailing, first class mail, as follows:

5 Stephen Yasmer  
6 2257 Carson River Road  
7 Carson City, NV 89701

8 Evan Beavers, Esq.  
9 NEVADA ATTORNEY FOR INJURED  
10 WORKERS  
11 1000 E. William Street, Suite 208  
12 Carson City, NV 89701

13 CARSON TAHOE HEALTH SYSTEM  
14 Attn: Risk Management  
15 1600 Medical Pkwy.  
16 Carson City, NV 89706

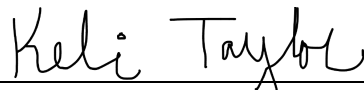
17 Yvette McCollum, Sr. Claims Adjuster  
18 GALLAGHER BASSETT SERVICES, INC.  
19 PO Box 2934  
20 Clinton, IA 52733

21 Sheila Y. Moore, Esq., Appeals Officer  
22 NEVADA DEPT. OF ADMINISTRATION  
23 Appeals Division, Appeals Office  
24 1050 E. William Street, Ste. 450  
25 Carson City, NV 89701

Michelle L. Morgando, Esq., Sr. Appeals  
Officer  
NEVADA DEPT. OF ADMINISTRATION  
Appeals Division, Appeals Office  
2200 South Rancho Drive, Suite 220  
Las Vegas, NV 89102

Laura Freed, Director  
DEPARTMENT OF ADMINISTRATION  
515 E. Musser Street, Suite 300  
Carson City, NV 89701

Aaron D. Ford, Nevada Attorney General  
OFFICE OF THE ATTORNEY GENERAL  
100 North Carson Street  
Carson City, NV 89701

26  
27  
28  


\_\_\_\_\_  
An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

1 **SECOND JUDICIAL DISTRICT COURT**  
2 **COUNTY OF WASHOE, STATE OF NEVADA**

3 **AFFIRMATION**  
4 **Pursuant to NRS 239B.030**

5 The undersigned does hereby affirm that the preceding document, Notice of Appeal  
6 filed in case number: CV21-00809

7  
8 ☒ Document does not contain the Social Security number of any person.

9 **- OR -**

10  
11 ☐ Document contains the Social Security number of a person as required by:

12 A specific state or federal law, to wit:

13 \_\_\_\_\_  
14 **- or -**

15 ☐ For the administration of a public program

16 **- or -**

17 ☐ For an application for a federal or state grant

18 **- or -**

19 ☐ Confidential Family Court Information Sheet  
20 (NRS 125.130, NRS 125.230 and NRS 125B.055)

21  
22 Date: 10/21/21

/s/ L. Michael Friend  
23 (Signature)

24 L. MICHAEL FRIEND, ESQ.  
(Print Name)

25 APPELLANTS  
26 (Attorney for)

FILED  
Electronically  
CV21-00809  
2021-10-21 11:14:21 AM  
Alicia L. Lerud  
Clerk of the Court  
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*“EXHIBIT 1”*

1 **2540**  
2 **NEOJ**  
3 JOHN P. LAVERY, ESQ.  
Nevada Bar No. 004665  
4 L. MICHAEL FRIEND, ESQ.  
Nevada Bar No. 011131  
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Email: [john.lavery@lewisbrisbois.com](mailto:john.lavery@lewisbrisbois.com)  
8 Email: [michael.friend@lewisbrisbois.com](mailto:michael.friend@lewisbrisbois.com)  
Attorneys for Appellants  
9 CARSON TAHOE HEALTH SYSTEM and  
GALLAGHER BASSETT SERVICES, INC.

10 **IN THE SECOND JUDICIAL DISTRICT COURT OF**  
11 **THE STATE OF NEVADA IN AND FOR THE**  
12 **COUNTY OF WASHOE**

12 CARSON TAHOE HEALTH SYSTEM and  
13 GALLAGHER BASSETT SERVICES, INC.,

14 Petitioners,

15 v.

16 STEPHEN YASMER; and the STATE OF  
17 NEVADA DEPARTMENT OF  
ADMINISTRATION, HEARINGS  
18 DIVISION, APPEALS OFFICE, an Agency of  
the State of Nevada,

19 Respondents.

CASE NO: CV21-00809

DEPT. NO.: VIII

20 **NOTICE OF ENTRY OF ORDER**

21 TO: ALL INTERESTED PARTIES AND THEIR RESPECTIVE COUNSEL.  
22

23 ...

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1 YOU, AND EACH OF YOU, PLEASE TAKE NOTICE that an **ORDER GRANTING**  
2 **MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW** was entered with the Clerk of  
3 the Court in the above-captioned matter on the 20th day of September, 2021. A copy of which is  
4 attached hereto and made a part hereof.<sup>1</sup>

5 DATED this 14<sup>th</sup> day of October, 2021.

6 Respectfully submitted,

7 LEWIS BRISBOIS BISGAARD & SMITH LLP

8  
9 By /s/ L. Michael Friend

10 JOHN P. LAVERY, ESQ.

11 Nevada Bar No. 004665

12 L. MICHAEL FRIEND, ESQ.

13 Nevada Bar No. 011131

14 2300 West Sahara Avenue, Suite 900, Box 28

15 Las Vegas, NV 89102

16 Phone: (702) 893-3383

17 Fax: (702) 366-9563

18 Attorneys for Appellants

19 CARSON TAHOE HEALTH SYSTEM and

20 GALLAGHER BASSETT SERVICES, INC.

21  
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27 <sup>1</sup> **NOTICE:** Pursuant to NRCP Rule 4, should any party desire to appeal this final District Court Order, the notice  
28 of appeal must be filed with the clerk of the District Court after entry of a written judgment or order, and no later than  
thirty (30) days after the date that the written notice of entry of the judgment or order appealed from is served.



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*Index of Documents*

Exhibit 1	Order Granting Motion to Dismiss Petition for Judicial Review	1-6
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**CERTIFICATE OF MAILING**

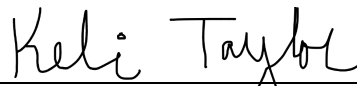
Pursuant to NRCP Rule 5(b), I hereby certify that, on the 14<sup>th</sup> day of October, 2021, I served a true and correct copy of the above and foregoing document entitled **NOTICE OF ENTRY OF ORDER** by depositing same in the United States Mail, with first-class postage fully prepaid thereon, and addressed as follows:

Stephen Yasmer  
2257 Carson River Road  
Carson City, NV 89701

Evan Beavers, Esq.  
NEVADA ATTORNEY FOR INJURED WORKERS  
1000 E. William Street, Suite 208  
Carson City, NV 89701

CARSON TAHOE HEALTH SYSTEM  
Attn: Risk Management  
1600 Medical Pkwy.  
Carson City, NV 89706

Yvette McCollum, Sr. Claims Adjuster  
GALLAGHER BASSETT SERVICES, INC.  
PO Box 2934  
Clinton, IA 52733



---

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

1 **SECOND JUDICIAL DISTRICT COURT**  
2 **COUNTY OF WASHOE, STATE OF NEVADA**

3 **AFFIRMATION**  
4 **Pursuant to NRS 239B.030**

5 The undersigned does hereby affirm that the preceding document, Notice of Entry  
6 of Order filed in case number: CV21-00809

7  
8 ☒ Document does not contain the Social Security number of any person.

9 **- OR -**

10  
11 ☐ Document contains the Social Security number of a person as required by:

12 A specific state or federal law, to wit:

13 \_\_\_\_\_  
14 **- or -**

15 ☐ For the administration of a public program

16 **- or -**

17 ☐ For an application for a federal or state grant

18 **- or -**

19 ☐ Confidential Family Court Information Sheet  
20 (NRS 125.130, NRS 125.230 and NRS 125B.055)

21  
22 Date: 10/14/21

/s/ L. Michael Friend  
23 (Signature)

24 L. MICHAEL FRIEND, ESQ.  
(Print Name)

25 Petitioners  
26 (Attorney for)

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*“EXHIBIT I”*

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

CARSON TAHOE HEALTH SYSTEM  
and, GALLAGHER BASSET SERVICES,  
INC.,

Case No. CV21-00809

Dept. No. 8

Petitioner,

vs.

STEPHEN YASMER; and APPEALS  
OFFICE of the DEPARTMENT OF  
ADMINISTRATION,

Respondents.

**ORDER GRANTING MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW**

Before the Court are two motions: (1) *Motion to Stay Pending Appeal* ("Motion to Stay"), filed by Petitioner, CARSON TAHOE HEALTH SYSTEM (hereinafter, "CTHS") and GALLAGHER BASSETT SERVICES, INC. (hereinafter, "Gallagher, Inc.") on May 3, 2021. Respondent, STEPHEN YASMER, filed his *Opposition to Petitioner's Motion for Stay Pending Appeal* ("Opposition"), on May 26, 2021. This matter was submitted to the Court on June 30, 2021; and

(2): a *Motion to Dismiss Petition for Judicial Review* ("Motion to Dismiss") filed on August 2, 2021, by Respondent, STEPHEN YASMER. The Petitioners, CTHS and GALLAGHER, INC., filed their *Opposition to Respondent's Motion to Dismiss Petition for Judicial Review* ("Opposition") on August 12, 2021, to which the Respondent filed a *Reply* on

1 August 17, 2021. On September 13, 2021, the Court entertained argument during a hearing on  
2 the *Motion to Stay* and the *Motion to Dismiss*, and took the matters under submission.

3 Having reviewed the pleadings, relevant authorities, and arguments of counsel, the  
4 Court **GRANTS** the Respondent's *Motion to Dismiss Petition for Judicial Review*, and finds as  
5 follows<sup>1</sup>:

6 **I. BACKGROUND**

7 According to the record, Stephen Yasmer (hereinafter "Respondent"), was employed at  
8 CTHS. *Opp'n to Pet'r Mot. For Stay Pending Appeal*, 1: 26-27. While working, the  
9 Respondent was carrying a box of supplies down a stair case when he mis-stepped and fell.  
10 *Pet'r Mot. For Stay Pending Appeal*, 3: 11-13. As a result of the fall, Respondent was  
11 diagnosed with a dislocation, and fracture of his left ankle. *Id.* 3: 8-9. The Respondent  
12 underwent surgery for his injury. *Id.* 3: 19.

13 Respondent filed a claim for workers' compensation benefits, which was denied by  
14 Gallagher, Inc. *Opp'n to Pet'r Mot. For Stay Pending Appeal*, 3: 9-11. The Respondent  
15 appealed that determination, and the Hearing Officer affirmed the claim denial. *Pet'r Mot. For*  
16 *Stay Pending Appeal*, 3: 22-25. The Respondent appealed this decision to an Appeals Officer  
17 who reversed the Petitioner Administrator's denial of liability for Respondent's claim. *Id.* 3:  
18 27-29. As a result, Gallagher, Inc. was ordered to accept the Respondent's claim for benefits as  
19 a workers' compensation claim. *Opp'n to Pet'r Mot. For Stay Pending Appeal*,  
20 4: 16-20.

21 **II. LEGAL STANDARD**

22 In order to challenge a final decision and order issued by a Nevada Department of  
23 Administration appeals officer, a party must file a petition for judicial review. NRS 616C.370.  
24 When a party seeks judicial review of an administrative decision [in Nevada], strict compliance  
25 with the statutory requirements is a precondition to jurisdiction by the court of judicial review.  
26

27  
28 <sup>1</sup> In light of the Court's order granting the *Motion to Dismiss Petition for Judicial Review*, the  
*Motion for Stay Pending Appeal* is rendered moot.

1 *Kame v. Employment Security Dep't.*, 105 Nev. 22, 25, 769 P.2d 66, 68 (1989) citing *Teepe v.*  
2 *Review Board of Indiana Emp. Sec. Div.*, 136 Ind. App. 331, 200 N.E. 2d 538, 539 (1964).

3 Requirements for judicial review petitions are contained in NRS 233B.130(2), which requires  
4 that petitions are filed:

5 "In the district court in and for Carson City, in and for the county in which the aggrieved  
6 party resides, or in and for the county where the agency proceeding occurred."  
7 NRS 233B.130(2)(b).

8 The Nevada Supreme Court has held that failure of a petitioner to strictly comply with the  
9 requirements set out in NRS 233B.130(2) results in a lack of jurisdiction for a district court to  
10 consider a petition for judicial review. *Washoe County v. Otto*, 128 Nev. 424, 434, 282 P.3d  
11 719, 726 (2012).

### 12 **III. DISCUSSION**

#### 13 **A. The Motion to Dismiss Petition for Judicial Review Is Granted Because The** 14 **Second Judicial District Court Lacks Jurisdiction.**

15 In his *Motion to Dismiss*, the Respondent asserts the Second Judicial District Court does  
16 not have jurisdiction because the *Petition for Judicial Review* was not filed in the proper district  
17 court. Petitioner contends that jurisdiction is proper as to both CTHS and Gallagher, Inc.

18 In support, Petitioner first argues because CTHS has two locations in Reno and treats  
19 patients throughout northern Nevada, it can establish residency in Washoe County as a domestic  
20 corporation. Additionally, Petitioner attests that as an aggrieved party, Gallagher, Inc. has the  
21 capacity to select the forum. *Pet'r Opp'n to Resp't Mot. to Dismiss Pet. for Judicial. Review*, 4:  
22 13-14.

23 NRS 233B.130(2)(b) requires a petition for judicial review be filed in one of three  
24 specific places. One location permitted by the statute is in the district court in and for Carson  
25 City. The instant *Petition for Judicial Review* was filed in the Second Judicial District Court in  
26 and for the County of Washoe. Under the statutory requirements, the Court does not have  
27 jurisdiction to review the *Petition* on this basis.  
28

1 Alternatively, the statute permits a petition for judicial review to be filed in and for the  
2 county in which the aggrieved party resides. For purposes of Nev. Rev. Stat. § 233B.130(2)(b),  
3 a corporation's place of residence is that which is listed as the principal place of business in its  
4 articles of incorporation. *Liberty Mut. v. Thomasson*, 130 Nev. 28, 34, 317 P.3d 837, 836  
5 (2012). Yet, a foreign corporation cannot have a fixed residence in any Nevada county for  
6 purposes of Nev. Rev. Stat. § 233B.130(2)(b)'s residency requirement. *Id.*

7 The Petitioner argues that Gallagher, Inc. and CTHS are the aggrieved parties. *Pet'r*  
8 *Opp'n to Respt's Mot. to Dismiss Pet. for Judicial Review*, 4: 1-5. Gallagher, Inc. is a foreign  
9 corporation, that is licensed by the Nevada Department of Insurance to conduct business  
10 throughout Nevada. *Id.* 4: 11-13. The Nevada Supreme Court has determined that a foreign  
11 corporation, such as Gallagher, Inc., cannot have a fixed residence in any Nevada county for  
12 these jurisdictional purposes. Furthermore, Gallagher, Inc. has not alleged that its principal  
13 place of business is in Washoe County. Considering both binding precedent, and the lack of  
14 authority to support licensure by the Nevada Department of Insurance conferring any type of  
15 residency status, the Court cannot exercise jurisdiction over Gallagher, Inc. under Nev. Rev.  
16 Stat. § 233B.130(2)(b).

17 CTHS has offices in Reno, Nevada. However, CTHS maintains over twenty locations  
18 statewide, with only two of those locations being in Reno. *Pet'r Opp'n to Respt's Mot. to*  
19 *Dismiss Pet. for Judicial Review*, 4: 2-3. Despite maintaining locations in Reno, CTHS has  
20 registered its officers and directors to an address in Carson City. *Id.* at Exhibit 8. CTHS has not  
21 alleged, nor has it proven that its principal place of business is in Washoe County. Therefore,  
22 CTHS has failed to establish that they meet the residency requirements delineated by Nev. Rev.  
23 Stat. § 233B.130(2)(b), making jurisdiction improper in Washoe County.

24 The statute finds one more location to be appropriate; a petition for judicial review can  
25 be filed in and for the county in which the agency proceeding occurred. In this case, the agency  
26 proceeding did not take place in Washoe County. The certificate of service for both the appeals  
27 officer's decision and order list an address in Carson City. *Resp't Mot. to Dismiss Pet. for*  
28



1 *Judicial Review*, Exhibit 8. Since the agency proceeding occurred outside of Washoe County,  
2 this Court does not have jurisdiction.

3 Under Nevada law, “[a] district court is empowered to render a judgment either for or  
4 against a person or entity only if it has jurisdiction over the parties and the subject matter.”

5 *Young v. Nevada Title Company*, 103 Nev. 436, 442, 744, P.2d 902, 905 (1987). The Court  
6 cannot find a viable basis under Nev. Rev. Stat. § 233B.130(2)(b) to exercise jurisdiction.

7 Therefore, the *Motion to Dismiss Petition for Judicial Review* is **GRANTED**.

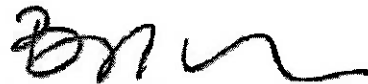
8 **IV. CONCLUSION**

9 Based upon the foregoing, and good cause appearing,

10 IT IS HEREBY ORDERED that Respondent’s *Motion to Dismiss Petition for Judicial*  
11 *Review* is **GRANTED** as set forth above. The *Petition for Judicial Review* is  
12 **DISMISSED**.

13 **IT IS SO ORDERED.**

14 DATED this 20 day of September, 2021.

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18 BARRY L. BRESLOW  
19 DISTRICT JUDGE  
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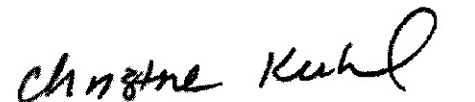
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 20 day of September, 2021, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

JOHN P. LAVERY, ESQ.

EVAN BEAVERS, ESQ.

TODD EIKELBERGER, ESQ.

  
Judicial Assistant

1 **1310**  
JOHN P. LAVERY, ESQ.  
2 Nevada Bar No. 004665  
L. MICHAEL FRIEND, ESQ.  
3 Nevada Bar No. 011131  
LEWIS BRISBOIS BISGAARD & SMITH  
4 2300 West Sahara Avenue, Suite 900, Box 28  
Las Vegas, NV 89102  
5 Phone: (702) 893-3383  
Fax: (702) 366-9563  
6 Email: [john.lavery@lewisbrisbois.com](mailto:john.lavery@lewisbrisbois.com)  
Email: [michael.friend@lewisbrisbois.com](mailto:michael.friend@lewisbrisbois.com)  
7 Attorneys for Appellants  
CARSON TAHOE HEALTH SYSTEM and  
8 GALLAGHER BASSETT SERVICES, INC.

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

12 CARSON TAHOE HEALTH SYSTEM and  
GALLAGHER BASSETT SERVICES, INC.,

CASE NO: CV21-00809

DEPT. NO.: VIII

13 Appellants,

14 vs.

15 STEPHEN YASMER,

16 Respondent.

17  
18 **CASE APPEAL STATEMENT**

- 19 1. Name of appellants filing this case appeal statement:  
20 Carson Tahoe Health System and Gallagher Bassett Services, Inc.  
21 2. Identify the judge issuing the decision, judgment, or order appealed from:  
22 Hon. Barry L. Breslow, Second Judicial District Court Judge  
23 3. Identify each appellant and the name and address of counsel for each appellant:

24 John P. Lavery, Esq.  
25 L. Michael Friend, Esq.  
LEWIS BRISBOIS BISGAARD & SMITH LLP  
26 2300 West Sahara Avenue, Suite 900, Box 28  
Las Vegas, NV 89102  
27 Attorneys for Appellants  
Carson Tahoe Health Systems and  
28 Gallagher Bassett Services, Inc.

1           4.       Identify each respondent and the name and address of appellate counsel, if known,  
2 for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much  
3 and provide the name and address of that respondent's trial counsel): :

4                   Evan Beavers, Esq.  
5                   NEVADA ATTORNEY FOR INJURED WORKERS  
6                   1000 East William Street, Suite 208  
7                   Carson City, NV 89701  
8                   (775) 684-7555  
9                   Attorneys for Respondent  
10                  Stephen Yasmer

11           5.       Indicate whether any attorney identified above in response to question 3 or 4 is not  
12 licensed to practice law in Nevada and, if so, whether the district court granted that attorney  
13 permission to appear under SCR 42 (attach a copy of any district court order granting such  
14 permission):

15                   All attorneys identified above are licensed to practice law in Nevada.

16           6.       Indicate whether appellant was represented by appointed or retained counsel in the  
17 district court:

18                   Appellants retained counsel in the District Court.

19           7.       Indicate whether appellant is represented by appointed or retained counsel on  
20 appeal:

21                   Appellants are represented by retained counsel on appeal.

22           8.       Indicate whether appellant was granted leave to proceed in forma pauperis, and the  
23 date of entry of the district court order granting such leave:

24                   Appellants were not granted leave to proceed in forma pauperis.

25                   . . .

1           9.       Indicate the date the proceedings commenced in the district court (e.g., date  
2 complaint, indictment, information, or petition was filed):

3                   The Petition for Judicial Review of the Appeals Officer's Decision of April 15,  
4 2021, was filed on May 3, 2021.

5           10.       Provide a brief description of the nature of the action and result in the district court,  
6 including the type of judgment or order being appealed and the relief granted by the district court:  
7

8                   Respondent Stephen Yasmer filed a Motion to Dismiss Petition for Judicial Review  
9 on August 2, 2021, due to lack of jurisdiction. The District Court issued an Order Granting Motion  
10 to Dismiss Petition for Judicial Review on September 20, 2021.

11           11.       Indicate whether the case has previously been the subject of an appeal to or original  
12 writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of  
13 the prior proceeding:  
14

15                   No.

16           12.       Indicate whether this appeal involves child custody or visitation:

17                   No.

18 ...

19 ...

20 ...

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25 ...  
26 4830-0445-4911.1 / 26878-2777

1           13.     If this is a civil case, indicate whether this appeal involves the possibility of  
2 settlement

3                   Yes.

4           DATED this 21<sup>st</sup> day of October, 2021.

5                               Respectfully submitted,

6                               LEWIS BRISBOIS BISGAARD & SMITH LLP

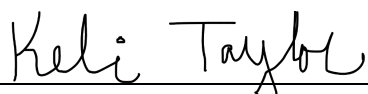
7  
8                               By: /s/ L. Michael Friend  
9                               JOHN P. LAVERY, ESQ.  
10                              Nevada Bar No. 004665  
11                              L. MICHAEL FRIEND, ESQ.  
12                              Nevada Bar No. 011131  
13                              2300 West Sahara Avenue, Suite 900, Box 28  
14                              Las Vegas, NV 89102  
15                              Phone: (702) 893-3383  
16                              Fax: (702) 366-9563  
17                              Attorneys for Appellants  
18                              CARSON TAHOE HEALTH SYSTEM and  
19                              GALLAGHER BASSETT SERVICES, INC.  
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**CERTIFICATE OF MAILING**

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 21<sup>st</sup> day of October, 2021, service of the foregoing **CASE APPEAL STATEMENT** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Evan Beavers, Esq.  
NEVADA ATTORNEY FOR INJURED WORKERS  
1000 E. William Street, Suite 208  
Carson City, NV 89701



---

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

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The undersigned does hereby affirm that the preceding document, Case Appeal  
Statement filed in case number: CV21-00809

**- OR -**

- or -

- or -

- or -

6



**SECOND JUDICIAL DISTRICT COURT****STATE OF NEVADA****COUNTY OF WASHOE****Case History - CV21-00809****Case Description: CTHS, ET AL VS STEPHEN YASMER, ET AL (D8)****Case Number: CV21-00809 Case Type: OTHER JUDICIAL REVIEW/APPEAL - Initially Filed On: 5/3/2021****Parties**

<u>Party Type &amp; Name</u>	<u>Party Status</u>
JUDG - BARRY L. BRESLOW - D8	Active
DEFT - STATE OF NEVADA DEPT OF ADMIN, APPEALS OFFICE - @1370925	Active
DEFT - STEPHEN BENNER YASMER - @721584	Active
ATTY - John P. Lavery, Esq. - 4665	Active
ATTY - Evan Bradley Beavers, Esq. - 3399	Active
ATTY - Stephen Todd Eikelberger, Esq. - 9393	Active
PETR - GALLAGHER BASSETT SERVICES, INC. - @1305718	Active
PETR - CARSON TAHOE HEALTH SYSTEM - @1312419	Active

**Disposed Hearings**

- 1 Department: D8 -- Event: Request for Submission -- Scheduled Date & Time: 5/11/2021 at 16:19:00  
Extra Event Text: STIPULATION FOR EXTENSION OF TIME TO FILE OPPOSITION TO MOTION FOR STAY AND TEMPORARILY STAY DECISION AND ORDER I  
Event Disposition: S200 - 5/18/2021
- 2 Department: D8 -- Event: Request for Submission -- Scheduled Date & Time: 7/1/2021 at 08:37:00  
Extra Event Text: MOTION FOR STAY PENDING APPEAL  
Event Disposition: S200 - 8/13/2021
- 3 Department: D8 -- Event: HEARING... -- Scheduled Date & Time: 9/13/2021 at 14:00:00  
Extra Event Text: ON MOTION TO STAY CASE  
Event Disposition: D840 - 9/13/2021
- 4 Department: D8 -- Event: Request for Submission -- Scheduled Date & Time: 9/13/2021 at 15:00:00  
Extra Event Text: (1) MOTION TO STAY PENDING APPEAL; AND (2) MOTION TO DISMISS PETITION BOTH TAKEN UNDER SUBMISSION FOLLOWING ORAL A  
Event Disposition: S200 - 9/20/2021

**Actions**

<u>Filing Date</u>	<u>-</u>	<u>Docket Code &amp; Description</u>
1	5/3/2021	- \$3550 - \$Pet for Judicial Review Additional Text: Petition for Judicial Review on Stephen Yasmer - Transaction 8424154 - Approved By: CSULEZIC : 05-03-2021:12:31:29
2	5/3/2021	- 1817 - Initial Appeal. Fee Disclosure Additional Text: Transaction 8424154 - Approved By: CSULEZIC : 05-03-2021:12:31:29
3	5/3/2021	- 3373 - Other ... Additional Text: CIVIL COVER SHEET ON STEPHEN YASMER - Transaction 8424154 - Approved By: CSULEZIC : 05-03-2021:12:31:29
4	5/3/2021	- 2490 - Motion ... Additional Text: DFX: SET AT A SECURITY LEVEL 3 - CONTAINS MEDICAL RECORDS - PETITIONERS' MOTION FOR STAY PENDING APPEAL ON STEPHEN YASMER - Transaction 8424154 - Approved By: CSULEZIC : 05-03-2021:12:31:29

**Report Does Not Contain Sealed Cases or Confidential Information**

- 5 5/3/2021 - PAYRC - \*\*Payment Received  
Additional Text: A Payment of \$255.00 was made on receipt DCDC673436.
- 6 5/3/2021 - 2140 - Mtn Ord Shortening Time  
Additional Text: STRIKING THE PETITIONERS; REQUEST FOR ORDER SHORTENING TIME ON MOTION FOR STAY FOR THE FOLLOWING REASON: DOCUMENT IS AN UNSIGNED ORDER THAT IS NOT IDENTIFIED AS A PROPOSED ORDER – WDCR 10(c)(1)  
Transaction 8424470 - Approved By: NOREVIEW : 05-03-2021:13:53:56
- 7 5/3/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8424475 - Approved By: NOREVIEW : 05-03-2021:13:54:57
- 8 5/3/2021 - 2610 - Notice ...  
Additional Text: OF STRICKEN DOCUMENT: PETITIONERS; REQUEST FOR ORDER SHORTENING TIME ON MOTION FOR STAY (UNSIGNED ORDER; SHOULD NOT BE PART OF MAIN PLEADING BUT ATTACHED AS AN EXHIBIT CONTINUATION) FILED 5-3-21 -  
Transaction 8424666 - Approved By: YVILORIA : 05-03-2021:14:44:51
- 9 5/3/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8424674 - Approved By: NOREVIEW : 05-03-2021:14:45:50
- 10 5/4/2021 - 2140 - Mtn Ord Shortening Time  
Additional Text: DFX: EXHIBITS PRESENTED INCORRECTLY  
  
NOTICE OF STRICKEN DOCUMENT - UNSIGNED ORDER(S) NOT FILED AS PROPOSED ORDER(S)  
  
Transaction 8426108 - Approved By: NOREVIEW : 05-04-2021:10:15:32
- 11 5/4/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8426112 - Approved By: NOREVIEW : 05-04-2021:10:16:33
- 12 5/4/2021 - 2610 - Notice ...  
Additional Text: NOTICE OF STRICKEN DOCUMENT RE: DOCKET 2140 FILED 05/04/2021; UNSIGNED ORDERS NOT FILED AS PROPOSED ORDERS. ORDERS CANNOT BE A PART OF YOUR MAIN DOCUMENT, THEY CAN BE SEPARATED AND FILED AS EXHIBITS TO IT -  
Transaction 8426299 - Approved By: SACORDAG : 05-04-2021:10:49:40
- 13 5/4/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8426313 - Approved By: NOREVIEW : 05-04-2021:10:50:45
- 14 5/4/2021 - 2140 - Mtn Ord Shortening Time  
Additional Text: PETITIONER'S REQUEST FOR ORDER SHORTENING TIME ON MOTION TO STAY - Transaction 8426677 - Approved By: NOREVIEW : 05-04-2021:12:23:46
- 15 5/4/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8426681 - Approved By: NOREVIEW : 05-04-2021:12:24:46
- 16 5/10/2021 - 3960 - Statement Intent Participate  
Additional Text: ATTORNEYS EIKELBERGER AND BEAVERS FOR RESPONDENT, STEPHEN YASMER - Transaction 8436137 - Approved By: SACORDAG : 05-10-2021:13:52:39
- 17 5/10/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8436385 - Approved By: NOREVIEW : 05-10-2021:13:53:33
- 18 5/11/2021 - 4047 - Stip Extension of Time ...  
Additional Text: NOTICE OF STRICKEN DOCUMENT - MISSING AFFIRMATION  
  
Transaction 8438725 - Approved By: NOREVIEW : 05-11-2021:13:27:11
- 19 5/11/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8438730 - Approved By: NOREVIEW : 05-11-2021:13:28:11

- 20 5/11/2021 - 2610 - Notice ...  
Additional Text: NOTICE OF STRICKEN DOCUMENT RE: DOCKET 4047 FILED 05/11/2021; MISSING AFFIRMATION - Transaction 8438757  
- Approved By: SACORDAG : 05-11-2021:13:38:33
- 21 5/11/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8438767 - Approved By: NOREVIEW : 05-11-2021:13:39:31
- 22 5/11/2021 - 4047 - Stip Extension of Time ...  
Additional Text: Stipulation to Extend Time to File Opposition to Motion for Stay and Temporarily Stay Decision and Order Pending a Ruling on the Motion - Transaction 8439158 - Approved By: NOREVIEW : 05-11-2021:15:09:25
- 23 5/11/2021 - 3860 - Request for Submission  
Additional Text: Transaction 8439168 - Approved By: NOREVIEW : 05-11-2021:15:11:53  
DOCUMENT TITLE: STIPULATION FOR EXTENSION OF TIME TO FILE OPPOSITION TO MOTION FOR STAY AND TEMPORARILY STAY  
DECISION AND ORDER PENDING A RULING ON THE MOTION FILED 05/11/2021  
PARTY SUBMITTING: S. EIKELBERGER, ESQ  
DATE SUBMITTED: 05/11/2021  
SUBMITTED BY: SJA  
DATE RECEIVED JUDGE OFFICE:
- 24 5/11/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8439163 - Approved By: NOREVIEW : 05-11-2021:15:10:23
- 25 5/11/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8439172 - Approved By: NOREVIEW : 05-11-2021:15:12:54
- 26 5/18/2021 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 27 5/18/2021 - 3030 - Ord Granting Extension Time  
Additional Text: Transaction 8449904 - Approved By: NOREVIEW : 05-18-2021:09:33:40
- 28 5/18/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8449909 - Approved By: NOREVIEW : 05-18-2021:09:34:39
- 29 5/26/2021 - 2645 - Opposition to Mtn ...  
Additional Text: OPPOSITION TO PETITIONER'S MOTION FOR STAY PENDING APPEAL - Transaction 8466059 - Approved By: YVILORIA : 05-26-2021:16:38:37
- 30 5/26/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8466111 - Approved By: NOREVIEW : 05-26-2021:16:39:36
- 31 6/4/2021 - 3746 - Record on Appeal  
Additional Text: Record on Appeal 1-60 - Transaction 8479475 - Approved By: NOREVIEW : 06-04-2021:12:01:51
- 32 6/4/2021 - 3746 - Record on Appeal  
Additional Text: STRIKING THE RECORD ON APPEAL CONTINUATION FOR THE FOLLOWING REASON: DOCUMENT DOES NOT HAVE A DISTRICT COURT CASE NUMBER – WDCR 10(10)(c)(1); DOCUMENT DOES NOT HAVE AN AFFIRMATION – WDCR10(c)(1); UNSIGNED PAPER FILED DOCUMENT – WDCR10(5)  
- Transaction 8479475 - Approved By: NOREVIEW : 06-04-2021:12:01:51
- 33 6/4/2021 - 3746 - Record on Appeal  
Additional Text: STRIKING THE RECORD ON APPEAL CONTINUATION FOR THE FOLLOWING REASON: DOCUMENT DOES NOT HAVE A DISTRICT COURT CASE NUMBER – WDCR 10(10)(c)(1); DOCUMENT DOES NOT HAVE AN AFFIRMATION – WDCR10(c)(1); UNSIGNED PAPER FILED DOCUMENT – WDCR10(5)  
- Transaction 8479475 - Approved By: NOREVIEW : 06-04-2021:12:01:51
- 34 6/4/2021 - 4195 - Transmittal of Rec. on Appeal  
Additional Text: trans of ROA - Transaction 8479475 - Approved By: NOREVIEW : 06-04-2021:12:01:51

- 35 6/4/2021 - 1365 - Certificate of Transmittal  
Additional Text: Cert of Trans - Transaction 8479475 - Approved By: NOREVIEW : 06-04-2021:12:01:51
- 36 6/4/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8479493 - Approved By: NOREVIEW : 06-04-2021:12:03:13
- 37 6/4/2021 - 2610 - Notice ...  
Additional Text: OF STRICKEN DOCUMENT: RECORD ON APPEAL CONTINUATION (NO CASE NO., AFFIRMATION OR SIGNATURE; DOCUMENT NEEDS A DISTRICT COURT & CAUSE COVER PAGE) FILED BY S. MOORE 6-4-21 - Transaction 8480635 - Approved By: YVILORIA : 06-04-2021:16:33:10
- 38 6/4/2021 - 2610 - Notice ...  
Additional Text: OF STRICKEN DOCUMENT: RECORD ON APPEAL CONTINUATION (NO CASE NO., AFFIRMATION OR SIGNATURE; DOCUMENT NEEDS A DISTRICT COURT & CAUSE COVER PAGE) FILED BY S. MOORE 6-4-21 - Transaction 8480635 - Approved By: YVILORIA : 06-04-2021:16:33:10
- 39 6/4/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8480642 - Approved By: NOREVIEW : 06-04-2021:16:34:10
- 40 7/1/2021 - 3860 - Request for Submission  
Additional Text: Transaction 8522066 - Approved By: NOREVIEW : 07-01-2021:08:43:27  
  
DOCUMENT TITLE: REQUEST FOR SUBMISSION OF MOTION FOR STAY PENDING APPEAL  
PARTY SUBMITTING: STEPHEN TODD EIKELBERGER, ESQ.  
DATE SUBMITTED: 07/01/2021  
SUBMITTED BY: SC  
DATE RECEIVED JUDGE OFFICE:
- 41 7/1/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8522076 - Approved By: NOREVIEW : 07-01-2021:08:44:47
- 42 7/13/2021 - 2640 - Opening Brief  
Additional Text: Petitioners' Opening Brief CV21-00809 on Stephen Yasmer - Transaction 8541452 - Approved By: NOREVIEW : 07-13-2021:16:25:42
- 43 7/13/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8541460 - Approved By: NOREVIEW : 07-13-2021:16:26:40
- 44 8/2/2021 - 2300 - Mtn to Dismiss Pet  
Additional Text: Motion to Dismiss Petition for Judicial Review - Transaction 8573355 - Approved By: SACORDAG : 08-02-2021:14:15:23
- 45 8/2/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8573387 - Approved By: NOREVIEW : 08-02-2021:14:16:39
- 46 8/4/2021 - 3746 - Record on Appeal  
Additional Text: STRIKING THE RECORD ON APPEAL CONTINUATION FOR THE FOLLOWING REASON: DOCUMENT DOES NOT HAVE A DISTRICT COURT CASE NUMBER – WDCR 10(10)(c)(1); DOCUMENT DOES NOT HAVE AN AFFIRMATION – WDCR10(c)(1); UNSIGNED PAPER FILED DOCUMENT – WDCR10(5)  
- Transaction 8578537 - Approved By: NOREVIEW : 08-04-2021:14:43:25
- 47 8/4/2021 - 3746 - Record on Appeal  
Additional Text: STRIKING THE RECORD ON APPEAL CONTINUATION FOR THE FOLLOWING REASON: DOCUMENT DOES NOT HAVE A DISTRICT COURT CASE NUMBER – WDCR 10(10)(c)(1); DOCUMENT DOES NOT HAVE AN AFFIRMATION – WDCR10(c)(1); UNSIGNED PAPER FILED DOCUMENT – WDCR10(5)  
- Transaction 8578537 - Approved By: NOREVIEW : 08-04-2021:14:43:25
- 48 8/4/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8578539 - Approved By: NOREVIEW : 08-04-2021:14:44:17

- 49 8/4/2021 - 2610 - Notice ...  
Additional Text: OF STRICKEN DOCUMENT: RECORD ON APPEAL CONTINUATION (NO CASE #, SIGNATURE OR AFFIRMATION; NEEDS A DISTRICT COURT & CAUSE COVER PAGE) FILED 8-4-21 BY SHEILA MOORE - Transaction 8578740 - Approved By: YVILORIA : 08-04-2021:15:28:13
- 50 8/4/2021 - 2610 - Notice ...  
Additional Text: OF STRICKEN DOCUMENT: RECORD ON APPEAL CONTINUATION (NO CASE #, SIGNATURE OR AFFIRMATION; NEEDS A DISTRICT COURT & CAUSE COVER PAGE) FILED 8-4-21 BY SHEILA MOORE - Transaction 8578740 - Approved By: YVILORIA : 08-04-2021:15:28:13
- 51 8/4/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8578744 - Approved By: NOREVIEW : 08-04-2021:15:29:06
- 52 8/5/2021 - 3746 - Record on Appeal  
Additional Text: Record on Appeal - Transaction 8581324 - Approved By: NOREVIEW : 08-05-2021:15:25:03
- 53 8/5/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8581329 - Approved By: NOREVIEW : 08-05-2021:15:26:01
- 54 8/9/2021 - 1170 - Answering Brief  
Additional Text: Respondent's Answering Brief - Transaction 8585426 - Approved By: SACORDAG : 08-09-2021:14:06:31
- 55 8/9/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8585500 - Approved By: NOREVIEW : 08-09-2021:14:07:28
- 56 8/12/2021 - 3790 - Reply to/in Opposition  
Additional Text: PETITIONERS' OPPOSITION TO RESPONDENT'S MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW - Transaction 8591703 - Approved By: CSULEZIC : 08-12-2021:10:05:38
- 57 8/12/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8591852 - Approved By: NOREVIEW : 08-12-2021:10:06:24
- 58 8/13/2021 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 59 8/13/2021 - 3242 - Ord Setting Hearing  
Additional Text: Transaction 8594621 - Approved By: NOREVIEW : 08-13-2021:11:52:38
- 60 8/13/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8594626 - Approved By: NOREVIEW : 08-13-2021:11:53:36
- 61 8/17/2021 - 3795 - Reply...  
Additional Text: Reply in Support of Stephen Yasmer's Motion to Dismiss Petition for Judicial Review - Transaction 8599781 - Approved By: SACORDAG : 08-17-2021:14:14:29
- 62 8/17/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8599850 - Approved By: NOREVIEW : 08-17-2021:14:15:23
- 63 9/15/2021 - 3785 - Reply Brief  
Additional Text: PETITIONERS' REPLY BRIEF - Transaction 8646813 - Approved By: YVILORIA : 09-15-2021:10:15:12
- 64 9/15/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8647034 - Approved By: NOREVIEW : 09-15-2021:10:16:11
- 65 9/20/2021 - 3060 - Ord Granting Mtn ...  
Additional Text: TO DISMISS PETITION FOR JUDICIAL REVIEW - Transaction 8654513 - Approved By: NOREVIEW : 09-20-2021:11:15:26

- 66 9/20/2021 - S200 - Request for Submission Complet  
*No additional text exists for this entry.*
- 67 9/20/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8654516 - Approved By: NOREVIEW : 09-20-2021:11:16:28
- 68 9/20/2021 - F230 - Other Manner of Disposition  
*No additional text exists for this entry.*
- 69 9/20/2021 - MIN - \*\*\*Minutes  
Additional Text: HEARING ON MOTION TO STAY - 9/13/21 - Transaction 8655933 - Approved By: NOREVIEW : 09-20-2021:16:44:00
- 70 9/20/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8655939 - Approved By: NOREVIEW : 09-20-2021:16:45:03
- 71 10/14/2021 - 2540 - Notice of Entry of Ord  
Additional Text: Notice of Entry of Order CV21-00809 on Stephen Yasmer - Transaction 8698218 - Approved By: NOREVIEW : 10-14-2021:13:09:06
- 72 10/14/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8698222 - Approved By: NOREVIEW : 10-14-2021:13:10:08
- 73 10/21/2021 - \$2515 - \$Notice/Appeal Supreme Court  
Additional Text: Transaction 8709853 - Approved By: SACORDAG : 10-21-2021:13:43:47
- 74 10/21/2021 - 1310 - Case Appeal Statement  
Additional Text: Transaction 8709853 - Approved By: SACORDAG : 10-21-2021:13:43:47
- 75 10/21/2021 - 2190 - Mtn for Stay Pending Appeal  
Additional Text: Transaction 8709853 - Approved By: SACORDAG : 10-21-2021:13:43:47
- 76 10/21/2021 - 2140 - Mtn Ord Shortening Time  
Additional Text: Appellants' Request for Order Shortening Time on Motion for Stay CV21-00809 on Stephen Yasmer - Transaction 8710111 - Approved By: NOREVIEW : 10-21-2021:13:11:10
- 77 10/21/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8710117 - Approved By: NOREVIEW : 10-21-2021:13:12:19
- 78 10/21/2021 - PAYRC - \*\*Payment Receipted  
Additional Text: A Payment of \$24.00 was made on receipt DCDC681787.
- 79 10/21/2021 - NEF - Proof of Electronic Service  
Additional Text: Transaction 8710234 - Approved By: NOREVIEW : 10-21-2021:13:45:45
- 80 10/21/2021 - 1350 - Certificate of Clerk  
Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 8710434 - Approved By: NOREVIEW : 10-21-2021:14:32:12

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

CARSON TAHOE HEALTH SYSTEM  
and, GALLAGHER BASSET SERVICES,  
INC.,

Case No. CV21-00809

Dept. No. 8

Petitioner,

vs.

STEPHEN YASMER; and APPEALS  
OFFICE of the DEPARTMENT OF  
ADMINISTRATION,

Respondents.

**ORDER GRANTING MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW**

Before the Court are two motions: (1) *Motion to Stay Pending Appeal* (“*Motion to Stay*”), filed by Petitioner, CARSON TAHOE HEALTH SYSTEM (hereinafter, “CTHS”) and GALLAGHER BASSETT SERVICES, INC. (hereinafter, “Gallagher, Inc.”) on May 3, 2021. Respondent, STEPHEN YASMER, filed his *Opposition to Petitioner’s Motion for Stay Pending Appeal* (“*Opposition*”), on May 26, 2021. This matter was submitted to the Court on June 30, 2021; and

(2): a *Motion to Dismiss Petition for Judicial Review* (“*Motion to Dismiss*”) filed on August 2, 2021, by Respondent, STEPHEN YASMER. The Petitioners, CTHS and GALLAGHER, INC., filed their *Opposition to Respondent’s Motion to Dismiss Petition for Judicial Review* (“*Opposition*”) on August 12, 2021, to which the Respondent filed a *Reply* on

1 August 17, 2021. On September 13, 2021, the Court entertained argument during a hearing on  
2 the *Motion to Stay* and the *Motion to Dismiss*, and took the matters under submission.

3 Having reviewed the pleadings, relevant authorities, and arguments of counsel, the  
4 Court **GRANTS** the Respondent's *Motion to Dismiss Petition for Judicial Review*, and finds as  
5 follows<sup>1</sup>:

6 **I. BACKGROUND**

7 According to the record, Stephen Yasmer (hereinafter "Respondent"), was employed at  
8 CTHS. *Opp'n to Pet'r Mot. For Stay Pending Appeal*, 1: 26-27. While working, the  
9 Respondent was carrying a box of supplies down a stair case when he mis-stepped and fell.  
10 *Pet'r Mot. For Stay Pending Appeal*, 3: 11-13. As a result of the fall, Respondent was  
11 diagnosed with a dislocation, and fracture of his left ankle. *Id.* 3: 8-9. The Respondent  
12 underwent surgery for his injury. *Id.* 3: 19.

13 Respondent filed a claim for workers' compensation benefits, which was denied by  
14 Gallagher, Inc. *Opp'n to Pet'r Mot. For Stay Pending Appeal*, 3: 9-11. The Respondent  
15 appealed that determination, and the Hearing Officer affirmed the claim denial. *Pet'r Mot. For*  
16 *Stay Pending Appeal*, 3: 22-25. The Respondent appealed this decision to an Appeals Officer  
17 who reversed the Petitioner Administrator's denial of liability for Respondent's claim. *Id.* 3:  
18 27-29. As a result, Gallagher, Inc. was ordered to accept the Respondent's claim for benefits as  
19 a workers' compensation claim. *Opp'n to Pet'r Mot. For Stay Pending Appeal*,  
20 4: 16-20.

21  
22 **II. LEGAL STANDARD**

23 In order to challenge a final decision and order issued by a Nevada Department of  
24 Administration appeals officer, a party must file a petition for judicial review. NRS 616C.370.  
25 When a party seeks judicial review of an administrative decision [in Nevada], strict compliance  
26 with the statutory requirements is a precondition to jurisdiction by the court of judicial review.

27  
28 <sup>1</sup> In light of the Court's order granting the *Motion to Dismiss Petition for Judicial Review*, the  
*Motion for Stay Pending Appeal* is rendered moot.



1 *Kame v. Employment Security Dep't.*, 105 Nev. 22, 25, 769 P.2d 66, 68 (1989) citing *Teepe v.*  
2 *Review Board of Indiana Emp. Sec. Div.*, 136 Ind. App. 331, 200 N.E. 2d 538, 539 (1964).

3 Requirements for judicial review petitions are contained in NRS 233B.130(2), which requires  
4 that petitions are filed:

5 “In the district court in and for Carson City, in and for the county in which the aggrieved  
6 party resides, or in and for the county where the agency proceeding occurred.”  
NRS 233B.130(2)(b).

7 The Nevada Supreme Court has held that failure of a petitioner to strictly comply with the  
8 requirements set out in NRS 233B.130(2) results in a lack of jurisdiction for a district court to  
9 consider a petition for judicial review. *Washoe County v. Otto*, 128 Nev. 424, 434, 282 P.3d  
10 719, 726 (2012).

### 11 **III. DISCUSSION**

#### 12 **A. The Motion to Dismiss Petition for Judicial Review Is Granted Because The** 13 **Second Judicial District Court Lacks Jurisdiction.**

14 In his *Motion to Dismiss*, the Respondent asserts the Second Judicial District Court does  
15 not have jurisdiction because the *Petition for Judicial Review* was not filed in the proper district  
16 court. Petitioner contends that jurisdiction is proper as to both CTHS and Gallagher, Inc.

17 In support, Petitioner first argues because CTHS has two locations in Reno and treats  
18 patients throughout northern Nevada, it can establish residency in Washoe County as a domestic  
19 corporation. Additionally, Petitioner attests that as an aggrieved party, Gallagher, Inc. has the  
20 capacity to select the forum. *Pet'r Opp'n to Resp't Mot. to Dismiss Pet. for Judicial. Review*, 4:  
21 13-14.

22 NRS 233B.130(2)(b) requires a petition for judicial review be filed in one of three  
23 specific places. One location permitted by the statute is in the district court in and for Carson  
24 City. The instant *Petition for Judicial Review* was filed in the Second Judicial District Court in  
25 and for the County of Washoe. Under the statutory requirements, the Court does not have  
26 jurisdiction to review the *Petition* on this basis.  
27  
28

1 Alternatively, the statute permits a petition for judicial review to be filed in and for the  
2 county in which the aggrieved party resides. For purposes of Nev. Rev. Stat. § 233B.130(2)(b),  
3 a corporation's place of residence is that which is listed as the principal place of business in its  
4 articles of incorporation. *Liberty Mut. v. Thomasson*, 130 Nev. 28, 34, 317 P.3d 837, 836  
5 (2012). Yet, a foreign corporation cannot have a fixed residence in any Nevada county for  
6 purposes of Nev. Rev. Stat. § 233B.130(2)(b)'s residency requirement. *Id.*

7 The Petitioner argues that Gallagher, Inc. and CTHS are the aggrieved parties. *Pet'r*  
8 *Opp'n to Respt's Mot. to Dismiss Pet. for Judicial Review*, 4: 1-5. Gallagher, Inc. is a foreign  
9 corporation, that is licensed by the Nevada Department of Insurance to conduct business  
10 throughout Nevada. *Id.* 4: 11-13. The Nevada Supreme Court has determined that a foreign  
11 corporation, such as Gallagher, Inc., cannot have a fixed residence in any Nevada county for  
12 these jurisdictional purposes. Furthermore, Gallagher, Inc. has not alleged that its principal  
13 place of business is in Washoe County. Considering both binding precedent, and the lack of  
14 authority to support licensure by the Nevada Department of Insurance conferring any type of  
15 residency status, the Court cannot exercise jurisdiction over Gallagher, Inc. under Nev. Rev.  
16 Stat. § 233B.130(2)(b).  
17

18 CTHS has offices in Reno, Nevada. However, CTHS maintains over twenty locations  
19 statewide, with only two of those locations being in Reno. *Pet'r Opp'n to Respt's Mot. to*  
20 *Dismiss Pet. for Judicial Review*, 4: 2-3. Despite maintaining locations in Reno, CTHS has  
21 registered its officers and directors to an address in Carson City. *Id.* at Exhibit 8. CTHS has not  
22 alleged, nor has it proven that its principal place of business is in Washoe County. Therefore,  
23 CTHS has failed to establish that they meet the residency requirements delineated by Nev. Rev.  
24 Stat. § 233B.130(2)(b), making jurisdiction improper in Washoe County.

25 The statute finds one more location to be appropriate; a petition for judicial review can  
26 be filed in and for the county in which the agency proceeding occurred. In this case, the agency  
27 proceeding did not take place in Washoe County. The certificate of service for both the appeals  
28 officer's decision and order list an address in Carson City. *Resp't Mot. to Dismiss Pet. for*

1 *Judicial Review*, Exhibit 8. Since the agency proceeding occurred outside of Washoe County,  
2 this Court does not have jurisdiction.

3 Under Nevada law, “[a] district court is empowered to render a judgment either for or  
4 against a person or entity only if it has jurisdiction over the parties and the subject matter.”  
5 *Young v. Nevada Title Company*, 103 Nev. 436, 442, 744, P.2d 902, 905 (1987). The Court  
6 cannot find a viable basis under Nev. Rev. Stat. § 233B.130(2)(b) to exercise jurisdiction.

7 Therefore, the *Motion to Dismiss Petition for Judicial Review* is **GRANTED**.

8 **IV. CONCLUSION**

9 Based upon the foregoing, and good cause appearing,

10 IT IS HEREBY ORDERED that Respondent’s *Motion to Dismiss Petition for Judicial*  
11 *Review* is **GRANTED** as set forth above. The *Petition for Judicial Review* is  
12 **DISMISSED**.

13 **IT IS SO ORDERED.**

14 DATED this 20 day of September, 2021.

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18 BARRY L. BRESLOW  
19 DISTRICT JUDGE

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JOHN P. LAVERY, ESQ.  
EVAN BEAVERS, ESQ.  
TODD EIKELBERGER, ESQ.

Chingne Kuhl  
Judicial Assistant

CASE NO. CV21-00809 CTHS ET AL VS. STEPHEN YASMER ET AL

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

09/13/21  
HONORABLE  
BARRY L.  
BRESLOW  
DEPT. NO. 8  
M. Schuck  
(Clerk)  
I. Zihn  
(Reporter)  
None Present  
(Bailiff)

**HEARING ON MOTION TO STAY....**

Petitioner, Carson Tahoe Health System, without a representative present and represented by John Lavery, Esq.  
Petitioner, Gallagher Bassett Services, Inc., without a representative present and represented by John Lavery, Esq.  
Respondent, State of Nevada Dept. of Administration, Appeals, without a representative present and represented by Stephen Eikelberger, Esq.  
Respondent, Stephen Yasmer, not present and represented by Stephen Eikelberger, Esq.

This hearing was held remotely because of the closure of the courthouse at 75 Court Street in Reno, Washoe County, Nevada due to the National and Local emergency caused by COVID-19. The Court and all the participants appeared via simultaneous audiovisual transmission. The court was physically located in Reno, Washoe County, Nevada which was the site of the court session. Counsel acknowledged receipt of Notice that the hearing was taking place pursuant to Nevada Supreme Court Rules – Part 9 relating to simultaneous audiovisual transmissions and all counsel stated they had no objection to going forward in this manner.

Matter convened at 2:13 p.m.

Counsel Eikelberger indicated Counsel Lavery was attempting to sign onto the webinar.

Court noted technical difficulties as the reason for the lateness of Counsel.

Counsel Lavery placed his appearance on the record.

Counsel Eikelberger placed his appearance on the record.

Court referenced the Motion to Stay filed in the case. He noted Department Eight had several big trials and apologized for the delay in response on the Motion to Stay. He also noted a Motion to Dismiss had been filed.

Counsel Eikelberger referenced the appeals and referenced NRS 233.130. He presented his argument in support.

Counsel Lavery presented his argument to include the jurisdictional issue.

Counsel Eikelberger responded to Counsel Lavery's argument. He noted there was no waiver and jurisdiction was not invoked.

Court questioned Counsel Lavery regarding the Motion to Stay.

Counsel Lavery continued his argument in favor of his Motion to Stay.

Counsel Eikelberger responded to Counsel Lavery argument and noted there was technically a stay. He noted the client was not incurring any expenses at that time.

**COURT ORDERED:** Both Motions taken under advisement. He indicated to Counsel his decision will be filed within one week. Matter concluded at 2:35 p.m.

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Code 1350

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

**CARSON TAHOE HEALTH SYSTEM  
and GALLAGHER BASSET SERVICES,  
INC.,**

**Case No. CV21-00809**

**Petitioner,**

**Dept. No. 8**

**vs.**

**STEPHEN YASMER; AND APPEALS  
OFFICE of the DEPARTMENT OF  
ADMINISTRATION,**

**Respondents.**

**CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL**

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 21st day of October, 2021, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 21st day of October, 2021.

Alicia L. Lerud  
Clerk of the Court  
By /s/ SHARI J ACORDAGOITIA

Deputy Clerk