

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

IN THE MATTER OF THE ESTATE  
OF DEMETRIOS A. DALACAS,  
DECEASED,

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RYAN MCCLARAN,

Appellant,

v.

ESTATE OF DEMETRIOS A.  
DALACAS; AND JASEN E.  
CASSADY,

Respondents.

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Electronically Filed  
Jan 03 2022 08:56 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

SUPREME COURT CASE NO. 83702

Dist. Court Case No. P-20-103708-E &  
P-20-104354-E

**APPELLANT McCLARAN'S RESPONSE TO MOTION FOR  
CLARIFICATION**

Appellant McClaran hereby submits his response to Special Administrator Jasen Cassady's *Motion for Clarification* filed on December 27, 2021 as follows:

**I. LAW AND ARGUMENT**

The Parties disagree on much in this dispute, not the least of is whether Appellant McClaran can contest any of the District Court's rulings by way of appeal or whether he is limited to extraordinary writ relief. McClaran's counsel openly confesses that the applicable statutes concerning appeals from probate proceedings do not appear to clearly delineate what procedure is available to contest a District

Court order appointing a Special Administrator, especially one that is not anticipated to be a short or limited duration as we have in this case.

The root cause of this confusion is the clear statutory conflict between NRS § 140.020(3)(b) [providing for no appealability] and NRS § 155.190 [providing for appealability of an order “[g]ranting or revoking letters testamentary or letters of administration”]. The Supreme Court last addressed this issue over 50 years ago in *Nev. Paving v. Callahan*, 83 Nev. 208, 427 P.2d 383 (1967), yet some uncertainty over how the statutes are to be applied persists, leading to the present situation where McClaran suspects he might be limited to writ relief but is hesitant to file a writ petition without first exhausting any appeals available.

McClaran frankly agrees with Mr. Cassady that this Court’s December 17, 2021 Order may need some clarification. In that Order, the Supreme Court seemed to be revising or expanding on its holding in *Nev. Paving v. Callahan* and stating that McClaran’s appeal is proper because, while the Order Appointing Special Administrator is not appealable under NRS § 140.020(3)(b), the issuance of the actual Letters of Special Administration themselves are appealable under NRS § 155.190. Such a ruling would seem a bit unusual since the Letters themselves are more or less administrative, are not actually signed by a District Court Judge, and given that Letters of Special Administration will nearly (if not always) closely follow an Order Appointing Special Administrator, it seems odd to hold that the Order is

not appealable but the related Letters of Administration are. However, such an interpretation does promote resolution of disagreements by appeal rather than writ and would provide a finite amount of time to challenge Letters of Special Administration.

Regardless, because of the uncertainty of the statutes, this Court's prior case law, and how the present court—fifty years after the last guidance on this issue—would address this legal issue exemplifies why McClaran was procedurally careful to file an appeal first before seeking any writ relief.

In response to the Motion for Clarification, McClaran would only ask that the Supreme Court expressly state, if it did so hold in the December 17th Order, that the Letters of Special Administration themselves are the type of entry that would trigger a right to appeal under NRS § 155.190. If so, the appeal will continue.

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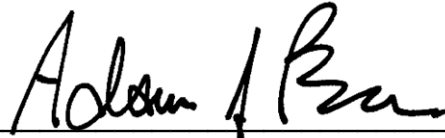
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## **II. CONCLUSION**

There continues to be disagreements and misunderstandings as to McClaran's standing to appeal or lack thereof. Some clarification from the Supreme Court's December 17, 2021 Order does seem to be warranted.

Dated this 3rd day of January, 2022.

**BREEDEN & ASSOCIATES, PLLC**

A handwritten signature in black ink, appearing to read "Adam J. Breiden", is written over a horizontal line.

**ADAM J. BREIDEN, ESQ.**

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*Attorney for Appellant McClaran*

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 3rd day of January 2022, I served a copy of the foregoing legal document entitled **APPELLANT McCLARAN'S RESPONSE TO MOTION FOR CLARIFICATION** via the method indicated below:

X	Pursuant to NRAP 25(c), by placing a copy in the US mail, postage pre-paid to the following counsel of record or parties in proper person:	
	Kevin T. Strong, Esq. PRINCE LAW GROUP 10801 W. Charleston Blvd, Ste. 560 Las Vegas, Nevada 89135 <i>For Creditor Sirianni</i>	Janeen V. Isaacson, Esq. LIPSON NEILSON P.C. 9900 Covington Cross Drive, Ste. 120 Las Vegas, Nevada 89144 <i>For Herself and the Insurance Company</i>
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An Attorney or Employee of the firm:

/s/ Sarah Daniels  
**BREEDEN & ASSOCIATES PLLC**