

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN ILIESCU, JR., AND SONNIA
ILIESCU, TRUSTEES OF THE JOHN
ILIESCU JR. AND SONNIA ILIESCU
1992 FAMILY TRUST; JOHN ILIESCU,
JR., an individual; and SONNIA ILIESCU,
an individual,

Appellants,

v.

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY;
ROE CORPORATIONS 1-20; and DOES
1 through 40 inclusive,

Respondents.

Electronically Filed
Nov 23 2021 12:57 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 83756

**APPELLANTS' DOCKETING
STATEMENT CIVIL APPEAL**

D. CHRIS ALBRIGHT, ESQ.
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Attorney for Appellants

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

JOHN ILIESCU, JR., et al.,

No. 83756

SEE PREVIOUS PAGE
AND ATTACHMENT A

DOCKETING STATEMENT CIVIL APPEALS

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District SECOND Department 15

County WASHOE Judge DAVID A. HARDY

District Ct. Case No. CV19-00459

2. Attorney filing this docketing statement:

Attorney D. CHRIS ALBRIGHT, ESQ. Telephone 702.384.7111

Firm ALBRIGHT, STODDARD, WARNICK & ALBRIGHT

Address 801 South Rancho Drive, Suite D-4
Las Vegas, Nevada 89106

Client(s) SEE ATTACHMENT B

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney DANE W. ANDERSON, ESQ. Telephone 775.688.3000

Firm WOODBURN AND WEDGE

Address 6100 Neil Road, Suite 500
Reno, Nevada 89511

Client(s) THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input checked="" type="checkbox"/> Other disposition (specify): <u>See Attachment C.</u> |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual, Appellants

v.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive, Respondent.

SUPREME COURT CASE NO. 83212

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

John Iliescu and Sonnia Iliescu as Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust and John Iliescu, Jr., an individual and Sonnia Iliescu, an individual, vs. The Regional Transportation Commission of Washoe County (Washoe County Case No. CV19-00439)

The Regional Transportation Commission of Washoe County, vs. John Iliescu, Jr., and Sonnia Iliescu, Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust (Washoe County Case No. CV16-02182)

8. Nature of the action. Briefly describe the nature of the action and the result below:

This case involved a suit against the Respondent, Regional Transportation Commission of Washoe County (hereinafter the "RTC"), seeking damages and other relief for the RTC having, in conjunction with condemning a small portion of a real property parcel owned by Appellants, denied the Appellants their use and access on the entirety of the remainder of the parcel, for a time, and having damaged other portions of the parcel beyond that portion which was condemned.

(SEE ATTACHMENT D)

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Whether the District Court erred in awarding costs and granting attorneys' fees to the Defendant.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual, Appellants

v.

THE REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY; ROE CORPORATIONS 1-20; and DOES 1 through 40 inclusive, Respondent.

SUPREME COURT CASE NO. 83212

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: The case involves questions of public policy with respect to the rights of a public agency vis-a-vis a private citizen property owner during construction upon a condemned portion of a larger uncondemned parcel.

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

The matter should be retained by the Nevada Supreme Court under NRAP 17(a)(12), as presumptively to be retained by the Nevada Supreme Court, because it involves public policy questions of statewide importance relating to the protection of citizens' rights after eminent domain and condemnation proceedings, and the duties owed to the citizens by public agencies in such cases, and thus, the matter should not be assigned to the Court of Appeals.

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? N/A

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

No. N/A

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from October 18, 2021

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

N/A

17. Date written notice of entry of judgment or order was served October 18, 2021

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed October 21, 2021

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)(1)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☒ Other (specify) NRAP 3A(b)(8)

(b) Explain how each authority provides a basis for appeal from the judgment or order:

The Summary Judgment previously appealed from was a rejection and thus a final disposition of all claims then pending (certain claims having been previously dismissed or vacated) as set forth in the Appellants' then operative pleading, a First Amended Complaint.

The Judgment of attorneys' fees and costs appealed from herein was an Order entered after the prior Summary Judgment.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Plaintiffs: John Iliescu, Jr., and Sonnia Iliescu, Trustees of the John Iliescu, Jr. and Sonnia Iliescu 1992 Family Trust; John Iliescu, Jr., an individual; and Sonnia Iliescu, an individual

Defendants: The Regional Transportation Commission of Washoe County

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

The Plaintiffs' First Amended Complaint included claims for Injunctive Relief; Breach of Contract; Breach of the Covenant of Good Faith and Fair Dealing – Contract Claim; Breach of Fiduciary Duty/Breach of Trust; Declaratory Relief; Waste; Conversion; Trespass; Civil Conspiracy; Negligence; and Breach of the Covenant of Good Faith and Fair Dealing – Tort Claim.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

N/A

(b) Specify the parties remaining below:

N/A

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

All Appellants (SEE ATTACHMENT F)

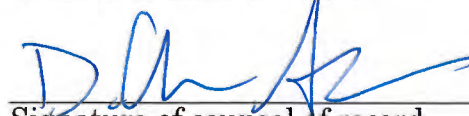
Name of appellant

D. Chris Albright, Esq.

Name of counsel of record

November 23, 2021

Date



Signature of counsel of record

Clark County, Nevada

State and county where signed

CERTIFICATE OF SERVICE


I certify that on the 23rd day of November, 2021, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Dane W. Anderson, Esq.
Bronagh M. Kelly, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
danderson@woodburnandwedge.com
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Attorneys for Defendant, the Regional
Transportation Commission of Washoe County

Michael J. Morrison, Esq.
1495 Ridgeview Drive, #220
Reno, Nevada 89519
venturelawusa@gmail.com
Trial Counsel for Appellants

Dated this 23rd day of November, 2021



Signature

ATTACHMENT B TO DOCKETING STATEMENT (CASE NO. 83756)

No. 2. – Client(s):

JOHN ILIESCU, JR., AND SONNIA ILIESCU, TRUSTEES OF THE JOHN ILIESCU JR. AND SONNIA ILIESCU 1992 FAMILY TRUST; JOHN ILIESCU, JR., an individual; and SONNIA ILIESCU, an individual

ATTACHMENT C TO DOCKETING STATEMENT (CASE NO. 83756)

No. 4. – Nature of disposition below (check all that apply):

☒ Other disposition (specify): Order Granting Attorneys' Fees and Entry of Judgment for Attorneys' Fees and Costs

ATTACHMENT D TO DOCKETING STATEMENT (CASE NO. 83756)

No. 8. – Nature of the action: (Cont'd)

More particularly, the Iliescu Plaintiffs sued the RTC for damage the RTC caused to the Iliescu's property. The Iliescu Plaintiffs own real property over which the RTC exercised eminent domain for the construction of the Fourth Street/Prater RTC project ("the Project"). During construction on the Project, the RTC damaged the portion of the Iliescu's property over which the RTC did not exercise eminent domain, and specifically the paved parking areas of the property that the RTC had not condemned. The RTC's (or its vendors') construction crews allegedly drove over and parked their vehicles, including personal vehicles, ranging from approximately 20-ton trucks to pick-up trucks, SUV's and automobiles, on the Iliescu property, sometimes precluding Iliescu Plaintiffs from using any portion of their property for months at a time. This action led to physical damage (cavities and pothole areas and crushed non-leveled areas) in the parking lot. This was all in breach of stipulated cooperation orders which had been entered in the earlier condemnation action, in which RTC had stipulated to minimize interfering with access to the Property. As a consequence, the Iliescu Plaintiffs asserted causes of action against the RTC for breach of contract, contractual breach of the implied covenant of good faith and fair dealing, declaratory relief, trespass, civil conspiracy, and negligence. They sought remedies for the damage to their property, the costs to restore the property, the loss of the property's market value, their loss of use of the property, and other related remedies.

ATTACHMENT E TO DOCKETING STATEMENT (CASE NO. 83756)

No. 27. – List of File-Stamped Documents:

NO.	DATE	DOCUMENT
1	12/10/19	Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiffs' Claims for Relief and Damages with Prejudice
2	01/07/20	Order Addressing Motion to Dismiss
3	01/21/20	First Amended Complaint
4	03/20/20	Order Granting Motion to Dismiss
5	03/20/20	Notice of Entry of Order Granting Motion to Dismiss
6	06/09/21	Order Granting Summary Judgment after Supplemental Arguments
7	06/10/21	Notice of Entry of Order Granting Summary Judgment after Supplemental Arguments
8	07/27/21	Notice of Entry of (1) Order Granting Stipulation for Entry of Order Dismissing Certain of Plaintiffs' Claims for Relief and Damages with Prejudice; and (2) Order Addressing Motion to Dismiss
9	10/18/21	Order Granting Attorneys' Fees and Entry of Judgment
10	10/18/21	Notice of Entry of Order Granting Attorneys' Fees and Entry of Judgment

ATTACHMENT F TO DOCKETING STATEMENT (CASE NO. 83756)

VERIFICATION

Name of Appellants: John Iliescu, Jr., and Sonnia Iliescu, Trustees of the John Iliescu Jr. and Sonnia Iliescu 1992 Family Trust; John Iliescu, Jr., an Individual; and Sonnia Iliescu, an individual

CERTIFICATE OF SERVICE

Dane W. Anderson, Esq.
Bronagh M. Kelly, Esq.
WOODBURN AND WEDGE
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Reno, Nevada 89511
danderson@woodburnandwedge.com
bkelly@woodburnandwedge.com
*Attorneys for Defendant, The Regional
Transportation Commission of Washoe County*

Michael J. Morrison, Esq.
1495 Ridgeview Drive, #220
Reno, Nevada 89519
venturelawusa@gmail.com
Trial Counsel for Plaintiffs

ATTACHMENT E – No. 27

List of File-Stamped Documents:

EXHIBIT 1

3105

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

JOHN ILIESCU, JR., AND SONNIA
ILIESCU, TRUSTEES OF THE JOHN
ILIESCU JR. AND SONNIA ILIESCU 1992
FAMILY TRUST; JOHN ILIESCU, JR., an
individual; AND SONNIA ILIESCU, an
individual,

Plaintiffs,

v.

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY;
ROE CORPORATIONS 1-20; and DOES 1 –
40, inclusive,

Defendants.

Case No.: CV19-00459

Dept. No.: 15

**ORDER GRANTING STIPULATION FOR ENTRY OF ORDER DISMISSING
CERTAIN OF PLAINTIFFS' CLAIMS FOR RELIEF AND DAMAGES WITH
PREJUDICE**

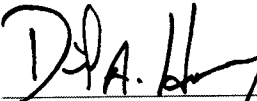
The Court has reviewed and considered the parties' Stipulation For Entry of Order
Dismissing Certain of Plaintiffs' Claims for Relief and Damages With Prejudice. Based on
that Stipulation, and good cause appearing,

IT IS HEREBY ORDERED as follows:

1. Plaintiffs claim for intentional and/or negligent infliction of emotional
distress aka tort of outrage is hereby dismissed with prejudice.
2. With respect to Plaintiffs' remaining claims for relief, any claims Plaintiffs
may have had for damages other than compensatory damages specifically
related to their parking lot and punitive damages based on the facts and

1 events alleged in the Complaint are also dismissed with prejudice. This
2 includes but is not limited to any damages for emotional distress or
3 personal injury.

4 Dated this 9th day of December, 2019.

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6 DISTRICT JUDGE
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ATTACHMENT E – No. 27

List of File-Stamped Documents:

EXHIBIT 2

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

JOHN ILIESCU, JR., AND SONNIA ILIESCU,
TRUSTEES OF THE JOHN ILIESCU, JR. AND
SONNIA ILIESCU 1992 FAMILY TRUST; JOHN
ILIESCU, JR., an Individual; and SONNIA
ILIESCU, an Individual,

Case No. CV19-00459

Dept. No. 15

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY; ROE
CORPORATIONS 1-20; and DOES 1-40,

Defendants.

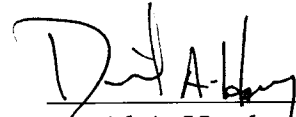
ORDER ADDRESSING MOTION TO DISMISS

Before this Court is the Regional Transportation Commission's (RTC) motion to dismiss. After the matter was submitted, the parties stipulated to dismiss certain claims for relief. The stipulation and order contemplates the 12th claim for "intentional and/or negligent infliction of emotional distress aka tort of outrage" and all other claims for damages other than compensatory damages will be dismissed. The apparent purpose of the stipulation was to prevent discovery relating to Plaintiffs' medical records and treating physicians.

1 Cause appearing, it is appropriate for Plaintiffs to file an amended complaint in
2 which they set forth their extant claims. This will assist this Court and the finder of fact.
3 Plaintiffs shall file their amended complaint within 14 days. The RTC may then, if it
4 wishes, file a supplemental motion to dismiss. The RTC shall not infer by the leave
5 granted that this Court encourages or discourages the filing of a new motion.

6 **IT IS SO ORDERED.**

7 Dated: January 7, 2020.

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9 David A. Hardy
10 District Court Judge
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ATTACHMENT E – No. 27

List of File-Stamped Documents:

EXHIBIT 3

1 **1140**

Dane W. Anderson, Esq.

2 Nevada Bar No. 6883

WOODBURN AND WEDGE

3 6100 Neil Road, Suite 500

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4 Telephone: 775-688-3000

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5 danderson@woodburnandwedge.com

6 Attorneys for Plaintiff, the Regional Transportation
Commission of Washoe County

8 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

9 **IN AND FOR THE COUNTY OF WASHOE**

10
11 JOHN ILIESCU, JR., AND SONNIA
12 ILIESCU, TRUSTEES OF THE JOHN
13 ILIESCU JR. AND SONNIA ILIESCU 1992
FAMILY TRUST; JOHN ILIESCU, JR., an
individual; AND SONNIA ILIESCU, an
individual,

14
15 Plaintiffs,

16 v.

17 THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY;
18 ROE CORPORATIONS 1-20; and DOES 1 –
40, inclusive,

19 Defendants.

Case No.: CV19-00459

Dept. No.: 15

20 **ANSWER TO FIRST AMENDED COMPLAINT**

21 Defendant The Regional Transportation Commission of Washoe County (“RTC”)
22 answers Plaintiffs’ First Amended Complaint as follows:

23 1. RTC lacks information sufficient to form a belief as to the truth or falsity of
24 the allegations in paragraph 1 and on that basis denies the same.

25 2. Answering paragraph 2, RTC admits the allegations therein except for the
26 last sentence regarding the residency and business activities of “all defendants,” which
27 RTC denies based on lack of information.
28

1 3. Answering paragraph 3, RTC admits jurisdiction and venue are proper in
2 this Court.

3 4. Answering paragraph 4, RTC admits that it initiated a condemnation action
4 in October 2016 to acquire certain easement interests on Washoe County APN 008-244-
5 15 for the purpose of constructing the Fourth Street/Prater Way Bus Rapid Transit Project
6 (“the Project”). RTC denies the remaining allegations of paragraph 4.

7 5. RTC lacks information sufficient to form a belief as to the truth or falsity of
8 the allegations in paragraph 5 and on that basis denies the same.

9 6. RTC lacks information sufficient to form a belief as to the truth or falsity of
10 the allegations in paragraph 6 and on that basis denies the same.

11 7. RTC lacks information sufficient to form a belief as to the truth or falsity of
12 the allegations in paragraph 7 and on that basis denies the same.

13 8, Answering paragraph 8, RTC specifically denies it engaged in any improper
14 conduct. RTC lacks information sufficient to form a belief as to the truth or falsity of the
15 remaining allegations in paragraph 8 and on that basis denies the same.

16 9. RTC denies the allegations of paragraph 9.

17 10. Answering paragraph 10, RTC specifically denies it engaged in any
18 improper conduct. RTC lacks information sufficient to form a belief as to the truth or
19 falsity of the remaining allegations in paragraph 10 and on that basis denies the same.

20 11. RTC denies the allegations of paragraph 11.

21 12. RTC denies the allegations of paragraph 12.

22 13. Paragraphs 13-20 pertain to a cause of action that has been dismissed by the
23 Court and therefore no response is required of RTC. To the extent a response is required,
24 these allegations are denied.

25 14. Answering paragraph 21, RTC incorporates its responses to all prior
26 paragraphs in this answer and specifically denies the allegation that RTC and Plaintiffs
27 entered into an agreement. No such agreement was attached to the First Amended
28 Complaint and none has been provided despite RTC’s requests.

1 15. RTC denies the allegations of paragraphs 22-25.

2 16. Answering paragraph 26, RTC incorporates its responses to all prior
3 paragraphs in this answer.

4 17. RTC denies the allegations of paragraph 27. No agreements were attached
5 to the First Amended Complaint and none have been provided despite RTC's requests.

6 18. Paragraph 28 is a statement of law rather than an allegation of fact and
7 therefore no response is required of RTC.

8 19. Based on the response to paragraph 28, RTC also denies the allegations of
9 paragraph 29 and alleges that it has no information as to what were or were not Plaintiffs'
10 expectations.

11 20. RTC denies the allegations of paragraphs 30-33.

12 21. Paragraphs 34-43 pertain to a cause of action that has been dismissed by the
13 Court and therefore no response is required of RTC. To the extent a response is required,
14 these allegations are denied.

15 22. Answering paragraph 44, RTC incorporates its responses to all prior
16 paragraphs in this answer.

17 23. Paragraph 45 is a statement of law rather than an allegation of fact and
18 therefore not response is required of RTC.

19 24. RTC denies the allegations of paragraphs 46-49.

20 25. Paragraphs 50-55 pertain to a cause of action that has been dismissed by the
21 Court and therefore no response is required of RTC. To the extent a response is required,
22 these allegations are denied.

23 26. Paragraphs 56-61 pertain to a cause of action that has been dismissed by the
24 Court and therefore no response is required of RTC. To the extent a response is required,
25 these allegations are denied.

26 27. Answering paragraph 62, RTC incorporates its responses to all prior
27 paragraphs in this answer.

28 28. RTC denies the allegations of paragraphs 63-67.

29. Answering paragraph 68, RTC incorporates its responses to all prior paragraphs in this answer.

30. RTC denies the allegations of paragraphs 69-74.

31. Answering paragraph 75, RTC incorporates its responses to all prior paragraphs in this answer.

32. RTC denies the allegations in paragraphs 76-79.

33. Paragraphs 79-86 (the First Amended Complaint has two paragraphs 79) pertain to a cause of action that has been dismissed by the Court and therefore no response is required of RTC. To the extent a response is required, these allegations are denied.

34. To the extent RTC's responses above have not addressed any particular allegations of the First Amended Complaint, RTC hereby denies those allegations.

Affirmative Defenses

1. Plaintiffs fail to state a claim upon which relief can be granted.

2. Plaintiffs' claims are barred by estoppel.

3. Plaintiffs' failed to perform under any contracts that may exist between them and RTC.

4. Plaintiffs' claims are barred by laches.

5. Any damage to Plaintiffs' property was pre-existing.

6. Any damage to Plaintiffs' property that was not pre-existing was caused either by Plaintiffs and their agents or by third parties over whom RTC exercised no control.

7. Plaintiffs have waived and/or released the claims they now assert.

8. Plaintiffs' claims are barred by res judicata.

9. Plaintiffs' claims are barred by the applicable statute of limitations.

10. At all relevant times, Plaintiffs either expressly or impliedly consented to the use of their property.

11. Plaintiffs failed to mitigate their alleged damages.

1 12. RTC reserves the right to amend its answer to add additional affirmative
2 defenses as discovery progresses in this matter.

3 **Affirmation pursuant to NRS 239B.030**

4 The undersigned does hereby affirm that the preceding document does not contain
5 the personal information of any person.

6 DATED: March 23rd, 2020

7
8 WOODBURN AND WEDGE

9
10 By /s/ Dane W. Anderson
11 Dane W. Anderson, Esq.
 Nevada Bar No. 6883
12 *Attorneys for Plaintiff*
 The Regional Transportation
 Commission of Washoe County
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CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing **ANSWER TO FIRST AMENDED COMPLAINT** was made through the Court's electronic filing and notification or, as appropriate, by sending a copy thereof by first-class mail from Reno, Nevada addressed as follows:

MICHAEL J. MORRISON, ESQ.
Nevada State Bar No. 1665
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: March 23, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

ATTACHMENT E – No. 27

List of File-Stamped Documents:

EXHIBIT 4

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

JOHN ILIESCU, JR., AND SONNIA ILIESCU,
TRUSTEES OF THE JOHN ILIESCU, JR. AND
SONNIA ILIESCU 1992 FAMILY TRUST; JOHN
ILIESCU, JR., an Individual; and SONNIA
ILIESCU, an Individual,

Case No. CV19-00459

Dept. No. 15

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY; ROE
CORPORATIONS 1-20; and DOES 1-40,

Defendants.

ORDER GRANTING MOTION TO DISMISS

Before this Court is the Regional Transportation Commission's supplemental motion to dismiss. This Court has re-read the initial moving papers and First Amended Complaint, filed January 21, 2020. The parties are familiar with the standards of dismissal under NRCP 12 and its decisional authority. This Court understands the operative facts, as alleged, and notes it must look to the substance of the claims, not just the labels used in the complaint. Nevada Power Co. v. District Court, 120 Nev. 948, 960, 102 P.3d 578, 586 (2004). Cause appearing, the following claims for relief are dismissed:

1. Injunctive Relief.
2. Breach of Fiduciary Duty/Breach of Trust.

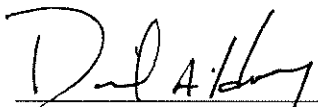
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- 6. Waste.
- 7. Conversion.
- 11. Tortious Breach of the Covenant of Good Faith and Fair Dealing.

This Court denies the motion to dismiss claim 9: Civil Conspiracy. Under the standards for dismissal, the First Amended Complaint sets forth a claim for relief that may be granted. The pre-trial resolution of civil conspiracy, if any, can only be considered through a motion for summary judgment after appropriate discovery is conducted.

IT IS SO ORDERED.

Dated: March 19, 2020.



David A. Hardy
District Court Judge

ATTACHMENT E – No. 27

List of File-Stamped Documents:

EXHIBIT 5

1 **2540**

Dane W. Anderson, Esq.

2 Nevada Bar No. 6883

WOODBURN AND WEDGE

3 6100 Neil Road, Suite 500

Reno, Nevada 89511

4 Telephone: 775-688-3000

Facsimile: 775-688-3088

5 danderson@woodburnandwedge.com

6 Attorneys for Defendant, the Regional Transportation
Commission of Washoe County

8 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

9 **IN AND FOR THE COUNTY OF WASHOE**

10
11 JOHN ILIESCU, JR., AND SONNIA
12 ILIESCU, TRUSTEES OF THE JOHN
13 ILIESCU JR. AND SONNIA ILIESCU 1992
14 FAMILY TRUST; JOHN ILIESCU, JR., an
individual; AND SONNIA ILIESCU, an
individual,

15 Plaintiffs,

16 v.

17 THE REGIONAL TRANSPORTATION
18 COMMISSION OF WASHOE COUNTY;
19 ROE CORPORATIONS 1-20; and DOES 1 –
40, inclusive,

20 Defendants.

Case No.: CV19-00459

Dept. No.: 15

21 **NOTICE OF ENTRY OF ORDER**

22 TO: ALL INTERESTED PARTIES:

23 PLEASE TAKE NOTICE that an Order Granting Motion to Dismiss was entered in
24 the above-entitled action on March 20, 2020, by this Court. A copy of the Order is attached
25 hereto as **Exhibit 1.**

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Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED: March 20, 2020.

WOODBURN AND WEDGE

By /s/ Dane W. Anderson
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Attorneys for Defendant
The Regional Transportation
Commission of Washoe County

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the ***NOTICE OF ENTRY OF ORDER*** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: March 20, 2020.

/s/ Dianne M. Kelling
Employee of Woodburn and Wedge

EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION OF EXHIBIT	NO OF PAGES INCLUDING EXHIBIT PAGES
1	ORDER GRANTING MOTION TO DISMISS	3

ATTACHMENT E – No. 27

List of File-Stamped Documents:

EXHIBIT 6

3095

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

JOHN ILIESCU, JR., AND SONNIA
ILIESCU, TRUSTEES OF THE JOHN
ILIESCU JR. AND SONNIA ILIESCU 1992
FAMILY TRUST; JOHN ILIESCU, JR., an
individual; AND SONNIA ILIESCU, an
individual,

Plaintiffs,

v.

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY;
ROE CORPORATIONS 1-20; and DOES 1 –
40, inclusive,

Defendants.

Case No.: CV19-00459

Dept. No.: 15

ORDER GRANTING SUMMARY JUDGMENT AFTER
SUPPLEMENTAL ARGUMENTS

Before the Court is RTC's Motion for Summary Judgment. RTC filed the motion on March 29, 2021. Plaintiffs filed their opposition brief on April 2, 2021. RTC filed its reply brief on April 29, 2021, and the matter was submitted for the Court's decision. The Court scheduled oral argument for May 12, 2020, at which it heard argument from RTC's counsel. Plaintiffs' counsel did not appear at oral argument. At the conclusion of oral arguments this Court orally pronounced that it would grant summary judgment and deny the pending motions in limine as moot; it directed RTC's Counsel, Dane Anderson Esq., to prepare and submit the

1 order.

2 On May 13, 2021 Plaintiffs filed a notice of intent to file motion to request a rehearing
3 on RTC's Motion for Summary Judgment because "Plaintiffs were denied, inter alia, their
4 Constitutional right to appear and be heard" due to "a technical error, oversight, mistake
5 and/or inadvertence relating. . . to the Zoom platform and its operation." See May 13, 2021
6 Notice. RTC filed a response on May 24, 2021, arguing a rehearing is not proper and
7 plaintiffs were provided proper notice and an opportunity to be heard and further fail to
8 demonstrate how their participation would have yielded different results. Thereafter,
9 Plaintiffs filed a motion for reconsideration and hearing or alternative motion to set aside
10 order, to which the RTC filed an opposition on June 7, 2021. This Court allowed
11 supplemental arguments on June 8, 2021, and the parties have been fully heard. This Court
12 now orders as follows:
13
14

15 **PROCEDURAL BACKGROUND**

16 1. Plaintiffs filed this action on February 27, 2019. Their complaint asserted
17 twelve claims for relief: (1) injunctive relief; (2) breach of contract; (3) breach of the implied
18 covenant of good faith and fair dealing; (4) breach of fiduciary duty/breach of trust; (5)
19 declaratory relief; (6) waste; (7) conversion; (8) trespass; (9) civil conspiracy; (10)
20 negligence; (11) elder abuse; and (12) intentional and/or negligent infliction of emotional
21 distress/tort of outrage. Plaintiffs' claims were all based on the RTC's alleged improper use
22 of the parking lot on Plaintiffs' property at 642 E. 4th Street in Reno. Plaintiffs alleged
23 damages to the parking lot, personal injuries (including emotional distress, anxiety and
24 depression) and also sought punitive damages against RTC.
25

26 2. Plaintiffs failed to timely serve process pursuant to NRCP 4(d), causing this
27 Court to enter an Order To Show Cause on July 1, 2019. In response, Plaintiffs filed a Motion
28

1 For Extension Of Time in which Plaintiffs' counsel cited certain health issues as the reason
2 service had not been timely accomplished. This became a recurring explanation for Plaintiffs'
3 procedural failures throughout the case. The Court granted Plaintiffs' motion but also noted
4 that RTC, as a government entity, is easy to serve and gave Plaintiffs ten days to do so.

5
6 3. After being served, RTC file a motion to dismiss certain claims. While that
7 motion was pending, the parties filed a Stipulation To Conduct Discovery Prior To Holding
8 The NRCF 16.1 Conference And Prior To Filing The Joint Case Conference Report. The
9 stipulation was based on Plaintiffs' ages and allegations in the complaint regarding Plaintiffs'
10 medical issues. Significantly, the stipulation allowed *both* parties to conduct early discovery.
11 The Court granted the stipulation on November 18, 2019.

12
13 4. Pursuant to the stipulation and order for early discovery, RTC served written
14 requests for production on Plaintiffs, including requests seeking information regarding
15 Plaintiffs' alleged damages—both damages to the parking lot as well as alleged personal
16 injury and emotional distress damages. In response to these requests, Plaintiffs indicated they
17 did not wish to disclose their medical records. Therefore, on December 6, 2019, the parties
18 entered into a Stipulation For Entry Of Order Dismissing Certain Plaintiffs' Claims For Relief
19 And Damages With Prejudice. By way of that stipulation, Plaintiffs expressly stated they no
20 longer wished to pursue any damages for emotional distress or personal injury and had
21 decided to limit their compensatory damages solely to the property damage to their parking
22 lot. Plaintiffs agreed to dismiss with prejudice their claim for intentional and/or negligent
23 infliction of emotional distress as well as any claims for damages other than those specifically
24 related to their parking lot and punitive damages. Plaintiffs acknowledged that RTC was
25 relying on that agreement by withdrawing its discovery requests relating to Plaintiffs' medical
26 records and treating physicians.
27
28

1 5. On December 10, 2019, the Court entered its Order Granting Stipulation For
2 Entry Of Order Dismissing Certain Of Plaintiffs' Claims For Relief And Damages With
3 Prejudice. That order specifically adopted the parties' agreement that Plaintiffs'
4 compensatory damages would be limited to alleged damage to the parking lot, and that any
5 damages for emotional distress or personal injury were dismissed with prejudice.
6

7 6. Shortly thereafter, the Court ordered Plaintiffs to file an amended complaint
8 consistent with the parties' stipulation. Plaintiffs filed their Amended Complaint on January
9 21, 2020, asserting eleven claims for relief: (1) injunctive relief; (2) breach of contract; (3)
10 contractual breach of the implied covenant of good faith and fair dealing; (4) breach of
11 fiduciary duty/breach of trust; (5) declaratory relief; (6) waste; (7) conversion; (8) trespass;
12 (9) civil conspiracy; (10) negligence; (11) tortious breach of the implied covenant of good
13 faith and fair dealing.
14

15 7. On January 30, 2020, RTC filed a Supplemental Motion To Dismiss. After
16 briefing, the Court entered an Order Granting Motion To Dismiss on March 20, 2020,
17 dismissing Plaintiffs' claims for injunctive relief, breach of fiduciary duty/breach of trust,
18 waste, conversion and tortious breach of the implied covenant of good faith and fair dealing.
19 The Court denied RTC's motion to dismiss the civil conspiracy claim, noting the pre-trial
20 resolution of that claim, if any, could only be considered through a motion for summary
21 judgment after appropriate discovery is conducted. Thus, the case proceeded on Plaintiffs'
22 claims for breach of contract, contractual breach of the implied covenant of good faith and
23 fair dealing, declaratory relief, trespass, civil conspiracy, and negligence.
24

25 8. On January 20, 2020, RTC filed a Motion To Compel because Plaintiffs had
26 failed to serve responses to RTC's requests for production of documents pursuant to NRCP 34
27 and the parties' stipulation for early discovery. Plaintiffs did not respond to that motion and,
28

1 on April 20, 2020, the Court entered a Confirming Order approving the Master's
2 Recommendation For Order that Plaintiffs produce responses, including responsive
3 documents within their possession, custody or control, no later than April 17, 2020 and that
4 Plaintiffs pay RTC \$1,000 as a sanction for their discovery failures.
5

6 9. On March 23, 2020, RTC filed its Answer to First Amended Complaint.
7 Thereafter, Plaintiffs failed to schedule an early case conference and failed to file a case
8 conference report. This failure will be addressed further below.

9 10. On April 1, 2020, RTC filed a Motion For Discovery Sanctions based on
10 Plaintiffs' failure to appear at their properly noticed depositions and other discovery failures.
11 On April 20, 2020, RTC filed a Motion For Sanctions Pursuant To NRCP 37(b)(1) based on
12 Plaintiffs failure to comply with the Court's April 20, 2020 Confirming Order. Among other
13 things, the Court ordered Plaintiffs to produce documents responsive to RTC's requests for
14 production no later than June 30, 2020. The Court further ordered RTC to submit a
15 declaration setting forth RTC's reasonable expenses incurred in connection with the discovery
16 motions. After briefing, the Court ordered Plaintiffs to pay \$10,684.90 to RTC in sanctions
17 for their discovery failures.
18

19 11. On July 21, 2020, RTC filed a Motion In Limine To Preclude Plaintiffs From
20 Offering Documents Not Produced To RTC On Or Before June 30, 2020. Plaintiffs did not
21 oppose this motion and, on August 19, 2020, the Court entered an order granting it.
22

23 12. On October 12, 2020, the Court entered an Order Granting Stipulated
24 Scheduling Order. Among other deadlines, the Court ordered that the deadline to make expert
25 disclosures was February 26, 2021, and the deadline to disclose rebuttal experts was March
26 29, 2021. The Court noted the NRCP 16.1 case conference had not been held and nothing in
27 the scheduling order should be construed as a waiver of RTC's rights under the August 19,
28

1 2020 Order granting RTC's motion in limine.

2 13. On January 19, 2021, RTC filed a Motion For Sanctions Pursuant To NRCP
3 16.1(e), seeking dismissal of this case due to Plaintiffs' failure to hold an early case
4 conference pursuant to NRCP 16.1 and consequent failure to file a case conference report.
5 Following briefing, the Court entered an Order Denying Motion For Sanctions on March 25,
6 2021. The Court denied the requested sanction of dismissal because it wanted to decide the
7 case on its merits, but it noted Plaintiffs' repeated failure to prosecute their case. The Court
8 ordered the parties to conduct an NRCP 16(b) conference and also ordered the parties to
9 appear before the Court for a status hearing on April 27, 2020.
10

11 14. On March 9, 2021, RTC filed its Motion For Summary Judgment, along with
12 two motions in limine: (1) Motion In Limine To Preclude Plaintiffs From Presenting
13 Evidence Pursuant To NRS 50.275, 50.285 and 50.305 ("Motion In Limine Re Experts"); and
14 (2) Motion In Limine To Exclude Evidence Of Damages. The Motion In Limine Re Experts
15 was based on Plaintiffs' failure to timely disclose any expert witnesses. The Motion In
16 Limine To Exclude Evidence Of Damages was based on Plaintiffs' failure to provide a
17 computation of damages pursuant to NRCP 16.1(a)(1) and their failure to provide any
18 documentation to support their damages claim. Those motions in limine are pending and will
19 be denied as moot in light of the Court's ruling on the Motion for Summary Judgment.
20
21

22 15. Plaintiffs filed their opposition briefs on April 2, 2021. The primary theme of
23 these oppositions was that the Court's March 25, 2021 Order Denying Motion For Sanctions
24 was a "reset" of this case excusing Plaintiffs from their repeated procedural failures.

25 16. On April 27, 2021, the Court held a status conference, at which Plaintiffs'
26 counsel asserted the parties' stipulation for early discovery somehow restricted Plaintiffs from
27 conducting discovery in this case. As discussed below, the Court finds this assertion to be
28

1 unsupported by the documents of record. Following the hearing, the Court set oral arguments
2 on RTC's Motion For Summary Judgment for May 12, 2021 at 2:00 p.m.

3 **FINDINGS OF FACT**

4 17. In entering the December 6, 2019, Stipulation For Entry Of Order Dismissing
5 Certain Plaintiffs' Claims For Relief And Damages With Prejudice, which the Court granted
6 by its Order of December 10, 2019, Plaintiffs expressly waived, with prejudice, any claim for
7 compensatory damages other than compensation for physical damage to the parking lot.
8

9 18. Plaintiffs failed to timely disclose an expert witness on any subject, including
10 Plaintiffs' alleged damages. This Court concludes expert evidence is necessary to determine
11 causation, scope of repair, diminishment in value, and damages. As a result, Plaintiffs have
12 no expert evidence as to the cost to repair the parking lot or the loss of value to the property
13 based on the alleged damage to the parking lot. Plaintiffs are not qualified to provide such
14 evidence and were not designated to provide such testimony.
15

16 19. Plaintiffs have not conducted discovery necessary to prosecute their case.

17 20. The October 30, 2019 Stipulation To Conduct Discovery Prior To Holding The
18 NRCP 16.1 Conference And Prior To Filing The Joint Case Conference Report expressly
19 allowed *both* parties to conduct discovery. Nothing in that Stipulation or the November 18,
20 2019 Order granting the Stipulation, restricted Plaintiffs' right or ability to conduct discovery.
21 The Court does not find that RTC or its counsel in any way precluded Plaintiffs from
22 prosecuting their case.
23

24 21. In opposing summary judgment, Plaintiffs presented no declarations or any
25 other admissible evidence to support their claims. The documents Plaintiffs submitted to the
26 Court suffer from several evidentiary infirmities.

27 22. There is no admissible evidence supporting each of the elements of Plaintiffs'
28

1 claims.

2 23. There is no admissible evidence of Plaintiffs' alleged damages.

3 24. The Court's March 25, 2021 Order Denying Motion For Sanctions was not a
4 "reset" of the entire case. The Court simply wished to avoid imposing case ending sanctions
5 based solely on Plaintiffs' failure to hold an early case conference. That Order was not
6 intended to, and did not, relieve Plaintiffs of any other procedural failures in this case.
7 Contrary to Plaintiffs' suggestion, the March 25, 2021 order did not override or supersede the
8 Court's August 19, 2020 Order Granting Motion In Limine To Preclude Plaintiffs From
9 Offering Documents Not Produced To RTC On Or Before June 30, 2020.
10

11 **CONCLUSIONS OF LAW**

12 25. Summary judgment is appropriate and "shall be rendered forthwith" when the
13 pleadings and other evidence on file demonstrate that no "genuine issue as to any material fact
14 [remains] and that the moving party is entitled to a judgment as a matter of law." *Wood v.*
15 *Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).
16

17 26. In opposing summary judgment, the nonmoving party "must, by affidavit or
18 otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or
19 have summary judgment entered against him." *Id.*, 121 Nev. at 732, 121 P.3d at 1031.
20 "Evidence introduced in...opposition to a motion for summary judgment must be admissible
21 evidence." *Collins v. Union Fed. Savings & Loan*, 99 Nev. 284, 302, 662 P.2d 610, 621
22 (1983), citing NRCP 56(e).
23

24 27. Summary judgment serves an important role in promoting sound judicial
25 economy. Courts should not hesitate to discourage litigation in instances where claims are
26 deficient of evidentiary support and are based on little more than the complainants'
27 conclusory allegations and accusations. *Boesiger v. Desert Appraisals, LLC*, 135 Nev. 192,
28

1 193, 444 P.3d 436, 438 (2019). In doing so, courts avoid the unwarranted consumption of
2 public and private resources. *Id.*, 135 Nev. at 194, 444 P.3d at 438.

3 28. Here, the Court concludes that RTC is entitled to summary judgment on all of
4 Plaintiffs' remaining claims: (1) breach of contract; (2) contractual breach of the implied
5 covenant of good faith and fair dealing; (3) civil conspiracy; (4) trespass; (5) negligence; and
6 (6) declaratory relief. Each is addressed in turn.
7

8 29. "Basic contract principles require, for an enforceable contract, an offer and
9 acceptance, meeting of the minds and consideration." *Certified Fire Prot. Inc. v. Precision*
10 *Construction, Inc.*, 128 Nev. 371, 378, 283 P.3d 250, 255 (2012). "A meeting of the minds
11 exists when the parties have agreed upon the contract's essential terms." *Id.* There is no
12 evidence supporting any of these elements, nor is there any evidence of Plaintiffs' alleged
13 damages. Plaintiffs' breach of contract claim fails.
14

15 30. A claim for breach of the implied covenant of good faith and fair dealing
16 requires the plaintiff to prove the existence of a contract. *Perry v. Jordan*, 111 Nev. 943, 900
17 P.2d 335 (1995). Plaintiffs have failed to prove the existence of a contract with RTC and
18 have provided no evidence of damages. Therefore, Plaintiffs' claim for breach of the implied
19 covenant of good faith and fair dealing fails.
20

21 31. A civil conspiracy claim exists when a combination of two or more persons
22 who, by some concerted action, intend to accomplish some unlawful objective for the purpose
23 of harming another and resulting in damages. *Collins, supra*, 99 Nev. at 303, 662 P.2d at 622.
24 To succeed on a civil conspiracy claim, a plaintiff must prove both an agreement between
25 tortfeasors and that the conduct of each defendant is tortious. *GES, Inc. v. Corbitt*, 117 Nev.
26 265, 271, 21 P.3d 11, 15 (2001). Here, there is no evidence of the existence or identity of any
27 alleged co-conspirator, no evidence of any agreement between RTC and anyone else, and no
28

1 evidence of Plaintiffs' alleged damages. As noted above, there is no evidence of the cost of
2 repair or loss of value based on the alleged damage to the parking lot and Plaintiffs have
3 waived all other damages by way of the December 6, 2019 stipulation. Plaintiffs' civil
4 conspiracy claim fails.

5
6 32. To prove trespass, the claimant must show that the defendant invaded the
7 claimant's real property. *Lied v. County of Clark*, 94 Nev. 275, 279, 579 P.2d 171, 173-174
8 (1978). A plaintiff may recover compensatory, nominal, and/or punitive damages under a
9 trespass claim. *See True v. Bosch*, 73 Nev. 270, 317 P.2d 1089 (1957) (compensatory
10 damages to property); *Land Baron Invs., Inc. v. Bonnie Springs Family Ltd. P'ship*, 131 Nev.
11 686, 700, 356 P.3d 511, 521 (2015) (plaintiff asserting a trespass claim may recover damages
12 for annoyance and discomfort). Here, Plaintiffs waived any damages other than
13 compensatory damages for the physical damage to the parking lot and punitive damages.
14 Therefore, they cannot recover nominal damages or general damages for annoyance,
15 discomfort, emotional distress, anxiety or depression. There is no evidence of cost of repair
16 or loss of value based on the alleged physical damage. There is also no evidence that would
17 support an award of punitive damages.

18
19 33. To establish a negligence claim, a plaintiff must demonstrate: (1) that
20 defendant owed plaintiff a duty of care; (2) that defendant breached that duty; (3) the breach
21 was the legal cause of plaintiff's injuries; and (4) plaintiff sustained damages. *Scialabba v.*
22 *Brandise Construction Co.*, 112 Nev. 965, 921 P.2d 928 (1996). Here, Plaintiffs have failed
23 to present any evidence identifying the duty RTC allegedly owed them, nor have they
24 presented any evidence of damages. Plaintiffs' negligence claim fails.

25
26 34. Plaintiffs' declaratory relief claim also fails. Plaintiffs sought a declaration
27 that (1) RTC failed to perform under the "RTC-Trust agreement" or its "condemnation
28


1 activities”; (2) Plaintiffs are the sole and exclusive owners of their “Property” at 642 E. 4th St.
2 in Reno; (3) RTC has no right, title or interest in the Property and no right to use the Property;
3 (4) RTC “knowingly and wrongfully used the Remaining Property” without paying
4 compensation to Plaintiffs; and (5) RTC wrongfully parked its vehicles on the Remaining
5 Property, causing extensive damage in callous disregard of the law. First, there is no evidence
6 of any contract between RTC and Plaintiffs and any issue involving RTC’s “condemnation
7 activities” was already adjudicated in the previous condemnation action between the parties.
8 Second, while Plaintiffs own “the Property,” they own it subject to RTC’s valid and existing
9 easements established by way of the prior condemnation action between the parties. Third,
10 RTC has the rights, title and interest in the easements on the Property acquired by way of that
11 condemnation action and for which Plaintiffs received just compensation. Finally, there is no
12 evidence of Plaintiffs’ damages and no evidence RTC “callously disregarded” the law.
13 Plaintiffs’ claim for declaratory relief fails.
14
15

16 36. In sum, there is no admissible evidence to support Plaintiffs’ claims. All of
17 Plaintiffs’ remaining claims are dismissed. No genuine issues remain as to any material facts.
18 RTC is entitled to judgment as a matter of law on all of Plaintiffs’ claims.
19

20 Based on the foregoing and with good cause appearing,
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1 IT IS HEREBY ORDERED that RTC's Motion for Summary Judgment is
2 GRANTED. The Court denies as moot RTC's pending Motion In Limine To Preclude
3 Plaintiffs From Presenting Evidence Pursuant To NRS 50.275, 50.285 and 50.305 and the
4 Motion In Limine To Exclude Evidence Of Damages. The jury trial currently set for August
5 9, 2021 is vacated.
6

7 Dated this 9th day of June, 2021.

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10 DISTRICT JUDGE
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ATTACHMENT E – No. 27

List of File-Stamped Documents:

EXHIBIT 7

1 **2535**

2 Dane W. Anderson, Esq.

3 Nevada Bar No. 6883

4 Bronagh M. Kelly, Esq.

5 Nevada Bar No. 14555

6 **WOODBURN AND WEDGE**

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8 Reno, Nevada 89511

9 Telephone: 775-688-3000

10 Facsimile: 775-688-3088

11 danderson@woodburnandwedge.com

12 bkelly@woodburnandwedge.com

13 Attorneys for Defendant, the Regional Transportation

14 Commission of Washoe County

15 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

16 **IN AND FOR THE COUNTY OF WASHOE**

17 JOHN ILIESCU, JR., AND SONNIA
18 ILIESCU, TRUSTEES OF THE JOHN
19 ILIESCU JR. AND SONNIA ILIESCU 1992
20 FAMILY TRUST; JOHN ILIESCU, JR., an
21 individual; AND SONNIA ILIESCU, an
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23 Plaintiffs,

24 v.

25 THE REGIONAL TRANSPORTATION
26 COMMISSION OF WASHOE COUNTY;
27 ROE CORPORATIONS 1-20; and DOES 1 –
28 40, inclusive,

Defendants.

Case No.: CV19-00459

Dept. No.: 15

NOTICE OF ENTRY OF ORDER GRANTING SUMMARY JUDGMENT

TO: ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that an Order Granting Summary Judgment After Supplemental Arguments was entered in the above-entitled action on June 9, 2021, by this Court. A copy of the Order is attached hereto as **Exhibit 1**.

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Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice of Entry of Order Granting Summary Judgment does not contain any personal information.

Dated: June 10, 2021

WOODBURN AND WEDGE

By: /s/ Dane W. Anderson
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

*Attorneys for Defendant
The Regional Transportation
Commission of Washoe County*

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TABLE OF EXHIBITS

Exhibit	No. of Pages (Including Exhibit Sheet)	Exhibit No.
Order Granting Summary Judgment After Supplemental Arguments filed June 9, 2021	13	1

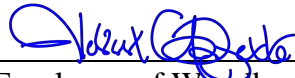
1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of Woodburn and Wedge and that on this date,
3 I caused to be sent via electronic delivery through the Court's E-flex system a true and correct
4 copy of the **NOTICE OF ENTRY OF ORDER GRANTING SUMMARY**
5 **JUDGMENT** to:

6
7 MICHAEL J. MORRISON, ESQ.
8 1495 Ridgeview Dr., #220
9 Reno, Nevada 89519
10 venturelawusa@gmail.com

11 *Attorneys for Plaintiffs*

12 DATED: June 10, 2021

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15 Employee of Woodburn and Wedge
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ATTACHMENT E – No. 27

List of File-Stamped Documents:

EXHIBIT 8

CODE: 2540
D. CHRIS ALBRIGHT, ESQ.
Nevada Bar No. 4904
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
801 South Rancho Drive, Suite D-4
Las Vegas, Nevada 89106
Tel: (702) 384-7111
Fax: (702) 384-0605
dca@albrightstoddard.com
Attorneys for Plaintiffs/Appellants

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

JOHN ILIESCU, JR., AND SONNIA ILIESCU,
TRUSTEES OF THE JOHN ILIESCU JR. AND
SONNIA ILIESCU 1992 FAMILY TRUST;
JOHN ILIESCU, JR., an individual; and SONNIA
ILIESCU, an individual,

Plaintiffs,

v.

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY; ROE
CORPORATIONS 1-20; and DOES 1 through 40
inclusive,

Defendants.

CASE NO. CV19-00459

NOTICE OF ENTRY OF:
(1) ORDER GRANTING
STIPULATION FOR ENTRY OF
ORDER DISMISSING CERTAIN OF
PLAINTIFFS' CLAIMS FOR RELIEF
AND DAMAGES WITH PREJUDICE;
-AND-
(2) ORDER ADDRESSING MOTION
TO DISMISS

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that Orders were entered in the above-entitled matter as follows:

1. An ORDER GRANTING STIPULATION FOR ENTRY OF ORDER DISMISSING CERTAIN OF PLAINTIFFS' CLAIMS FOR RELIEF AND DAMAGES WITH PREJUDICE, on December 10, 2019 (Transaction #7629013), a copy of which is attached hereto as **Exhibit "1"**; and

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///

2. An ORDER ADDRESSING MOTION TO DISMISS, on January 7, 2020 (Transaction #7673003), a copy of which is attached hereto as **Exhibit "2."**

DATED this 27th day of July, 2021.

ALBRIGHT, STODDARD, WARNICK & ALBRIGHT


D. CHRIS ALBRIGHT, ESQ., #004904
801 South Rancho Drive, Suite D-4
Las Vegas, Nevada 89106
Tel: (702) 384-7111
dca@albrightstoddard.com
Attorneys for Plaintiffs/Appellants

AFFIRMATION

The undersigned does hereby affirm that the preceding document filed in the Second Judicial District Court does not contain the social security number of any person.

DATED this 27th day of July, 2021.

ALBRIGHT, STODDARD, WARNICK & ALBRIGHT

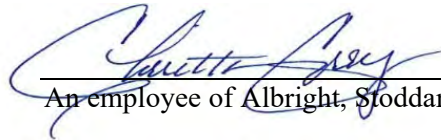

D. CHRIS ALBRIGHT, ESQ., #004904
801 South Rancho Drive, Suite D-4
Las Vegas, Nevada 89106
Tel: (702) 384-7111
dca@albrightstoddard.com
Attorneys for Plaintiffs/Appellants

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of ALBRIGHT, STODDARD, WARNICK & ALBRIGHT and that on the 27th day of July, 2021, I served a true and correct copy of the foregoing **NOTICE OF ENTRY OF: (1) ORDER GRANTING STIPULATION FOR ENTRY OF ORDER DISMISSING CERTAIN OF PLAINTIFFS' CLAIMS FOR RELIEF AND DAMAGES WITH PREJUDICE; AND (2) ORDER ADDRESSING MOTION TO DISMISS** upon all counsel of record by electronically serving the document using the Court's electronic filing system:

Dane W. Anderson, Esq.
Bronagh M. Kelly, Esq.
WOODBURN AND WEDGE
6100 Neil Road, Suite 500
Reno, Nevada 89511
danderson@woodburnandwedge.com
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*Attorneys for Defendant, the Regional
Transportation Commission of Washoe County*

Michael J. Morrison, Esq.
1495 Ridgeview Drive, #220
Reno, Nevada 89519
venturelawusa@gmail.com
Trial Counsel for Plaintiffs



An employee of Albright, Stoddard, Warnick & Albright

EXHIBIT “1”

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5 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
6
7 **IN AND FOR THE COUNTY OF WASHOE**

8 JOHN ILIESCU, JR., AND SONNIA
9 ILIESCU, TRUSTEES OF THE JOHN
10 ILIESCU JR. AND SONNIA ILIESCU 1992
11 FAMILY TRUST; JOHN ILIESCU, JR., an
individual; AND SONNIA ILIESCU, an
individual,

12 Plaintiffs,

13 v.

14 THE REGIONAL TRANSPORTATION
15 COMMISSION OF WASHOE COUNTY;
16 ROE CORPORATIONS 1-20; and DOES 1 –
40, inclusive,

17 Defendants.

Case No.: CV19-00459

Dept. No.: 15

18 **ORDER GRANTING STIPULATION FOR ENTRY OF ORDER DISMISSING**
19 **CERTAIN OF PLAINTIFFS' CLAIMS FOR RELIEF AND DAMAGES WITH**
20 **PREJUDICE**

21 The Court has reviewed and considered the parties' Stipulation For Entry of Order
22 Dismissing Certain of Plaintiffs' Claims for Relief and Damages With Prejudice. Based on
23 that Stipulation, and good cause appearing,

24 IT IS HEREBY ORDERED as follows:

- 25 1. Plaintiffs claim for intentional and/or negligent infliction of emotional
26 distress aka tort of outrage is hereby dismissed with prejudice.
27 2. With respect to Plaintiffs' remaining claims for relief, any claims Plaintiffs
28 may have had for damages other than compensatory damages specifically
related to their parking lot and punitive damages based on the facts and

1 events alleged in the Complaint are also dismissed with prejudice. This
2 includes but is not limited to any damages for emotional distress or
3 personal injury.

4 Dated this 9th day of December, 2019.

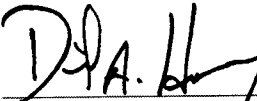
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EXHIBIT “2”

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

JOHN ILIESCU, JR., AND SONNIA ILIESCU,
TRUSTEES OF THE JOHN ILIESCU, JR. AND
SONNIA ILIESCU 1992 FAMILY TRUST; JOHN
ILIESCU, JR., an Individual; and SONNIA
ILIESCU, an Individual,

Case No. CV19-00459

Dept. No. 15

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY; ROE
CORPORATIONS 1-20; and DOES 1-40,

Defendants.

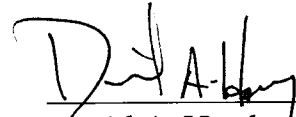
ORDER ADDRESSING MOTION TO DISMISS

Before this Court is the Regional Transportation Commission's (RTC) motion to dismiss. After the matter was submitted, the parties stipulated to dismiss certain claims for relief. The stipulation and order contemplates the 12th claim for "intentional and/or negligent infliction of emotional distress aka tort of outrage" and all other claims for damages other than compensatory damages will be dismissed. The apparent purpose of the stipulation was to prevent discovery relating to Plaintiffs' medical records and treating physicians.

1 Cause appearing, it is appropriate for Plaintiffs to file an amended complaint in
2 which they set forth their extant claims. This will assist this Court and the finder of fact.
3 Plaintiffs shall file their amended complaint within 14 days. The RTC may then, if it
4 wishes, file a supplemental motion to dismiss. The RTC shall not infer by the leave
5 granted that this Court encourages or discourages the filing of a new motion.

6 **IT IS SO ORDERED.**

7 Dated: January 7, 2020.

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9 David A. Hardy
10 District Court Judge
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ATTACHMENT E – No. 27

List of File-Stamped Documents:

EXHIBIT 9

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

JOHN ILIESCU, JR., AND SONNIA ILIESCU,
TRUSTEES OF THE JOHN ILIESCU, JR. AND
SONNIA ILIESCU 1992 FAMILY TRUST,

Case No. CV19-00459

Dept. No. 15

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY; ROE
CORPORATIONS 1-20; AND DOES 1-40,

Defendants.

ORDER GRANTING ATTORNEY'S FEES AND ENTRY OF JUDGMENT

Before this Court is Defendant Regional Transportation Commission of Washoe County's (RTC) opposed Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs. This Court has reviewed the moving papers, record, and relevant authorities.

The procedural history of this case is well-documented. Throughout the proceedings, this Court responded to Plaintiffs' procedural failures through various orders, including sanctions and summary judgment because Plaintiffs provided insufficient admissible evidence during pre-trial discovery. RTC now requests an award of attorney's fees under NRS 18.010(2)(b), arguing the action was groundless and frivolous

1 due to Plaintiffs' number and nature of claims, actions causing delay, and failure to
2 produce evidence. RTC also requests an award of costs.

3 Upon review of the relevant papers, this Court must determine 1) the propriety of
4 an award under NRS chapter 18, 2) the reasonable and just amount to award, and 3)
5 whether costs should be awarded.

6 From this Court's experience with this case, it appears Plaintiffs sincerely believe
7 they were harmed by RTC during the time RTC enjoyed a temporary construction
8 easement over their property. But upon filing this complaint, they had a burden to prove
9 the condition of the parking lot before RTC's arrival, the condition after RTC's departure,
10 the scope of the harm allegedly caused by RTC, and the value of any damages. Plaintiffs
11 failed to provide any expert witness or other evidence other than their own anecdotal
12 observations to support these necessary elements. Thus, this Court finds an award of
13 attorney's fees is warranted for all claims. However, under its broad discretion in
14 determining the amount of fees to award, this Court finds a lesser amount than requested
15 is reasonable and just under the circumstances. Finally, this Court finds an award of full
16 costs is appropriate.

17 RTC asserts an award of attorney's fees for all work in this matter is appropriate
18 under NRS 18.010(2)(b), which allows a court to grant an award where it finds a claim:

19 [W]as brought or maintained without reasonable ground or
20 to harass the prevailing party. The court shall liberally
21 construe the provisions of this paragraph in favor of
22 awarding attorney's fees in all appropriate situations. It is
23 the intent of the Legislature that the court award attorney's
24 fees pursuant to this paragraph and impose sanctions
25 pursuant to Rule 11 of the Nevada Rules of Civil Procedure
26 in all appropriate situations to punish for and deter frivolous
27 or vexatious claims and defenses because such claims and
28 defenses overburden limited judicial resources, hinder the
timely resolution of meritorious claims and increase the
costs of engaging in business and providing professional
services to the public.

NRS 18.010(2)(b).

1 This statute is an exception to the general rule that a prevailing party is not entitled
2 to attorney's fees. See Smith v. Crown Financial Services, 111 Nev. 277, 890 P.2d 769 (1995)
3 (analyzing the American and English rules regarding attorney's fees and their intersection
4 with Nevada Law). While this Court will "liberally construe" the statute to grant fees
5 when appropriate, the statute does not provide mandatory attorney's fees as fully
6 requested, leaving the amount of fees to the court's discretion. Schmidt v. Washoe Cty.,
7 124 Nev. 1506, 238 P.3d 852 (2008).

8 The ultimate inquiry is whether the proceedings were initiated or defended with
9 "improper motives or without reasonable grounds." Bobby Berosini, Ltd. v. People for the
10 Ethical Treatment of Animals, 114 Nev. 1348, 1354, 971 P.2d 383, 387 (1998). "A claim is
11 frivolous or groundless if there is no credible evidence to support it." Rodriguez v.
12 Primadonna Co., LLC, 125 Nev. 578, 588, 216 P.3d 793, 800 (2009).

13 The analysis for awarding fees under the statute after its 2003 amendment adding a
14 ban on "maintaining" groundless claims is not limited to evidence presented at trial or
15 whether a claim was frivolous at the time it was raised. S. Nevada Chinese Wkly. v.
16 Chinese Am. Chamber of Com. of Nevada, 126 Nev. 757, 367 P.3d 821 (2010). The statute's
17 current form also encourages a fee award when a party brings a large number of claims
18 "hoping one would stick." Id.

19 The statute contemplates specific claims. Thus, courts may separate claims
20 maintained without credible evidence from other viable claims when analyzing a request
21 for attorney's fees. See Capanna v. Orth, 134 Nev. 888, 896, 432 P.3d 726, 734 (2018); see
22 also Bergmann v. Boyce, 109 Nev. 670, 675-76, 856 P.2d 560, 563 (1993), superseded by
23 statute on other grounds as stated in In re DISH Network Derivative Litig., 401 P.3d 1081,
24 1093 n.6 (Nev. 2017).

25 Here, RTC is the prevailing party on all claims through dismissal or summary
26 judgment. See 145 E. Harmon II Tr. v. Residences at MGM Grand - Tower A Owners'
27 Ass'n, 136 Nev. 115, 120, 460 P.3d 455, 459 (2020) (explaining prevailing party status,
28 including that voluntary dismissal with prejudice generally means a defendant

1 “prevailed” for purposes of fees, but courts should consider the circumstances of
2 dismissal).

3 As this Court did not make direct findings of fact that any claims were frivolous or
4 unreasonably maintained, Plaintiffs’ failure to present evidence at the summary judgment
5 stage is not a *de facto* determination that fees are warranted. Rivero v. Rivero, 125 Nev.
6 410, 441, 216 P.3d 213, 234 (2009); see also Schmidt, 124 Nev. 1506. However, Plaintiffs’
7 failure would justify this Court in making such a finding of fact and awarding attorney’s
8 fees. TMX, Inc. v. Volk, 448 P.3d 574 (Nev. 2019).

9 This Court granted summary judgment only after a prolonged discovery period
10 where this Court intervened on several occasions, reminded Plaintiffs to produce
11 discovery, ordered a discovery schedule, imposed sanctions for delays and failures to meet
12 deadlines, and held hearings. Despite ample time and opportunity to either produce
13 evidence or suffer summary adjudication, Plaintiffs failed to provide support for the
14 remaining claims’ essential facts, some of which were central to the entire original
15 complaint.

16 Plaintiffs filed a complaint with twelve claims involving RTC harming their parking
17 lot, and then failed to provide evidence of the condition of the parking lot before or after
18 the alleged misconduct, any action RTC took to cause the alleged damages, or evidence of
19 costs of repair or loss of value. Plaintiffs filed a complaint involving a contract, and then
20 failed to provide evidence of its terms. As this Court explained when granting summary
21 judgment, Plaintiffs claimed damages and then did not provide a single expert witness
22 necessary to explain liability or analyze damages. Though Plaintiffs no longer had the
23 burden to support dismissed claims at the summary judgment stage, they had both the
24 opportunity and burden to provide evidence for their remaining claims that would have
25 also been essential to the original claims. Thus, Plaintiffs’ entire complaint may be
26 “groundless” under the evidence analysis.

27 Plaintiffs’ delays and procedural behavior in this matter further justify an award
28 under the statute’s liberal application. Plaintiffs brought twelve claims, including claims

1 their alleged facts did not support. Despite not wishing to disclose their own medical
2 records, Plaintiffs brought claims relating to their mental health that required such
3 disclosures. Under their own explanations of external hardships causing delays and
4 procedural failures, Plaintiffs at some point should have known they could not adequately
5 prosecute their case. Instead, they repeatedly missed deadlines and only participated in
6 proceedings primarily when objecting to RTC's motions or requesting more time to
7 perform. Thus, RTC incurred extra fees while Plaintiffs extended and delayed
8 proceedings, doing enough to maintain their claims without the apparent ability to
9 produce evidence for them. The length of time and number of delays and failures are
10 especially egregious. Thus, Plaintiffs maintained their claims with at least a level of
11 unreasonableness. Under the statute and in the interest of fairness, the circumstances
12 warrant awarding attorney's fees to RTC.

13 However, this Court has broad discretion to determine the amount of attorney's
14 fees, to be "'tempered only by reason and fairness.'" Albios v. Horizon Communities, Inc.,
15 122 Nev. 409, 427, 132 P.3d 1022, 1034 (2006). This Court's approach in setting the amount
16 of fees considers what is reasonable and fair, the language and purpose of the statute, and
17 RTC's counsel's memoranda "in light of the Brunzell" factors. Id.; see also Logan v. Abe,
18 131 Nev. 260, 266, 350 P.3d 1139, 1143 (2015).

19 As explained above, NRS 18.010(2)(b) is the exception to the general rule that
20 parties pay their own fees. Fees are justified under that statute. However, this Court also
21 finds some aspects of this case do not fully conform to the purposes underlying the statute.
22 Thus, this Court considers what amount of fees most reasonably provides an exception to
23 the general rule. This Court concludes that requiring Plaintiffs to pay attorney's fees for
24 all work performed would be unreasonable insofar as Plaintiffs did not act with the type
25 of frivolous or vexatious intent the award is meant to "punish for and deter." NRS
26 18.010(2)(b).

27 Plaintiffs did not appear to maintain the action *for the purpose* of harassing RTC.
28 This statutory language implies a *mens rea*, i.e., a knowing course of conduct in which

1 litigation is the tool to effect harassment of an opposing party. There is a distinction, both
2 theoretical and actual, between intentionally harassing an opposing party and engaging in
3 harassing conduct during litigation. Plaintiffs unduly subjected RTC to hardship because
4 of repeated delays, but the record does not suggest any intentional harassment.

5 For instance, though Plaintiffs stipulated to dismiss tort claims rather than provide
6 their medical records, they did so only four months after service, less than a month after
7 the start of discovery, and prior to any papers or hearings on those claims. See Arellano v.
8 Iglesias, 468 P.3d 375 (Nev. 2020); see also In re 12067 Oakland Hills, Las Vegas, Nevada
9 89141, 134 Nev. 799, 803, 435 P.3d 672, 676 (Nev. App. 2018). Plaintiffs appear to have
10 dismissed the claims in good faith rather than attempt to frivolously maintain them. See
11 In re 12067 Oakland Hills, 134 Nev. 799 at 804.

12 Ultimately, the record suggests Plaintiffs believe they were damaged by RTC.
13 Plaintiffs brought and maintained their case with the apparent hopes of obtaining relief,
14 but ultimately failed to meet pre-trial procedural requirements. Plaintiffs repeatedly
15 blame medical complications and the Covid pandemic for these failures. This Court
16 acknowledges these hardships and notes they exacerbated communication challenges
17 between Plaintiffs and their attorney. But this Court has previously made substantial
18 accommodations because of the pandemic. While Plaintiffs ultimately failed to provide
19 the evidence required, and therefore will pay attorney's fees under the statute, this Court
20 is not persuaded that no evidence exists to support the Plaintiffs' perception of viable
21 claims. The lack of sufficient evidence is a justifying factor for granting fees but not
22 mandatory under the statute and within the context of the entire record.

23 Thus, Plaintiffs appear to have a good faith bases for their claims, but their counsel
24 failed to produce discovery or dismiss the action if discovery would be impossible due to
25 hardship. A "civil litigant is bound by the acts or omissions of its voluntarily chosen
26 attorney." Huckabay Props. v. NC Auto Parts, 130 Nev. 196, 198, 322 P.3d 429, 430 (2014).
27 Plaintiffs are responsible for counsel's actions or omissions as their own actions or
28 omissions by imputation. Lange v. Hickman, 92 Nev. 41, 43, 544 P.2d 1208, 1209 (1976);

1 Id. at 204; Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 396, 113
2 S. Ct. 1489, 1499, 123 L. Ed. 2d 74 (1993). Plaintiffs are responsible for delays and failure to
3 produce discovery, whether or not through the fault of counsel.¹ Though these hardships
4 do not relieve Plaintiffs' responsibility for fees, they are a feature of Plaintiffs' procedural
5 failures that, as opposed to bad faith, resulted in dismissal and summary judgment.

6 The last mitigating factor is that this Court has already ordered sanctions and a
7 case-ending order to punish the exact failures at issue in this analysis. This Court agrees
8 with RTC that the award should be reduced by the amount of sanctions already awarded.
9 This Court also considers to what extent its orders in this matter have already punished
10 Plaintiffs for their delays and failure to provide evidence.

11 Finally, this Court weighs these considerations with the four Brunzell factors: "(1)
12 the qualities of the advocate . . . (2) the character of the work to be done . . . (3) the work
13 actually performed by the lawyer: . . . [and] (4) the result." Brunzell v. Golden Gate Nat.
14 Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

15 For the first factor, Plaintiffs concede RTC's counsel are well-respected, highly
16 skilled, and experienced attorneys. Indeed, this Court notes the reduction of fees is in no
17 way related to the exemplary work of RTC's counsel or the outcomes they obtained in this
18 matter.

19 Second, the character of the work was fairly complicated given the circumstances.
20 The claims themselves may not have been complicated, but the number of claims
21 complicated counsel's work.

22 Third, counsel provided memoranda adequately detailing the hourly work
23 performed. While Plaintiffs argue the reported hours for some tasks are disproportionate
24 to the papers produced and the complexity of the claims, this Court finds the hours to be
25 reasonable given the number of claims, allegations, hearings, motions, and possible
26 defenses involved. This Court is also unpersuaded that the number of pages produced is
27 disproportionate to the time reported given the subject matter. The quality of the pages is

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¹ This Court does not intend to make any statements, and no inferences should be made, regarding any
future disagreements between Plaintiffs and their attorney.

1 of more importance than the quantity. RTC wrote successful motions to dismiss, motions
2 for summary judgment, and other filings. This was consistently high-quality work despite
3 the ambiguities and uncertainties arising from Plaintiffs' sporadic participation and
4 communications.

5 Fourth, RTC's counsel prevailed against all claims through three different avenues:
6 stipulation to voluntary dismissal with prejudice, involuntary dismissal, and summary
7 judgment.

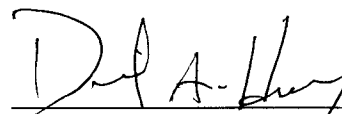
8 This Court concludes an award of \$61,057.07 for attorney's fees is justified upon
9 review of the memorandum and Brunzell factors. This calculation reflects a 40% reduction
10 of requested fees as reasonable and fair under the facts of this case. See Logan, 131 Nev.
11 260 at 266; Haley v. Dist. Ct., 128 Nev. 171, 178, 273 P.3d 855, 860 (2012).

12 This Court concludes RTC's memorandum of costs to be adequate to show costs are
13 reasonable, necessary, and actually incurred under NRS 18.110. Katz v. Incline Vill. Gen.
14 Improvement Dist., 452 P.3d 411 (Nev. 2019), cert. denied, 141 S. Ct. 253, 208 L. Ed. 2d 26
15 (2020). Costs are awarded in this case under NRS 18.020(3).

16 IT IS HEREBY ORDERED AND ADJUDGED that judgment shall be entered in
17 favor of RTC and against Plaintiffs in the amount of \$3,647.35 as costs, with interest
18 accruing thereon at the statutory rate, and \$61,057.07 in attorney's fees.

19 **IT IS SO ORDERED.**

20 Dated: October 18, 2021.

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22 _____
23 David A. Hardy
24 District Court Judge
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ATTACHMENT E – No. 27
List of File-Stamped Documents:
EXHIBIT 10

1 **2540**

2 Dane W. Anderson, Esq.

3 Nevada Bar No. 6883

4 Bronagh M. Kelly, Esq.

5 Nevada Bar No. 14555

6 **WOODBURN AND WEDGE**

7 6100 Neil Road, Suite 500

8 Reno, Nevada 89511

9 Telephone: 775-688-3000

10 Facsimile: 775-688-3088

11 danderson@woodburnandwedge.com

12 bkelly@woodburnandwedge.com

13 Attorneys for Defendant, the Regional Transportation
14 Commission of Washoe County

15 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

16 **IN AND FOR THE COUNTY OF WASHOE**

17 JOHN ILIESCU, JR., AND SONNIA
18 ILIESCU, TRUSTEES OF THE JOHN
19 ILIESCU JR. AND SONNIA ILIESCU 1992
20 FAMILY TRUST; JOHN ILIESCU, JR., an
21 individual; AND SONNIA ILIESCU, an
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23 Plaintiffs,

24 v.

25 THE REGIONAL TRANSPORTATION
26 COMMISSION OF WASHOE COUNTY;
27 ROE CORPORATIONS 1-20; and DOES 1 –
28 40, inclusive,

Defendants.

Case No.: CV19-00459

Dept. No.: 15

NOTICE OF ENTRY OF ORDER

TO: ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that an Order Granting Attorney's Fees and Entry of Judgment was entered in the above-entitled action on October 18, 2021, by this Court. A copy of the Order is attached hereto as **Exhibit 1**.

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Affirmation pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Notice of Entry of Order does not contain the personal information of any person.

Dated: October 18, 2021

WOODBURN AND WEDGE

By: /s/ 
Dane W. Anderson, Esq.
Nevada Bar No. 6883
Bronagh M. Kelly, Esq.
Nevada Bar No. 14555

*Attorneys for Defendant
The Regional Transportation
Commission of Washoe County*

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Woodburn and Wedge and that on this date, I caused to be sent via electronic delivery through the Court's E-flex system a true and correct copy of the **NOTICE OF ENTRY OF ORDER** to:

MICHAEL J. MORRISON, ESQ.
1495 Ridgeview Dr., #220
Reno, Nevada 89519
venturelawusa@gmail.com

Attorneys for Plaintiffs

DATED: October 18, 2021.

/s/ Caitlin Pagni
Employee of Woodburn and Wedge

FILED
Electronically
CV19-00459
2021-10-18 11:28:20 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 18702337

EXHIBIT 1

EXHIBIT 1

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

JOHN ILIESCU, JR., AND SONNIA ILIESCU,
TRUSTEES OF THE JOHN ILIESCU, JR. AND
SONNIA ILIESCU 1992 FAMILY TRUST,

Case No. CV19-00459

Dept. No. 15

Plaintiff,

vs.

THE REGIONAL TRANSPORTATION
COMMISSION OF WASHOE COUNTY; ROE
CORPORATIONS 1-20; AND DOES 1-40,

Defendants.

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ORDER GRANTING ATTORNEY'S FEES AND ENTRY OF JUDGMENT

Before this Court is Defendant Regional Transportation Commission of Washoe County's (RTC) opposed Motion for Attorney Fees and for Entry of Judgment for Attorney Fees and Costs. This Court has reviewed the moving papers, record, and relevant authorities.

The procedural history of this case is well-documented. Throughout the proceedings, this Court responded to Plaintiffs' procedural failures through various orders, including sanctions and summary judgment because Plaintiffs provided insufficient admissible evidence during pre-trial discovery. RTC now requests an award of attorney's fees under NRS 18.010(2)(b), arguing the action was groundless and frivolous

1 due to Plaintiffs' number and nature of claims, actions causing delay, and failure to
2 produce evidence. RTC also requests an award of costs.

3 Upon review of the relevant papers, this Court must determine 1) the propriety of
4 an award under NRS chapter 18, 2) the reasonable and just amount to award, and 3)
5 whether costs should be awarded.

6 From this Court's experience with this case, it appears Plaintiffs sincerely believe
7 they were harmed by RTC during the time RTC enjoyed a temporary construction
8 easement over their property. But upon filing this complaint, they had a burden to prove
9 the condition of the parking lot before RTC's arrival, the condition after RTC's departure,
10 the scope of the harm allegedly caused by RTC, and the value of any damages. Plaintiffs
11 failed to provide any expert witness or other evidence other than their own anecdotal
12 observations to support these necessary elements. Thus, this Court finds an award of
13 attorney's fees is warranted for all claims. However, under its broad discretion in
14 determining the amount of fees to award, this Court finds a lesser amount than requested
15 is reasonable and just under the circumstances. Finally, this Court finds an award of full
16 costs is appropriate.

17 RTC asserts an award of attorney's fees for all work in this matter is appropriate
18 under NRS 18.010(2)(b), which allows a court to grant an award where it finds a claim:

19 [W]as brought or maintained without reasonable ground or
20 to harass the prevailing party. The court shall liberally
21 construe the provisions of this paragraph in favor of
22 awarding attorney's fees in all appropriate situations. It is
23 the intent of the Legislature that the court award attorney's
24 fees pursuant to this paragraph and impose sanctions
25 pursuant to Rule 11 of the Nevada Rules of Civil Procedure
26 in all appropriate situations to punish for and deter frivolous
27 or vexatious claims and defenses because such claims and
28 defenses overburden limited judicial resources, hinder the
timely resolution of meritorious claims and increase the
costs of engaging in business and providing professional
services to the public.

NRS 18.010(2)(b).

1 This statute is an exception to the general rule that a prevailing party is not entitled
2 to attorney's fees. See Smith v. Crown Financial Services, 111 Nev. 277, 890 P.2d 769 (1995)
3 (analyzing the American and English rules regarding attorney's fees and their intersection
4 with Nevada Law). While this Court will "liberally construe" the statute to grant fees
5 when appropriate, the statute does not provide mandatory attorney's fees as fully
6 requested, leaving the amount of fees to the court's discretion. Schmidt v. Washoe Cty.,
7 124 Nev. 1506, 238 P.3d 852 (2008).

8 The ultimate inquiry is whether the proceedings were initiated or defended with
9 "improper motives or without reasonable grounds." Bobby Berosini, Ltd. v. People for the
10 Ethical Treatment of Animals, 114 Nev. 1348, 1354, 971 P.2d 383, 387 (1998). "A claim is
11 frivolous or groundless if there is no credible evidence to support it." Rodriguez v.
12 Primadonna Co., LLC, 125 Nev. 578, 588, 216 P.3d 793, 800 (2009).

13 The analysis for awarding fees under the statute after its 2003 amendment adding a
14 ban on "maintaining" groundless claims is not limited to evidence presented at trial or
15 whether a claim was frivolous at the time it was raised. S. Nevada Chinese Wkly. v.
16 Chinese Am. Chamber of Com. of Nevada, 126 Nev. 757, 367 P.3d 821 (2010). The statute's
17 current form also encourages a fee award when a party brings a large number of claims
18 "hoping one would stick." Id.

19 The statute contemplates specific claims. Thus, courts may separate claims
20 maintained without credible evidence from other viable claims when analyzing a request
21 for attorney's fees. See Capanna v. Orth, 134 Nev. 888, 896, 432 P.3d 726, 734 (2018); see
22 also Bergmann v. Boyce, 109 Nev. 670, 675-76, 856 P.2d 560, 563 (1993), superseded by
23 statute on other grounds as stated in In re DISH Network Derivative Litig., 401 P.3d 1081,
24 1093 n.6 (Nev. 2017).

25 Here, RTC is the prevailing party on all claims through dismissal or summary
26 judgment. See 145 E. Harmon II Tr. v. Residences at MGM Grand - Tower A Owners'
27 Ass'n, 136 Nev. 115, 120, 460 P.3d 455, 459 (2020) (explaining prevailing party status,
28 including that voluntary dismissal with prejudice generally means a defendant

1 “prevailed” for purposes of fees, but courts should consider the circumstances of
2 dismissal).

3 As this Court did not make direct findings of fact that any claims were frivolous or
4 unreasonably maintained, Plaintiffs’ failure to present evidence at the summary judgment
5 stage is not a *de facto* determination that fees are warranted. Rivero v. Rivero, 125 Nev.
6 410, 441, 216 P.3d 213, 234 (2009); see also Schmidt, 124 Nev. 1506. However, Plaintiffs’
7 failure would justify this Court in making such a finding of fact and awarding attorney’s
8 fees. TMX, Inc. v. Volk, 448 P.3d 574 (Nev. 2019).

9 This Court granted summary judgment only after a prolonged discovery period
10 where this Court intervened on several occasions, reminded Plaintiffs to produce
11 discovery, ordered a discovery schedule, imposed sanctions for delays and failures to meet
12 deadlines, and held hearings. Despite ample time and opportunity to either produce
13 evidence or suffer summary adjudication, Plaintiffs failed to provide support for the
14 remaining claims’ essential facts, some of which were central to the entire original
15 complaint.

16 Plaintiffs filed a complaint with twelve claims involving RTC harming their parking
17 lot, and then failed to provide evidence of the condition of the parking lot before or after
18 the alleged misconduct, any action RTC took to cause the alleged damages, or evidence of
19 costs of repair or loss of value. Plaintiffs filed a complaint involving a contract, and then
20 failed to provide evidence of its terms. As this Court explained when granting summary
21 judgment, Plaintiffs claimed damages and then did not provide a single expert witness
22 necessary to explain liability or analyze damages. Though Plaintiffs no longer had the
23 burden to support dismissed claims at the summary judgment stage, they had both the
24 opportunity and burden to provide evidence for their remaining claims that would have
25 also been essential to the original claims. Thus, Plaintiffs’ entire complaint may be
26 “groundless” under the evidence analysis.

27 Plaintiffs’ delays and procedural behavior in this matter further justify an award
28 under the statute’s liberal application. Plaintiffs brought twelve claims, including claims

1 their alleged facts did not support. Despite not wishing to disclose their own medical
2 records, Plaintiffs brought claims relating to their mental health that required such
3 disclosures. Under their own explanations of external hardships causing delays and
4 procedural failures, Plaintiffs at some point should have known they could not adequately
5 prosecute their case. Instead, they repeatedly missed deadlines and only participated in
6 proceedings primarily when objecting to RTC's motions or requesting more time to
7 perform. Thus, RTC incurred extra fees while Plaintiffs extended and delayed
8 proceedings, doing enough to maintain their claims without the apparent ability to
9 produce evidence for them. The length of time and number of delays and failures are
10 especially egregious. Thus, Plaintiffs maintained their claims with at least a level of
11 unreasonableness. Under the statute and in the interest of fairness, the circumstances
12 warrant awarding attorney's fees to RTC.

13 However, this Court has broad discretion to determine the amount of attorney's
14 fees, to be "'tempered only by reason and fairness.'" Albios v. Horizon Communities, Inc.,
15 122 Nev. 409, 427, 132 P.3d 1022, 1034 (2006). This Court's approach in setting the amount
16 of fees considers what is reasonable and fair, the language and purpose of the statute, and
17 RTC's counsel's memoranda "in light of the Brunzell" factors. Id.; see also Logan v. Abe,
18 131 Nev. 260, 266, 350 P.3d 1139, 1143 (2015).

19 As explained above, NRS 18.010(2)(b) is the exception to the general rule that
20 parties pay their own fees. Fees are justified under that statute. However, this Court also
21 finds some aspects of this case do not fully conform to the purposes underlying the statute.
22 Thus, this Court considers what amount of fees most reasonably provides an exception to
23 the general rule. This Court concludes that requiring Plaintiffs to pay attorney's fees for
24 all work performed would be unreasonable insofar as Plaintiffs did not act with the type
25 of frivolous or vexatious intent the award is meant to "punish for and deter." NRS
26 18.010(2)(b).

27 Plaintiffs did not appear to maintain the action *for the purpose* of harassing RTC.
28 This statutory language implies a *mens rea*, i.e., a knowing course of conduct in which

1 litigation is the tool to effect harassment of an opposing party. There is a distinction, both
2 theoretical and actual, between intentionally harassing an opposing party and engaging in
3 harassing conduct during litigation. Plaintiffs unduly subjected RTC to hardship because
4 of repeated delays, but the record does not suggest any intentional harassment.

5 For instance, though Plaintiffs stipulated to dismiss tort claims rather than provide
6 their medical records, they did so only four months after service, less than a month after
7 the start of discovery, and prior to any papers or hearings on those claims. See Arellano v.
8 Iglesias, 468 P.3d 375 (Nev. 2020); see also In re 12067 Oakland Hills, Las Vegas, Nevada
9 89141, 134 Nev. 799, 803, 435 P.3d 672, 676 (Nev. App. 2018). Plaintiffs appear to have
10 dismissed the claims in good faith rather than attempt to frivolously maintain them. See
11 In re 12067 Oakland Hills, 134 Nev. 799 at 804.

12 Ultimately, the record suggests Plaintiffs believe they were damaged by RTC.
13 Plaintiffs brought and maintained their case with the apparent hopes of obtaining relief,
14 but ultimately failed to meet pre-trial procedural requirements. Plaintiffs repeatedly
15 blame medical complications and the Covid pandemic for these failures. This Court
16 acknowledges these hardships and notes they exacerbated communication challenges
17 between Plaintiffs and their attorney. But this Court has previously made substantial
18 accommodations because of the pandemic. While Plaintiffs ultimately failed to provide
19 the evidence required, and therefore will pay attorney's fees under the statute, this Court
20 is not persuaded that no evidence exists to support the Plaintiffs' perception of viable
21 claims. The lack of sufficient evidence is a justifying factor for granting fees but not
22 mandatory under the statute and within the context of the entire record.

23 Thus, Plaintiffs appear to have a good faith bases for their claims, but their counsel
24 failed to produce discovery or dismiss the action if discovery would be impossible due to
25 hardship. A "civil litigant is bound by the acts or omissions of its voluntarily chosen
26 attorney." Huckabay Props. v. NC Auto Parts, 130 Nev. 196, 198, 322 P.3d 429, 430 (2014).
27 Plaintiffs are responsible for counsel's actions or omissions as their own actions or
28 omissions by imputation. Lange v. Hickman, 92 Nev. 41, 43, 544 P.2d 1208, 1209 (1976);

1 Id. at 204; Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 396, 113
2 S. Ct. 1489, 1499, 123 L. Ed. 2d 74 (1993). Plaintiffs are responsible for delays and failure to
3 produce discovery, whether or not through the fault of counsel.¹ Though these hardships
4 do not relieve Plaintiffs' responsibility for fees, they are a feature of Plaintiffs' procedural
5 failures that, as opposed to bad faith, resulted in dismissal and summary judgment.

6 The last mitigating factor is that this Court has already ordered sanctions and a
7 case-ending order to punish the exact failures at issue in this analysis. This Court agrees
8 with RTC that the award should be reduced by the amount of sanctions already awarded.
9 This Court also considers to what extent its orders in this matter have already punished
10 Plaintiffs for their delays and failure to provide evidence.

11 Finally, this Court weighs these considerations with the four Brunzell factors: "(1)
12 the qualities of the advocate . . . (2) the character of the work to be done . . . (3) the work
13 actually performed by the lawyer: . . . [and] (4) the result." Brunzell v. Golden Gate Nat.
14 Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

15 For the first factor, Plaintiffs concede RTC's counsel are well-respected, highly
16 skilled, and experienced attorneys. Indeed, this Court notes the reduction of fees is in no
17 way related to the exemplary work of RTC's counsel or the outcomes they obtained in this
18 matter.

19 Second, the character of the work was fairly complicated given the circumstances.
20 The claims themselves may not have been complicated, but the number of claims
21 complicated counsel's work.

22 Third, counsel provided memoranda adequately detailing the hourly work
23 performed. While Plaintiffs argue the reported hours for some tasks are disproportionate
24 to the papers produced and the complexity of the claims, this Court finds the hours to be
25 reasonable given the number of claims, allegations, hearings, motions, and possible
26 defenses involved. This Court is also unpersuaded that the number of pages produced is
27 disproportionate to the time reported given the subject matter. The quality of the pages is

28 ¹ This Court does not intend to make any statements, and no inferences should be made, regarding any
future disagreements between Plaintiffs and their attorney.

1 of more importance than the quantity. RTC wrote successful motions to dismiss, motions
2 for summary judgment, and other filings. This was consistently high-quality work despite
3 the ambiguities and uncertainties arising from Plaintiffs' sporadic participation and
4 communications.

5 Fourth, RTC's counsel prevailed against all claims through three different avenues:
6 stipulation to voluntary dismissal with prejudice, involuntary dismissal, and summary
7 judgment.

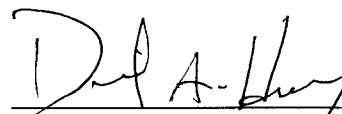
8 This Court concludes an award of \$61,057.07 for attorney's fees is justified upon
9 review of the memorandum and Brunzell factors. This calculation reflects a 40% reduction
10 of requested fees as reasonable and fair under the facts of this case. See Logan, 131 Nev.
11 260 at 266; Haley v. Dist. Ct., 128 Nev. 171, 178, 273 P.3d 855, 860 (2012).

12 This Court concludes RTC's memorandum of costs to be adequate to show costs are
13 reasonable, necessary, and actually incurred under NRS 18.110. Katz v. Incline Vill. Gen.
14 Improvement Dist., 452 P.3d 411 (Nev. 2019), cert. denied, 141 S. Ct. 253, 208 L. Ed. 2d 26
15 (2020). Costs are awarded in this case under NRS 18.020(3).

16 IT IS HEREBY ORDERED AND ADJUDGED that judgment shall be entered in
17 favor of RTC and against Plaintiffs in the amount of \$3,647.35 as costs, with interest
18 accruing thereon at the statutory rate, and \$61,057.07 in attorney's fees.

19 **IT IS SO ORDERED.**

20 Dated: October 18, 2021.

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23 David A. Hardy
24 District Court Judge
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