

IN THE SUPREME COURT OF THE STATE OF NEVADA

REGINALD BINGHAM,

Appellant,

vs.

STATE OF NEVADA, PUBLIC
EMPLOYEES' RETIREMENT
SYSTEM OF NEVADA,

Respondent.

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Case No. 83353

**RESPONDENT PUBLIC EMPLOYEES' RETIREMENT
SYSTEM OF NEVADA'S ANSWERING BRIEF**

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I. JURISDICTIONAL STATEMENT

This is an appeal from the June 25, 2021, final order of the Eighth Judicial District Court granting the Nevada Public Employees' Retirement System's (PERS) motion to dismiss. Appellant's Appendix (A.A.) at 96–98. On July 7, 2021, Notice of Entry of the same was filed. A.A. at 92. Jurisdiction is proper under NRAP 3A(a) and 3A(b)(1). Reginald Bingham (Bingham) filed his Notice of Appeal on August 6, 2021. A.A. at 100. Accordingly, Bingham's appeal is timely pursuant to NRAP 4(a)(1).

II. ROUTING STATEMENT

This case is presumptively assigned to the Court of Appeals pursuant to NRAP 17(b)(9) because it is a case arising from a denial of relief by PERS in the context of the Nevada Public Employees' Retirement Act (NRS Chapter 286). Although PERS is not an administrative agency for the purposes of the Nevada Administrative Procedure Act (NRS Chapter 233B) (*see PERS v. Smith*, 129 Nev. 618, 623, 310 P.3d 560, 564 (2013) (internal citation omitted)), NRAP 17(b)(9) provides the closest analogue for routing purposes. *See Smith*, 129 Nev. at 623, 310 P.3d at 564 (“decisions of the PERS Board are reviewable by

the courts on the basis of the same standard of review applied to other administrative actions”). Furthermore, the case is presumptively assigned to the Court of Appeals pursuant to NRAP 17(b)(12) because it involves a denial of injunctive relief (in the form of mandamus).

III. STATEMENT OF ISSUES PRESENTED FOR REVIEW

- A. Whether the district court properly granted PERS’ motion to dismiss in recognition of the six-year lapse of the applicable statute of limitations.
- B. Whether the district court also could have granted PERS’ motion to dismiss for various alternative reasons articulated during district court briefing.

IV. STATEMENT OF THE CASE

The Public Employees’ Retirement Act (NRS Chapter 286) delineates specific rules that PERS members seeking disability retirement status must follow. One such rule provides that PERS members must seek reconsideration of a denied disability retirement application within 45 days of denial. *See* NRS 286.630(4). The 45-day time-bar applies even in instances where a PERS member later discovers evidence they had not been aware of during their application process or

hearing appearance before the PERS Board. *See id.* (“A member may apply to the Board for one reconsideration within 45 days after the denial by the Board of the member’s application, if the member can present *new evidence which was not available or the existence of which was not known to the member* at the time the Board originally considered the member’s application.”) (emphasis added).

In this case, Bingham seeks rehearing of his denied 2015 disability retirement application, despite a more than six-year lapse of the NRS 286.630(4) statutory time-bar to obtain such reconsideration. Bingham’s request is predicated upon his alleged discovery that the PERS Board chairman at the time of the 2015 hearing was the chief financial officer (CFO) of Bingham’s former employer, the City of Las Vegas, approximately five years post facto. However, Bingham’s attempt at reconsideration is time-barred regardless of when he discovered the former PERS Board chairman’s employment status (and alleged “conflict of interest”), because NRS 286.630(4) expressly contemplates the scenario of newly-unearthed evidence and restricts reconsideration to a 45-day timeframe notwithstanding. Accordingly, the district court properly granted PERS’ motion to dismiss and recognized

that Bingham's attempt to resuscitate his denied disability retirement application was barred by an applicable statute of limitations by more than six years.

Furthermore, Bingham's petition for writ of mandamus is fundamentally defective for a host of alternative reasons argued before the district court. Mandamus can only be justified by the enforcement of a statutory duty or an attempt to control an abuse of discretion, and no such duty nor abuse of discretion exists here to enforce, because the PERS Board properly heard and ruled upon Bingham's disability retirement application during its original proceedings; the PERS Board has no duty to rehear Bingham's application after the passage of the 45-day reconsideration period. Additionally, Bingham fails to state a claim upon which relief can be granted, because the alleged "conflict of interest" premised upon the former PERS Board chairman's employment status with the City of Las Vegas during the original hearing did not generate a duty to disclose or recuse as a matter of law. Res judicata also applies because the Court of Appeals previously ruled that Bingham's disability retirement application was untimely under any formulation of his claim, and the PERS Board had no duty to grant him equitable relief.

Finally, Bingham's attempt at mandamus is barred by the doctrine of laches, because his delay in bringing this case (more than six years after the original disability retirement application) was excessive and has irreparably prejudiced the current PERS Board's ability to defend itself (and its former chairman) in a substantive capacity.

For these reasons and those argued below, the Court should affirm the district court's decision to grant PERS' motion to dismiss.

V. STATEMENT OF THE FACTS

In 2010, Bingham was terminated from his job with the City of Las Vegas. A.A. at 1 (Court of Appeals Case No. 69927, Order of Affirmance). In 2012, Bingham sent correspondence to PERS requesting disability retirement status; PERS responded that Bingham was ineligible because he failed to apply for such status before his job termination, disqualifying him pursuant to NRS 286.620(1)(b). A.A. at 1. In 2014, Bingham requested the PERS Board review his disability retirement application and overturn PERS' 2012 response. A.A. at 54. On January 21, 2015, the PERS Board heard Bingham's disability retirement application, denying it for statutory untimeliness and declining to grant Bingham equitable relief. A.A. at 54–62; *see also*

A.A. at 1. In response, Bingham filed a petition for writ of mandamus with the Eighth Judicial District Court to nullify the PERS Board's denial; the Eighth Judicial District Court denied Bingham's petition and affirmed the PERS Board's decision. A.A. at 2–4. The Court of Appeals also affirmed this decision in Case No. 69927 on February 10, 2017. *Id.* The Court of Appeals specifically found that the PERS Board was justified both in denying Bingham's application for untimeliness and in declining to exercise equitable powers pursuant to NRS 286.190(3). A.A. at 3–4.

In 2020, Bingham contacted PERS, requesting that PERS set Bingham's disability retirement application for rehearing before the PERS Board, alleging that the former PERS Board chairman that presided over his original hearing had an undisclosed conflict of interest that required him to recuse himself from considering Bingham's application. A.A. at 51; *see also* A.A. at 48–49. PERS declined Bingham's request. A.A. at 50. On January 7, 2021, Bingham contacted the PERS Board directly, requesting the hearing be placed on the PERS Board's public meeting agenda. A.A. at 52–53. The PERS Board did not respond.

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On April 1, 2021, more than six years after Bingham’s original disability retirement application hearing, Bingham initiated mandamus proceedings against PERS in the district court, alleging that PERS must place his disability retirement application for rehearing before the PERS Board. A.A. at 6–8. PERS moved to dismiss (A.A. at 10–30). After full briefing (A.A. at 31–79) and oral argument (A.A. at 80–91), on June 25, 2021, the district court granted PERS’ motion to dismiss, finding that the applicable statute of limitations (NRS 286.630(4)) had lapsed and Bingham’s request for a disability retirement application rehearing was time-barred, dismissing Bingham’s case in its entirety, with prejudice. A.A. at 96–98.

VI. STANDARD OF REVIEW ON APPEAL

Orders granting motions to dismiss (and the legal conclusions made therein) are subject to de novo review. *See Facklam v. HSBC Bank USA*, 133 Nev. 497, 498, 401 P.3d 1068, 1070 (2017) (internal citations omitted); *see also Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228, 181 P.3d 670, 672 (2008) (internal citations omitted); *see also Matter of Halverson*, 123 Nev. 493, 509, 169 P.3d 1161, 1172 (2007) (“We review
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purely legal issues, including issues of constitutional and statutory construction, de novo”).

VII. ARGUMENT

A. The District Court Properly Granted PERS’ Motion to Dismiss, because Bingham’s Request for Rehearing Was Time-Barred by over Six Years

A PERS member may only apply for reconsideration of a PERS Board’s denial of a disability retirement application within 45 days if the member discovers new evidence or evidence which the member was not aware of during the original hearing. *See* NRS 286.630(4).

Bingham’s attempt at securing a rehearing of his disability retirement application is untimely by more than six years. Bingham’s original hearing and denial occurred on January 21, 2015. A.A. at 1, 54–62. Yet on April 1, 2021, Bingham filed the underlying petition for writ of mandamus seeking a rehearing, far beyond the 45-day time-bar for a challenge to a denied disability retirement application. A.A. at 6–8; *see also* NRS 286.630(4). In dismissing Bingham’s case, the district court correctly noted it was untimely in any event, notwithstanding Bingham’s discovery of the former PERS Board Chairman’s alleged conflict of interest. A.A. at 97.

Bingham argues at length that the statute of limitations provided by NRS 286.630(4) does not apply to his conflict of interest allegations, despite their nexus to his original disability retirement application hearing in 2015, and that the district court should have forced the PERS Board to entertain his rehearing using a catchall discretionary rehearing policy. *See* Opening Brief (O.B.) at 14–16 (“[b]oth the Respondent and the district court below misinterpreted the 45[-]day rehearing regulation. Bingham’s claims were premised upon newly discovered evidence, not solely a request for rehearing of the January, 2015, denial of benefits”). However, when determining statutory applicability, specific statutes control over general statutes (or regulations). *See State Dep’t of Taxation v. Masco Builder*, 129 Nev. 775, 778, 312 P.3d 475, 478 (2013) (internal citation omitted).

Here, NRS 286.630(4) contemplates the precise scenario that Bingham raises: newly-discovered evidence that would have provided a basis for the PERS Board to reconsider the denial of his disability retirement application. *See id.* (“A member may apply to the Board for one reconsideration within 45 days after the denial by the Board of the member’s application, if the member can present *new evidence which was*

not available or the existence of which was not known to the member at the time the Board originally considered the member's application") (emphasis added). Bingham's petition for writ of mandamus is specifically subsumed within the scope of the 45-day rule set forth under NRS 286.630(4) because he alleges newly-discovered (to him¹) evidence that may have provided a basis for reconsideration at the time of the original disability retirement application hearing. *See id.* Therefore, Bingham's attempt to justify a rehearing is time-barred by more than six years.

Because this case is barred by a specific, applicable statute of limitations, the Court should affirm the district court's grant of PERS' motion to dismiss.

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¹ Bingham concedes that the former PERS Board chairman's employment status as City of Las Vegas CFO was known publicly at the time of his original disability retirement application hearing. *See* O.B. at 8 ("Bingham concedes that Mr. Vincent's City employment status, though unknown at the time by both Bingham and his Counsel, was not hidden from the public and his City employment was disclosed at the time on the PERS[-]based website for public viewing").

B. The District Court Could Have Granted PERS' Motion to Dismiss for a Panoply of Alternative Reasons

This Court can affirm the district court's decision for any reason supported by the record. *See Sievers v. Cnty. Treasurer of Douglas Cnty.*, 96 Nev. 819, 820, 618 P.2d 1221 (1980) (internal citations omitted). In district court briefing, PERS articulated a multitude of alternative theories upon which the district court also could have properly dismissed Bingham's case with prejudice. A.A. at 10–22; A.A. at 71–77.

1. The PERS Board has no statutory duty to rehear Bingham's disability retirement application in light of the facts and circumstances here, and Bingham cannot justify mandamus relief in this context

A writ of mandamus provides a mechanism to compel the performance of an act required by law, or to control an arbitrary or capricious exercise of discretion. *See PERS v. Gitter*, 133 Nev. 126, 135, 393 P.3d 673, 681 (2017) (internal citation omitted). Extraordinary writ relief is only appropriate when and where a petitioner has no “plain, speedy, or adequate remedy . . . [at] law.” *See id.*; *see also* NRS 34.170. Mandamus can only lie when “the respondent has a *clear, present legal duty to act* . . . [m]andamus will not lie to control discretionary action . . . unless discretion is manifestly abused or is exercised arbitrarily or

capriciously.” *See Round Hill Gen. Improvement Dist. v. Newman*, 97 Nev. 601, 603–04, 637 P.2d 534, 536 (1981) (emphasis added). In considering whether to entertain mandamus relief, Nevada courts should determine whether “urgency and strong necessity” support the petition, especially in light of other available legal remedies. *See Barngrover v. Fourth Jud. Dist. Ct.*, 115 Nev. 104, 111, 979 P.2d 216, 220 (1999) (internal citation omitted).

Bingham could have availed himself of a plain, speedy, and adequate remedy at law, which was to request reconsideration of his denied disability retirement application within the 45-day timeframe prescribed by NRS 286.630(4) based on his allegations of a conflict of interest. Additionally, Bingham could have raised the same conflict of interest allegations in his case litigating his original denial through multiple layers of judicial proceedings, resulting in a Court of Appeals decision affirming his disability retirement application’s denial. A.A. at 1–4 (Court of Appeals Case No. 69927, Order of Affirmance). Bingham argues that mandamus is justified because he possesses no plain, speedy, or adequate remedy at law. *See O.B.* at 12. However, the existence of some appellate mechanism, be it reconsideration or judicial

review (or both), usually precludes mandamus relief as a matter of law. *See Walker v. Second Jud. Dist. Ct.*, 136 Nev. __, __, 476 P.3d 1194, 1197 (Adv. Op. 80, Dec. 10, 2020). Furthermore, mandamus relief is unavailable as a means to circumvent a time-bar provided by a statute of limitations. *See Rawson v. Ninth Jud. Dist. Ct.*, 133 Nev. 309, 314, 396 P.3d 842, 846 (2017) (internal citation omitted) (“a writ petition may not be used a substitute to correct a party’s failure to timely appeal”). Bingham cannot use the mandamus remedy to bypass the 45-day statute of limitations clearly barring his attempt to revive his long-denied disability retirement application.

Because Bingham had plain, speedy, and adequate remedies at law, utilized some of them (*see* A.A. at 1–4) and allowed others to lapse (*see* NRS 286.630(4)), he cannot substantiate a mandamus remedy in this context, and the Court should affirm the district court’s grant of PERS’ motion to dismiss.

2. Bingham fails to state a claim upon which relief can be granted, because no conflict of interest existed at the time of the original hearing as a matter of law

NRCP 12(b)(5) provides that a responding party may move to dismiss a claim in any pleading for “failure to state a claim upon which

relief can be granted[.]” In reviewing such a motion, “[a]ll factual allegations of the complaint must be accepted as true.” *Simpson v. Mars, Inc.*, 113 Nev. 188, 190, 929 P.2d 966, 967 (1997). “A complaint will not be dismissed for failure to state a claim unless it appears beyond a doubt that plaintiff could prove no set of facts which, if accepted by the trier of fact, would entitle him or her to relief.” *Id.* Nevada is a notice-pleading state, but to meet the bare requirements of notice pleading, a plaintiff (or petitioner) must “set forth sufficient facts to demonstrate the necessary elements of a claim for relief so that the defending party has adequate notice of the nature of the claim and relief sought.” *Western States Constr. v. Michoff*, 108 Nev. 931, 936, 840 P.2d 1220, 1223 (1992).

Under the Nevada Code of Ethical Standards (NRS Chapter 281A), a conflict of interest requiring disclosure or recusal is a matter in which a public officer has (1) received a gift or loan, (2) a “significant pecuniary interest,” (3) judgment reasonably affected by a “commitment in a private capacity to the interests of another person,” or (4) a matter “reasonably . . . related to the nature of any representation or counseling that the public officer or employee provided to a private person for
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compensation before another agency within the immediately preceding year[.]” *See* NRS 281A.420(1).

Bingham’s core allegation against the former PERS Board chairman’s participation in his original disability retirement application hearing involves the former PERS Board chairman’s dual status as City of Las Vegas CFO, which Bingham argues created an “appearance of impropriety” or “implied bias” that should have forced the former PERS Board chairman to disclose his employment status and recuse himself at the time. *See* O.B. at 12–14. However, an actual conflict of interest is required to generate the ethical impetus necessary to force disclosure and/or recusal. *See* NRS 281A.420(1). The former PERS Board chairman could not have borne either a pecuniary interest or a commitment in a private capacity (the only two applicable conflicts of interest in this scenario) on behalf of the City of Las Vegas that reasonably would have affected his judgment, because the City of Las Vegas had nothing at stake when the PERS Board considered Bingham’s disability retirement application. PERS disability benefits are paid by the PERS trust fund, not the employer. *See* NRS 286.220(4)(b). The City of Las Vegas faced no financial risk from

the outcome of the PERS Board's vote in either event, negating any alleged ulterior incentive for the former PERS Board chairman to deny Bingham's disability retirement application.

Because the former PERS Board chairman's employment status presented no conflict of interest in voting on Bingham's original disability retirement application as a matter of law, Bingham fails to state a claim upon which relief can be granted, and the Court should affirm the district court's grant of PERS' motion to dismiss.

3. Issue preclusion forecloses Bingham's attempt to resurrect his disability retirement application

Nevada courts apply the doctrine of res judicata when “(1) the parties or their privies are the same, (2) the final judgment is valid, and (3) the subsequent action is based on the same claims or any part of them that were or could have been brought in the first case.” *Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1054, 194 P.3d 709, 713 (2008) (citing *Univ. of Nev. v. Tarkanian*, 110 Nev. 581, 600, 879 P.2d 1180, 1191 (1994)). Specifically germane to issue preclusion, there must exist: (1) an identity of issues in controversy; (2) a final ruling on the merits; (3) the same party or a party in privity; and (4) actual and necessary litigation of the issues

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in controversy. *See Alcantara ex rel. Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 258, 321 P.3d 912, 916 (2014) (internal citations omitted).

The Court of Appeals held that the PERS Board properly denied Bingham’s disability retirement application during the original hearing based on untimeliness due to Bingham’s failure to apply while still employed by his public employer pursuant to NRS 286.620(1)(b). A.A. at 1–4 (Court of Appeals Case No. 69927, Order of Affirmance²). The Court of appeals further held that the PERS Board had no obligation to exercise its equitable powers pursuant to NRS 286.190(3) on behalf of Bingham to “rectify Bingham’s self-inflicted failure to timely request disability retirement.” A.A. at 4. Assuming *arguendo* that Bingham established a conflict of interest such that the former PERS Board chairman should have disclosed the conflict and recused himself from voting, he would still fail to change the decision of the PERS Board. Bingham provides no reason that a rehearing before the current PERS Board would change the ultimate outcome, and it is clear that any rehearing would see Bingham’s disability retirement application denied

² Parties can cite to Court of Appeals unpublished decisions for res judicata or law of the case purposes. *See* NRAP 36(c)(2); *see also* NRAP 36(c)(3).

for the same underlying legal reasons identified by the Court of Appeals decision: untimeliness and lack of basis for equitable relief. A.A. at 3–4.

Bingham maintains that because his conflict of interest allegations were not actually and necessarily litigated during the prior proceedings, the Court of Appeals decision should have no preclusive effect. *See* O.B. at 17. However, given a rehearing, the former PERS Board chairman would not be present, and the alleged conflict of interest would not be an issue in controversy. Instead, the issues in controversy would be those same issues actually litigated to a final decision on the merits by the parties: the untimeliness of Bingham’s disability retirement application and its failure to sustain equitable relief. *See Alcantara ex rel. Alcantara*, 130 Nev. at 258, 321 P.3d at 916; *see also* A.A. at 1–4. Issue preclusion bars Bingham’s request for a rehearing because a rehearing would be futile in light of the glaring legal defects in his disability retirement application, as observed by the Court of Appeals.

Because the real issues in controversy arising from Bingham’s disability retirement application have already been actually and necessarily litigated to a final ruling on the merits by the parties, this
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case is barred by the doctrine of issue preclusion, and the Court should affirm the district court's grant of PERS' motion to dismiss.

4. The Doctrine of Laches prevents Bingham from asserting this case against the current PERS Board via prejudice caused by undue delay

“Laches is an equitable doctrine which may be invoked when delay by one party works to the disadvantage of the other, causing a change of circumstances which would make the grant of relief to the delaying party inequitable.” *See Carson City v. Price*, 113 Nev. 409, 412, 934 P.2d 1042, 1043 (1997) (internal citation omitted). “Thus, laches is more than a mere delay in seeking to enforce one's rights; it is a delay that works to the disadvantage of another.” *See id.* “The condition of the party asserting laches must become so changed that the party cannot be restored to its former state.” *See id.*

Here, Bingham's five-year delay in alleging a conflict of interest *post facto* to his original disability retirement application hearing (and his six-year delay in litigating it) have irretrievably prejudiced PERS and the PERS Board's capacity to defend themselves. The current PERS

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Board³ cannot reconstitute its former membership, nor can it force the former PERS Board Chairman to recuse himself retroactively. Bingham argues that the original disability retirement application hearing was “infected with both procedural and substantive due process errors given the active participation of the then City of Las Vegas’ [CFO] while serving in the capacity [of] PERS Board Chairman” (*see* O.B. at 17), asserting allegations which by their very nature deprive the current PERS Board of any reasonable ability to rebuke. Further, there is realistic possibility that such allegations could be raised serially against any future PERS Board decision to deny Bingham’s disability retirement application. In waiting six years to raise conflict of interest allegations, Bingham ensured that any possible decision the current PERS Board could make would be polluted with bitter allegations; the doctrine of laches operates to prevent such untenable Hobson’s choices.

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³ Despite requesting a form of injunctive (mandamus) relief only cognizable by the current PERS Board, Bingham failed to name the current PERS Board as a respondent in the district court, further compounding the paradox of the current PERS Board being forced to vindicate itself by proxy against Bingham’s attempt to leverage PERS into granting his rehearing request arising from an alleged harm caused by the former PERS Board or the former PERS Board chairman.

Because the doctrine of laches bars Bingham's request for a rehearing, the Court should affirm the district court's grant of PERS' motion to dismiss.

VIII. CONCLUSION

Statutes of limitations exist to prevent litigants from ambushing their opponents with ancient grievances that should have been aired at a conflict's inception. Bingham admits that the former PERS Board chairman's employment status as City of Las Vegas CFO at time of Bingham's original disability retirement application hearing was known publicly (*see* O.B. at 8); Bingham should have known this fact (or discovered it within a reasonable duration) and should have levelled his conflict of interest allegations on January 21, 2015, or within 45 days thereafter pursuant to NRS 286.630(4). Bingham's failure to do so is dispositive of this case more than six years later. However, Bingham's extreme delay in bringing this case is only exacerbated by the dubious legal premise around which his alleged conflict of interest revolves, which defies credulity because NRS 286.220(4)(b)'s disability retirement benefit is dispensed from the PERS trust fund, not from his former employer.

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The district court properly granted PERS' motion to dismiss based on the time-bar provided by NRS 286.630(4). Further, the district court could have granted the same for at least four other equally meritorious theories. For these reasons, and those argued above, PERS respectfully requests that this Court affirm the district court's order granting PERS' motion to dismiss.

RESPECTFULLY SUBMITTED this 13th day of December, 2021.

AARON D. FORD
Attorney General

By: /s/ Ian Carr
IAN CARR, Bar No. 13840
Deputy Attorney General

CERTIFICATE OF COMPLIANCE

1. I hereby certify that this answering 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 this answering brief has been prepared in a proportionally spaced typeface using Microsoft Word/Office 365 in 14-point Century Schoolbook.

2. I further certify that this answering brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the answering brief exempted by NRAP 32(a)(7)(C), it is either proportionately spaced, has a typeface of 14 points or more, and contains 4,231 words.

3. Finally, I hereby certify that I have read this answering 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 answering 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 answering brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

RESPECTFULLY SUBMITTED this 13th day of December, 2021.

AARON D. FORD
Attorney General

By: /s/ Ian Carr
IAN CARR, Bar No. 13840
Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General and that on this 13th day of December, 2021, I served a copy of the foregoing RESPONDENT PUBLIC EMPLOYEES' RETIREMENT SYSTEM OF NEVADA'S ANSWERING BRIEF, by electronic service to:

KIRK KENNEDY, ESQ.

Email: ktkennedylaw@gmail.com

/s/ Dorene Wright