

# IN THE COURT OF APPEALS OF THE STATE OF NEVADA

In the Matter of the Estate of:

THEODORE E. SCHEIDE JR. aka  
THEODORE ERNEST SCHEIDE JR.

Deceased.

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THEODORE E. SCHEIDE, III,

Appellant,

v.

ST. JUDE CHILDREN'S RESEARCH  
HOSPITAL,

Respondent.

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No. 84279

District Court Case No.

P-14-082619-E

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## APPELLANT'S PETITION FOR REVIEW

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Appellant, THEODORE E. SCHEIDE, III ("Chip"), by and through his attorney, BRADLEY J. HOF LAND, Esq., and pursuant to NRAP 40(B), respectfully requests that the Supreme Court of Nevada review the Order of Affirmance issued by the Court of Appeals on November 28, 2023

Dated this 6<sup>th</sup> day of February, 2024.

HOFLAND & TOMSHECK

/s/ **Bradley J. Hofland**

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## I. INTRODUCTION

This Court has the solemn responsibility to administer the justice system in this state in accordance with the express mandates and prohibitions of court rules and applicable laws. The decision of the Court of Appeals was not based on the facts, issues and arguments raised, but in spite of them. In affirming, the Court of Appeals erroneously failed to apply the law and allowed St. Jude to intentionally violate the law(s) of this State for financial gain.

This case addresses question(s) of first impression of general statewide significance and fundamental issues of statewide public importance, that involve necessary direction and application by this Honorable Court. The erroneous decision approved by the Court of Appeals has the result of negating §NRS 82.5234, allowing a non-profit corporation to violate the law, and relieving the lower court of having to perform a requisite jurisdictional inquiry in order to establish jurisdiction .

How can the Court of Appeals allow a lower court to ignore a pivotal determination that must be made *before* any action may lawfully be commenced in this State by a foreign nonprofit corporation? How can the Court of Appeals determine the lower court has the authority and jurisdiction to adjudicate an action that is prohibited to be commenced and maintained as a matter of law? In order to not completely eviscerate the corporate policy of Nevada—and to ensure the unequivocal prohibitions of §NRS 82.5234 are recognized and enforced, this Court should review and reverse the decision of Court of Appeals.

## **II. LEGAL ANALYSIS/ARGUMENT**

### **A. Standard for Rehearing; NRAP 40(c)(2).**

Although the standard for rehearing is not the standard this Court applies to a petition for review, the standard is relevant because the Court of Appeals overlooked and misapprehended significant material facts, issues and controlling precedent<sup>1</sup>, and those errors add to the justification for this Court to review that decision. Rehearing is warranted to address a “germane legal or factual matter”<sup>2</sup>. Here, the Court of Appeals (1) failed to recognize, or even inquire whether, St. Jude does business in this state—though being unqualified to do so, and was prohibited therefore, *as a matter of law*, from commencing *any* litigation in this state. The factual and legal bases relied upon by the lower court and the Court of Appeals are erroneous and sanction the violation of law—effectively rendering NRS §82.5234 meaningless. This Court must not let such results stand.

### **B. Standard for Review; NRAP 40(B)(a).**

Among the factors considered by this Court when petitioned for review are (1) whether the question(s) presented is/are one(s) of first impression of general statewide significance, or (2) whether the case involves fundamental issues of statewide public importance—both of which are pertinent here.

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<sup>1</sup> See NRAP 40(c)(2)(A).

<sup>2</sup> *In re Estate of Hermann*, 100 Nev. 149, 151, 679 P.2d 246, 247 (1984).

### C. The Lower Court and Court of Appeals Overlooked Material Facts and Failed to Comply with the Law.

Being limited in words, the more egregious, and dispositive errors, warranting review by this Honorable Court are set forth below.

***1. The lower court must undertake the jurisdictional inquiry of determining whether a foreign nonprofit corporation does business in this State whenever a foreign nonprofit corporation commences litigation in any court in Nevada.***

The law of Nevada unequivocally *prohibits* a **foreign nonprofit corporation** that does business in this state from “commenc[ing] or maintain[ing] *any* action or proceeding in *any* court of this State *until* it has qualified to do business in this State.”<sup>3</sup> Accordingly, because of the prohibition contained in NRS §82.5234 that determines *whether* a court in Nevada has the authority and jurisdiction to adjudicate a matter “commenced or maintained” by a foreign nonprofit corporation, the determination of whether a nonprofit foreign corporation “does business” is vital to jurisdiction and cannot be ignored.

Significantly, this Court has identified the two-pronged test of looking to (1) “the *nature* of the company’s business functions’ in the state; and... (2) the *quantity* of business it conducts in the state”<sup>4</sup> to determine if a nonprofit corporation is doing

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<sup>3</sup> NRS §82.5234.

<sup>4</sup> Order of Affirmance (“OA”), p. 9, citing *Sierra Glass & Mirror v. Viking Indus., Inc.*, 107 Nev. 119, 808 P.2d 512 (1991) and *RTTC Commc’ns, LLC v. Saratoga Flier, Inc.*, 121 Nev. 34, 110 P.3d 24 (2005).

business in this state<sup>5</sup>. Inexplicably, that test was *never* considered or applied by the lower court, and more importantly, the lower court *never* performed the requisite jurisdictional inquiry of whether St. Jude—a foreign nonprofit corporation, does business in Nevada, while not being qualified to do so<sup>6</sup>.

The considerable activities St. Jude conducts in Nevada include (1) promoting and participating in giveaways, (2) selling of raffles for Henderson real estate, (3) charitable events, (4) fundraising, and (5) the purchasing of advertising on multiple television channels and in movie theaters for “the thousands of ads they run each day, all year long, targeting the residents of Nevada<sup>7</sup>. There is no question both prongs identified in *Sierra* firmly establish St. Jude does business in Nevada, while not being qualified to do so<sup>8</sup>.

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<sup>5</sup> Id.

<sup>6</sup> Instead, as detailed *infra*, the lower court merely, and incorrectly, determined that the independent act of commencing an action did not constitute doing business in this State—and in the process, failed to consider the multitude of activities, unrelated to the commencement of litigation, that is conducted by St. Jude that firmly establish it does business in this State.

<sup>7</sup> See OA, p. 8.

<sup>8</sup> Not only does the Court of Appeals mischaracterize St. Jude’s activities (OA, p.9), *neither it, nor the lower court* applied the *Sierra* test to St. Jude’s activities. When commenting on the “quantity” of business conducted by St. Jude in Nevada, the Court of Appeals mistakenly interpreted the dispositive prong of the “quantity” of business conducted in this State as requiring the business conducted in Nevada to constitute a significant amount of St. Jude’s *worldwide* business as well. Such reasoning is illogical and contrary to law.

Indeed, to say a foreign corporation does not do business in this State unless the quantity of business conducted by a corporation in Nevada constitutes a significant portion of the corporation’s entire business activities is patently absurd.

The record further reflects St. Jude maintains a business address, a hospital, and staff in Las Vegas, hires contractors to build houses in Nevada, runs a Lottery to win a home-giveaway in Nevada, and solicits via the U.S. mail, donations from Nevada residents and then sending the monies to the State of Tennessee<sup>9</sup>. Notably, St. Jude never denied engaging in such activities.

When both prongs identified in *Sierra* are applied to the multitude of activities St. Jude conducts in Nevada, there is no question St. Jude does business in Nevada. Because St. Jude was doing business in Nevada when admittedly not qualified to do, St. Jude was *prohibited*, as a matter of law, from “commencing or maintaining” *any* litigation in *any* court in this State. NRS §82.5234. Given the unambiguous prohibition set forth in NRS §82.5234, *any* action commenced or maintained in any court in this State would necessarily and by definition, be unlawful. Any court faced with an illegal commencement or maintaining of an action would necessarily lack the authority, ability, and jurisdiction to adjudicate or allow such action.

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By such reasoning, if Apple’s business in Nevada resulted in the receipt of tens/hundreds of millions of dollars, they would nevertheless not be doing business in this State because the revenue generated in Nevada pales in comparison to their worldwide revenue. Thus, to dismiss St. Jude’s multi-million dollar operation in Nevada as not doing business in Nevada because the millions pale in comparison to St. Jude’s worldwide business activities is factually and legally unsustainable.

The Court of Appeals incorrectly applied *Sierra* and *RTTC*.

<sup>9</sup> Chip’s Reply to Opposition to Motion to Dismiss, addressing St. Jude’s doing business in Nevada that the lower court failed to address following the reversal and remand from the Nevada Supreme Court.

With a determination that St. Jude does business in Nevada being *fatal* to its unlawful commencement of the action before the lower court, St. Jude ignored the many activities it conducted in Nevada and advanced a deflective argument that its isolated act of commencing an action in Nevada was “not doing business” in Nevada and therefore the lower court didn’t have to determine whether St. Jude was doing business in Nevada—thereby circumventing the fact St. Jude’s actions were unlawful and failed to vest the lower court with the ability and jurisdiction to adjudicate St. Jude’s Petition.

Therein, St. Jude conflates a determination of whether an *isolated* act by a foreign nonprofit corporation (the commencement of an action) constitutes doing business (which is irrelevant to a determination of whether a foreign nonprofit corporation is doing business in this State) with whether a foreign nonprofit corporation does business in this State (regardless of whether an isolated act may or may not constitute doing business in this State), which is the dispositive and crucial issue that must be determined and cannot be ignored.

In short, whether the commencement of litigation in this State does, or does not, constitute doing business is a meaningless distinction because if St. Jude’s activities—independent from the act of commencing litigation in this State, constitute doing business in Nevada, then it is *prohibited as a matter of law* from commencing litigation in this State even if *that* act (commencing a proceeding in



this State) alone did not independently or otherwise constitute doing business in this State.

Notwithstanding, St. Jude argued, misstating the law in the process, that its commencing litigation in Nevada did not constitute doing business in Nevada and therefore, there was no need for the lower court to conduct the jurisdictional inquiry and determination of whether the mass of St. Jude’s activities conducted in Nevada constitutes doing business in this State. As noted above, the dispositive issue is whether St. Jude *does* business in Nevada, while not being qualified to do so—*not* whether commencing an action constitutes doing business in Nevada, because if St. Jude *does* business in this State, it is prohibited, *as a matter of law*, from commencing litigation in Nevada—regardless of whether that act alone constitutes doing business in this State or not.

Failing to recognize the distinction, the lower court accepted St. Jude’s argument and failed to make the jurisdictional inquiry required by NRS §82.5234. St. Jude’s argument is untenable and the lower court’s adoption of St. Jude’s argument constituted judicial error.

***2. NRS §80.015(1)(a)—relied upon by both St. Jude and the lower court, is not applicable.***

The legal authority relied upon by St. Jude in making the legally untenable argument referenced above was NRS §80.015(1)(a)—which simply provides the act of a foreign corporation “maintaining, defending or settling any proceeding” is not

doing business in this State. However, NRS §80.015(1)(a) is expressly limited to Chapter 80<sup>10</sup> (foreign corporations) (NRS§80.015(1))—and intentionally *omitted* by the Legislature from Chapter 82 (foreign nonprofit corporations)—which governs this action.

The fact the Legislature *intentionally excluded* “maintaining, defending, or settling any proceeding” as doing business in this State from **foreign nonprofit corporations** is supported by the fact that *both* Chapters (80 and 82) contain the *same* prohibition of “commenc[ing] or maintain[ing] any action or proceeding in any court of this State”<sup>11</sup> when not properly qualified, yet the “maintaining, defending, or settling any proceeding” as not constituting doing business as set forth in NRS §80.015 is *not* found anywhere in NRS Chapter 82. Therefore, the exempted activities available to foreign corporations set forth in NRS §80.015(1)(a), *do not apply* to foreign nonprofit corporations.

Indeed, when the legislature identifies an exception in one statute, but omits the exception in another similar statute, it should be inferred the omission was intentional<sup>12</sup>. “[I]t is not the business of this court to fill in [] legislative omissions based on conjecture as to what the legislature would or should have done.”<sup>13</sup> Thus,

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<sup>10</sup> NRS§80.015(1).

<sup>11</sup> Compare NRS §82.5234 with NRS §80.055(2).

<sup>12</sup> *Christensen v. Pack (In re Christensen)*, 122 Nev. 1309, 149 P.3d 40 (2006)

<sup>13</sup> *McKay v. Bd. of Cty. Comm’rs of Douglas Cty.*, 103 Nev. 490, 492, 746 P.2d 124, 125 (1987).

the lower court's reliance upon, and application of NRS §80.015(1)(a) to a foreign nonprofit corporation (St. Jude), was misplaced and an abuse of discretion. The corresponding failure to consider the nature and quantity of St. Jude's activities was a likewise an abuse of discretion, and allowing and adjudicating St. Jude's petition constituted judicial error.

***3. Even if NRS §80.015(1)(a) applied to foreign nonprofit corporations (which it doesn't), the commencement of litigation (as prohibited by NRS §82.5234) is separate and distinct from "maintaining, defending or settling any proceeding" as argued by St. Jude and found by the lower court.***

The legislature unquestionably knew the difference between "commencing" and "maintaining, defending or settling any proceeding" (having referenced "commencing" in *both* Chapters 80 and 82<sup>14</sup>). Significantly, the legislature did not exempt "commencing" litigation in NRS §80.015(1)(a) when describing what acts do not constitute doing business on the part of foreign corporations, nor does the legislature allow a foreign corporation (or foreign nonprofit corporation) to "commence or maintain" *any* proceeding in *any* court of this State when not qualified to do business in this State.

Continuing, the law provides an action is brought/commenced in a court of record when the petition is filed<sup>15</sup>. NRCP 3 expressly states "[a] civil action is

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<sup>14</sup> See NRS §80.055(2) and NRS §82.5234(2).

<sup>15</sup> See *Cervantes-Guevara v. Eighth Judicial Dist. Ct.*, 505 P.3d 393 (holding a civil action is *commenced* by filing a petition); *Jones v. Jones*, 132 Nev. 994 (2016) (holding the term of art to "bring or maintain" ...means "the initiation of legal

*commenced* by filing a complaint with the court" (emphasis provided). As used in the rules of civil procedure, a "'complaint' includes a *petition* or other document that *initiates* a civil action." NRCP 3, Advisory Committee Note-2019 Amendment (emphasis added); *Cervantes-Guevara v. Eighth Judicial Dist. Ct.*, 138 Nev.Adv.Rep. 10, 505 P.3d 393 (2022) (holding courts to give *commonly known definition* to words).

Courts must give words of a statute their plain and ordinary meaning<sup>16</sup>. The determination by the lower court that St. Jude's *commencement* of litigation is indistinguishable from "maintaining, defending, or settling any proceeding" ignores (1) the plain language of the words themselves, (2) intent of the legislature, and (3) controlling precedent.

***4. Even if "commencing litigation" is somehow determined to fall within the meaning of "maintaining, defending or settling any proceeding", such a determination is meaningless and does not obviate the need to determine if a foreign nonprofit corporation does business in this State.***

Whether applicable or not, NRS §80.015(1)(a) simply provides that "maintaining, defending or settling any proceeding" does not constitute doing business in this State. It has nothing to do with whether a foreign nonprofit

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proceedings in a suit.") (internal citation omitted); *City of Henderson v. Eighth Judicial Dist. Court*, 489 P.3d 908 (2021) (holding a petition initiates a *new* action).

<sup>16</sup> *Torres v. Goodyear Tire & Rubber Co.*, 130 Nev. 22, 317 P.3d 828 (2014).

corporation actually does business in this State when *all* of the activities it conducts in this State are subjected to the two-prong test identified in *Sierra*<sup>17</sup>.

Frankly, if a foreign nonprofit corporation is unqualified to do business in this State, but nevertheless does business in this State, (like St. Jude), it is prohibited, *as a matter of law*, from “commencing” or “maintaining” “***any action or proceeding in any court of this State.***” Here, St. Jude admits it is a foreign nonprofit corporation and not registered or qualified to do business in this State<sup>18</sup>.

Thus, regardless of whether commencing an action or proceeding constitutes doing business in this State or not, if a foreign nonprofit corporation that does business in this State nevertheless commences any action in Nevada, doing so is illegal and fails to establish the requisite jurisdiction and ability for a court in Nevada to adjudicate the prohibited petition.

For that reason alone, the decisions of the lower court and the Court of Appeals must be reversed. An illegal act cannot stand—regardless of the maneuvers of the transgressors, and being commenced in violation of law, the lower court does not acquire the ability or jurisdiction to adjudicate a proceeding unlawfully commenced and maintained.

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<sup>17</sup> See FN 4, *supra*.

<sup>18</sup> The Court of Appeals further noted “the fact that St. Jude was ***not*** registered to do business in Nevada was widely available [and known]”. OA, p. 8.

***5. The lower court also lacked jurisdiction because St. Jude also violated NRS 136.100.***

St. Jude also violated NRS §136.100 when it unlawfully commenced litigation in this State. NRS §136.100 mandates that notice for a petition to probate a will be given to all individuals identified in NRS §155.020. However, St. Jude, in violation of the law, did ***not*** notice (1) the named executor, (2) the named fiduciary, (3) the Director of the Department of Health and Human Services, or (4) the public—including unknown creditors. St. Jude apparently determined that they alone were entitled to the estate they were seeking.

Until this Court's ruling of 12/31/2021, there was no need to address St. Jude's multiple violations of law, or the lack of jurisdiction resulting therefrom, because all prior rulings were adverse to St. Jude. St. Jude waited more than a year to file an order bringing the matter before the lower court. Seeking to maintain an action unlawfully commenced, it was incumbent upon the lower court to ensure all applicable laws were followed in order to provide the lower court the ability and jurisdiction to adjudicate the petition filed by St. Jude. Instead, the lower court ignored St. Jude's multiple violations of *law*.

***6. The fact St. Jude's actions violated the law and all proceedings were prohibited as a matter of law was repeatedly raised throughout these proceedings.***

As a foreign nonprofit corporation doing business in Nevada and not being qualified to do so, the filing of a petition by St. Jude's was prohibited as a matter of

law. NRS §82.5234 As such, the lower court lacked jurisdiction and the ability to adjudicate the action commenced by St. Jude. Because jurisdiction is dependent on whether a foreign nonprofit corporation is doing business in this State, it is vital that jurisdictional inquiry (whether a foreign corporation is doing business in this State) is performed with the “commencing or maintaining” of any action by a foreign nonprofit corporation<sup>19</sup>.

Here, despite St. Jude being a foreign nonprofit corporation, the lower court *never* conducted the requisite jurisdictional inquiry. Instead, the lower court improperly focused on whether St. Jude’s act of filing a petition (unlawfully) constituted doing business in Nevada, and ignored altogether the indispensable determination of whether St. Jude, in the absence of filing a petition, was doing business in Nevada, allowed to file such a petition, and whether the lower court had jurisdiction to adjudicate the petition.

Continuing, following an adverse ruling, St. Jude appealed. Chip promptly moved to dismiss the appeal based, in part, because of St. Jude’s violation of NRS §82.5234<sup>20</sup>. Thus, *prior* to *any* adverse ruling against Chip, and *prior* to any decision allowing St. Jude to “maintain” its unlawfully commenced action, Chip

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<sup>19</sup> It is significant to note St. Jude did *not* allege it was a foreign nonprofit corporation that was not doing business in this State, nor that it was qualified to do business in this State—in order to satisfy the jurisdictional requirement for commencing or maintaining any action in Nevada, in its unlawfully filed petition.

<sup>20</sup> See Sup. Ct. No. 76924, Motion to Dismiss, 7/22/19.

raised the absence of jurisdiction when addressing St. Jude's violation of NRS §82.5234. Notably, Chip repeatedly raised this issue throughout the remainder of the proceedings.

Accordingly, the decision by the Court of Appeals that Chip's delay was somehow "untimely"<sup>21</sup> is factually incorrect. The record confirms the Court of Appeals *only* held Chip's claims of fraud and lack of standing were untimely<sup>22</sup>--ignoring altogether St. Jude's violation of the law and the lower court's absence of jurisdiction. Significantly, *unlike* the case cited by the Court of Appeals<sup>23</sup>, where the very issue was a void judgment, here the lower court *never* addressed Chip's challenges to jurisdiction and *never* made a determination that Chip's challenge of void orders was "untimely" or "unreasonable."

Respectfully, the only "exceptional circumstances" in this case is St. Jude's willful violation of law and the apparent willingness to turn a blind eye to such unlawful conduct and the corresponding absence of jurisdiction.

Further, in *Harrison*, the subject judgment was void simply based upon lack of notice. This court has repeatedly affirmed "due process requires that notice be given before a party's substantial rights are affected"<sup>24</sup> and that in the absence of

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<sup>21</sup> OA, page 11.

<sup>22</sup> See Order Denying Motion to Strike, filed 1/11/2022, p. 4, line 3.

<sup>23</sup> *In re Harrison Living Tr.*, 121 Nev. 217, 112 P.3d 1058 (2005).

<sup>24</sup> *Wiese v. Granata*, 110 Nev. 1410, 887 P.2d 744 (1994); see also NRCP 4, 5; EDCR 2.20.



notice, any resulting order is void<sup>25</sup>. While the lower court lacked jurisdiction based upon St. Jude's failure to provide statutorily mandated notice<sup>26</sup>, more importantly, the court also lacked jurisdiction because St. Jude broke the law and the resulting proceedings were prohibited as a matter of law.

Even when equitable estoppel principles could apply to jurisdictional challenges and void judgments, based upon lack of notice (court rule or statutory), this is not such a case. Notwithstanding, such principles would certainly not apply to proceedings predicated upon unlawful actions of a party that are unequivocally prohibited as a matter of law, such as the case at bar.

***7. To condone St. Jude's actions would violate public policy.***

Lastly, with public policy in mind, one way to identify public policy is through the laws passed by the legislature. In NRS §82.5234 the legislature prohibited ***all*** foreign nonprofit corporation not qualified to do business in Nevada from commencing or maintaining ***any*** proceeding in ***any*** court in this State. To allow a lawbreaker to engage in the very activity prohibited by law in pursuit of financial gain is not only sanctioning the unlawful conduct the legislature intended to prevent, it is manifestly unfair and makes a mockery of the laws of Nevada and our judicial system as a whole.

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<sup>25</sup> See *Teferra v. Meshesha*, 2012 Nev. Unpub. LEXIS 1779.

<sup>26</sup> And in turn, forever extinguishing substantial rights of others without notice.

Moreover, it is a fundamental principal of law that orders obtained in the absence of jurisdiction are void ab initio and of no effect. To allow such an order to stand ignores that principal and the public policy it is intended to protect. St. Jude unlawfully commenced an action in this State to dispossess Chip of his father's estate and receive it as their own. To further ensure no other claimants thwarted their endeavor, St. Jude failed to provide notice to any and all such claimants. The notice required by law must be enforced to prevent such surreptitious and unfair manipulation of the legal system.

Finally, it certainly isn't the policy of this State to allow someone to break the law and/or to be allowed to engage in or condone prohibited activities simply with the passage of time.

### **III. CONCLUSION**

The law, and its prohibitions, apply to everyone. NRS 82.5234 and NRS 136.230 do not provide exceptions for the brazen, the dishonest, or the wealthy. St. Jude is not entitled to special treatment, nor can this Court turn a blind eye to their unlawful acts and manipulation of the legal system in pursuit of financial gain. Just as the Nevada Supreme Court held in *Elson v. Bowen*, 83 Nev. 515 (1967), that the government cannot break the law to enforce the law and cannot use claims of privilege as a shield of immunity for the unlawful conduct of its representatives, neither should St. Jude be allowed to violate the law with impunity—and profit therefrom.

Also, just as the Nevada Supreme Court held in *Southern Highlands Cmty. Ass'n v. Eighth Judicial Dist. Court of Nev.*, 130 Nev. 1232 (2014), that “[a] court *shall* dismiss any civil action which is commenced in violation of [the statute prohibiting the commencement of a civil action in any court in this State]”, so too must this Court dismiss St. Jude’s petition.

In closing, St. Jude broke the law, concealed material facts and evidence, and has unclean hands. There is no prejudice when St. Jude’s claims are predicated upon its unlawful activities, and St. Jude should be estopped from challenging the dismissal of its petition and all resulting orders therefrom. The district court lacked the authority and jurisdiction to adjudicate St. Jude’s petition under multiple bases and for the above reasons, review by this Court is warranted.

DATED this 6<sup>th</sup> day of February, 2024.

RESPECTFULLY SUBMITTED

*s/ Bradley Hofland*

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## Certificate of Compliance

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

[ X ] This brief has been prepared in a proportionally spaced typeface using **Microsoft Word 2010 Times New Roman 14—point font**.

2. I further certify that this brief *complies* with the page or type -volume limitations of NRAP 32(a)(7). Excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is

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3. I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 6<sup>th</sup> day of February, 2024.

*s/ Bradley Hofland, Esq.*

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Bradley Hofland, Esq.  
*Counsel for Appellant  
Theodore E. Scheide III*

## Certificate of Service

### 1. Electronic Service:

I hereby certify that on this day, the 6<sup>th</sup> day of February, 2024, I submitted for filing and service the foregoing **Appellant's Petition for Review** via the Court's eFlex electronic filing system and by via the Court FTP server. According to the electronic service list, notification will be served upon the following:

Todd L. Moody  
Russel J. Geist  
The Honorable Gloria Sturman

*/s/ Bradley Hofland, Esq.*

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Bradley Hofland, Esq.