Case Nos. 81689 and 84538

In the Supreme Court of Nevada

TRUDI LEE LYTLE AND JOHN ALLEN LYTLE, AS TRUSTEES OF THE LYTLE TRUST, Appellants, *vs.* SEPTEMBER TRUST, DATED MARCH 23, 1972, et al, Respondents.	No. 81689
TRUDI LEE LYTLE and JOHN ALLEN LYTLE, as trustees of the Lytle Trust, Petitioners, *vs.* THE EIGHTH JUDICIAL DISTRICT COURT of the State of Nevada, in and for the County of Clark; and THE HONORABLE TIMOTHY C. WILLIAMS, District Judge, Respondents, *and* SEPTEMBER TRUST, DATED MARCH 23, 1972, et al., Real Parties in Interest.	No. 84538

PETITION FOR REHEARING

District Court Case Nos. A-16-747800-C and A-17-765372-C

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NRAP 26.1 DISCLOSURE

The undersigned counsel of record certify that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal:

Appellants Trudi Lee Lytle and John Allen Lytle, trustees of the Lytle Trust, are individuals.

Richard E. Haskin and Timothy P. Elson at Gibbs Giden Locher Turner Senet & Wittbrodt LLP represented the Lytle Trust in the district court. Joel D. Henriod, Daniel F. Polsenberg, Dan R. Waite, and Kory J. Koerperich at Lewis Roca Rothgerber Christie LLP represent the Lytle Trust in the district court and before this Court.

Appellants further inform the Court that the Honorable Justice Patricia Lee represented a non-party, the court-appointed receiver, in proceedings related to this matter.

Dated this 31st day of January, 2023.

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INTRODUCTION

Contempt is a procedure to enforce clear and unequivocal court orders. The issue at the heart of this case is whether the May 2018 injunction, which prohibited the Lytles from enforcing their judgments directly against the homeowners in a homeowners' association—for example, by recording judgment liens on the individual homeowners' properties—also clearly and unequivocally prohibited the Lytles from collecting their judgments from the association in ways that indirectly affected the homeowners—by seeking appointment of a receiver over the association with authority to levy assessments to pay the association's debts. The Court's order denying the petition does not resolve that issue. Instead, by avoiding the fundamental disagreement that animated the controversy below, and upholding the contempt order on tangential alternative grounds, the Court's order denying the petition perpetuates the confusion.

The order denying the petition holds the Lytles in contempt *ad hoc* for making an improper legal argument under the law of this case—that the association had the power to collect assessments under the *void ab initio* amended CC&Rs. That is not a sufficient ground to hold the

Lytles in contempt, and it overlooks multiple factual and legal issues addressed below. But it also leaves unresolved the issue at the heart of these proceedings, which will inevitably cause more appeals or writs.

The order denying the petition does not explicitly correct the district court's misinterpretation of the May 2018 order, but it does imply that the order does not prohibit the Lytles from seeking appointment of a receiver with powers permitted by law. The Court holds that "[w]hile we conclude that the Lytles were prohibited from enforcing the powers in the Amended CC&Rs, nothing in the plain text of the May 2018 Order prohibited them from seeking the appointment of a receiver over the Association." Order Denying Petition, at 4, n.4. In other words, the Lytles may seek appointment of a receiver with powers permitted by Nevada law, but cannot seek to vest the receiver with powers pursuant to the amended CC&Rs because they were judicially declared *void ab initio*.

Importantly, the Lytles assert other authority for the association to collect assessments under Nevada law, including NRS Chapter 82 and the association's implied powers. The order denying the petition overlooks how those other authorities supported appointing a receiver

with assessment power. The order also overlooks that the effect of denying the petition in this manner will force the Lytles to subject themselves to future contempt proceedings before vindicating their collection rights as a judgment creditor.

Accordingly, the Lytles respectfully ask the Court to rehear this matter and grant the writ petition, as well as reverse the award of attorney fees. At a minimum, the Lytles ask the Court to restore the clarity required of contempt proceedings by instructing the district court that collection activities brought lawfully against the association itself do not violate the May 2018 order, even if those actions indirectly affect the homeowners.

FACTS AND PROCEDURE

The Lytles obtained judgments against their homeowners' association in amounts now totaling more than $1.8 million. 8 PA 1826-27. But the homeowners abandoned the association and allowed it to become defunct. 6 PA 1428. The Lytles attempted to collect the judgments directly from the homeowners and their properties, but the courts determined that the judgments against the association would not support those enforcement actions under Nevada law. 6 PA 1442-45.

In that context, in May 2018, the district court permanently enjoined the Lytles "from taking any action in the future directly against the Plaintiffs or their properties based upon" the judgments. 6 PA 1444, ¶ 9.

The Lytles then brought a receivership action against the association itself, seeking appointment of a receiver to bring the association back into operation and to collect assessments to pay the judgments. *See, e.g.*, 6 PA 1445, ¶ 11. Rather than challenge the receiver's authority to collect assessments in the newly-filed receivership action, the homeowners asked the district court that issued the May 2018 injunction to hold the Lytles in contempt of that order. 3 PA 736 – 4 PA 841. The district court then held the Lytles in contempt and issued monetary sanctions. 6 PA 1440-51. Both the district court and the homeowners interpret the May 2018 injunction as prohibiting the Lytles from collecting their judgment against the association in any manner that will result in the homeowners paying the judgment, even if it is indirectly through assessments from the association. That interpretation deprives the Lytles of lawful collection remedies and effectively renders the monetary judgments against the association

unenforceable.

The Lytles appealed from the contempt finding, which this Court dismissed. *Lytle v. September Trust, Dated March 23, 1972, et. al.*, Docket No. 81390 (Order Dismissing Appeal, February 18, 2022), 8 AA 1827-28. The Lytles then petitioned for a writ of mandamus, which this Court denied. The Court reasoned that the district court did not manifestly abuse its discretion because the law of the case prohibited the Lytles from relying on the amended CC&Rs that were judicial declared *void ab initio*. The Lytles now ask the Court to reconsider the order denying the petition.

LEGAL STANDARD

Under NRAP 40, the Court may consider rehearings "[w]hen the court has overlooked or misapprehended a material fact in the record or a material question of law in the case." NRAP 40(c)(2)(A). Or "[w]hen the court has overlooked, misapplied or failed to consider a statute, procedural rule, regulation or decision directly controlling a dispositive issue in the case." NRAP 40(c)(2)(B). Ordinarily, "[m]atters presented in the briefs and oral arguments may not be reargued in the petition for rehearing, and no point may be raised for the first time on rehearing."

NRAP 40(c)(1).

Under certain circumstances, however, courts have found that it can be appropriate to present new arguments or issues in a petition for rehearing when the court resolves a case in a manner unanticipated by the original briefing. *Cf. Strong v. Jackson*, 781 N.E.2d 770, 772 (Ind. Ct. App. 2003) (recognizing rule that issues may be raised for the first time on rehearing when the court "acts in an unanticipated way" to deprive a party of the opportunity to make an argument); *Estate Wilson v. Aiken Industries, Inc.*, 439 U.S. 877, 879 (1978) (J. Blackmun, concurring) (acknowledging exception to general rule that issue cannot be raised for the first time for when the "issue arose from an unanticipated ruling of the state court, the petition for rehearing presented the first opportunity to raise it, and that opportunity was seized").

I.

ARGUMENT

The order denying the petition holds the Lytles in contempt for a different reason than the district court did. But the district court's contempt finding is irreparably tainted by a misinterpretation of the

May 2018 order; it cannot be salvaged on alternative grounds.

A. The District Court Did Not Hold the Lytles in Contempt for Relying on the Amended CC&Rs

The district court held the Lytles in contempt because they applied for a receiver with the power to levy assessments. Not because the Lytles cited to the amended CC&Rs when doing so.

According to the district court, "the Lytle Trust has no judgment creditor rights to try to collect the Rosemere Judgments from the [homeowners] in any way, shape, or form." 6 PA 1449, ¶ 11. To the district court, a receiver with the power to levy assessments on behalf of the association is equal to the Lytles bringing an action directly against the homeowners or recording liens on their properties to collect the judgments against the association (which is what the May 2018 order enjoined). *See* 6 PA 1447, ¶ 17. Indeed, the Dismans' counsel argued that appointing a receiver with assessment power was "no different" than the Lytles recording a lien on the homeowners' properties. 12/6/22 Oral Argument, at 33:30-35:13. This fundamentally flawed understanding of debt collection, receivership, and the May 2018 order—that the homeowners are immune from paying toward the

judgments indirectly through their obligations to the association simply because courts have determined that the homeowners are not individually liable for the judgments—underlies the contempt finding.

The Lytles understand that the homeowners and district court noted that they improperly relied on the amended CC&Rs, and that this Court believes it was a contemptible offense to cite to the amended CC&Rs as an authority. But that is not the reason the district court held the Lytles in contempt. Even if the Lytles had not cited to the amended CC&Rs, the district court would have held the Lytles in contempt for obtaining the appointment of a receiver with the power of assessment. That is because the district court erroneously maintains that any action that affects the homeowners, whether directly or indirectly, is prohibited by its May 2018 order. *See, e.g.*, 6 PA 1349:1-2 (rhetorically asking "[h]ow can a party do indirectly what it couldn't do directly?; right?"). The district court did not find that the Lytles' citation to the amended CC&Rs in the application for a receiver was sufficient by itself to warrant a finding of contempt.

B. The Lytles Cannot be Held in Contempt on an Alternative Ground

A court should not uphold a finding of contempt on alternative grounds. First, it violates due process and notice requirements. Second, the alternative ground found by this Court is not a basis for contempt under these circumstances. And, third, the alternative finding here—that leaves the district court's erroneous legal interpretation undisturbed—will subject the Lytles to being held in contempt for exercising lawful collections remedies in the future and cause more litigation.

1. "Right Result, Wrong Reason" Should Not Apply to Contempt

Due Process principles caution this Court to refrain from affirming the district court's contempt finding on an alternative ground. *See Awad v. Wright*, 106 Nev. 407, 411, 794 P.2d 713, 716 (1990) (recognizing that due process applies in indirect contempt cases to require "that the person charged be advised of the nature of the action against him"). The order denying the petition implicitly applied the doctrine that the district court reached the right result, even if it did not do so for the right reasons; because the Court thought there was

some reason to find the Lytles in contempt, the district court did not err.

Yet, in contempt proceedings, the actual reasoning of the district court matters. Although the "right result, wrong reason" doctrine normally applies to appeals from a discretionary act, it should not apply to contempt proceedings because the sanction itself depends on the violation. Several courts have refused to apply this otherwise applicable abuse of discretion standard to contempt findings or sanctions. *See Sadler v. Creekmur*, 821 N.E.2d 340, 353 (Ill. Ct. App. 2004) (recognizing that "although a reviewing court may generally affirm a trial court's ruling on any ground supported by the record, . . . this proposition has not been applied to rulings involving sanctions"); *Kumar v. Ramsey*, 286 Cal.Rptr.3d 876, 891 (Cal. Ct. App. 2021) ("Because the trial court rested its decision on only one ground, we cannot say how it might have exercised its discretion had it considered these alternate grounds [for sanctions.]"); *Pierce v. F.R. Tripler & Co.*, 955 F.2d 820, 831 (2d Cir. 1992) (holding that the "sanctions cannot be upheld on appeal" on an alternative ground not found by the district court); *Arab American Television v. Union of Radio*

& Television of Arab Republic of Egypt's Ministry of Information & Comm., 1998 WL 416107, *2 (9th Cir. 1998) (unpublished) (holding that party did "not cite precedent authorizing an appellate court to impose sanctions on an alternative ground not relied on by the trial court, and we have found none").

A closely related concept is that when a district court assesses one penalty for multiple findings of contempt, the separate findings of contempt cannot be severed and upheld individually on appeal. American Jurisprudence on contempt states that "[i]f one penalty is affixed for more than one act of contempt, and the relator could not be held in contempt for one of the acts, the whole [contempt] judgment is tainted and void." 17 Am. Jur. 2d Contempt § 132 (2014) (citing *Ex parte Carpenter*, 566 S.W.2d 123, 123-24 (Tex. Civ. App. 1978)). Similarly, here, the Court should not uphold a sanction against the Lytles for seeking a receiver with assessment power, when the only violative conduct affirmed by this Court was citing to improper legal authority for the receiver's power.

It is true that the homeowners and district court mentioned the Lytles' citation to the amended CC&Rs in their analysis. But the

Lytle's use of the amended CC&Rs in the receivership application was not why the Court held the Lytles in contempt. In fact, none of the affidavits in support of the motion for order to show cause included that as a fact underlying the contempt. And the purpose of those affidavits is to provide the facts constituting contempt. *See* NRS 22.030(2) (requiring that "[i]f contempt is not committed in the immediate view and presence of the court," then "an affidavit must be presented to the court or judge of the facts constituting the contempt").

Here, the affidavits assert that "the Order Appointing Receiver violates the permanent injunction issued . . . in May 2018."[1] 4 PA 758, ¶ 10; 761, ¶ 10; 764, ¶ 11. Each affidavit cites to letters from the receiver to the homeowners, wherein the receiver says he was appointed to facilitate the satisfaction of the Lytles' judgments against the association. 4 PA 756-64. The legal issue presented by the affidavits was whether a receiver with the power to levy assessments violated the May 2018 order.[2]

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[1] Notably, the order appointing receiver itself did not reference the amended CC&Rs. 4 PA 787-95.

[2] Even the Court's order dismissing the appeal in docket no. 81390 summarized that "[b]ecause the receiver's powers included the ability to

The procedural unfairness of upholding the contempt finding on alternative grounds caused real prejudice to the Lytles. The arguments in the briefs, and the record compiled, were based on the district court's rationale. If the Lytles had notice that they would be held in contempt solely for citation to the amended CC&Rs, they would have made different arguments in the briefs and included additional information in the record. In particular, the receivership court has issued orders indicating that the Lytles' citation to the amended CC&Rs were not the basis for the receiver's assessment powers.

For example, in May 2021, the receivership court found that there was other authority to appoint a receiver with assessment power and that it did not rely on the *void ab initio* amended CC&Rs. There are also instances where the receivership court itself ordered the receiver to levy specific assessments against the homeowners. The Lytles would have included those orders in the record if notified that they were in contempt simply for relying on the amended CC&Rs as one of several

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make special assessments against the association's homeowners, respondents, several homeowners in the association, moved in the injunction case for an order to show cause." 8 AA 1827.

legal arguments to grant the receiver assessment power.

Regardless, if the Lytles (the judgment creditors) have the right under Nevada law to seek appointment of a receiver to levy assessments on behalf of the association (the judgment debtor), then the district court's finding of contempt and corresponding sanctions are not valid. The Court should not uphold them on an alternative basis. Put simply, this Court's analysis should not have been whether the district court's contempt finding relied, in part, on valid reasoning. *See* Order Denying Petition, at 6. Rather, it should have analyzed whether the district court's contempt finding relied, in part, on *invalid* reasoning. Because the district court found the Lytles in contempt and sanctioned the Lytles for conduct that was not a clear and unequivocal violation of the May 2018 order, the Lytles ask the Court to rehear the case and grant the relief in the writ petition.

2. Citation to the Void ab Initio *Amended CC&Rs Does Not Constitute Contempt*

A court should not hold a party itself in contempt for an improper legal argument made in a filing. By analogy, Rule 11 prohibits a court from issuing monetary sanctions against a party for a frivolous legal argument made by *counsel*. Under Rule 11(b)(2), legal arguments must

be "warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law." But, under NRCP 11(c)(5)(A), a "court must not impose a monetary sanction . . . against a represented party for violating Rule 11(b)(2)." This rule evinces an intent that courts should not hold a party monetarily liable for legal arguments made by attorneys.

Holding the Lytles in contempt should not be the remedy for making a legal argument barred by the law of the case. Additionally, there is still a question which has yet to be litigated and resolved in the lower courts about the receiver's powers, which is whether the association has the power to collect assessments from the homeowners to pay its debts. It sets a dangerous precedent to hold a party in contempt for one of several legal arguments made in support of an otherwise lawful outcome. Here, this will chill the Lytles' lawful collection activities, because they will be forced to vindicate their legal rights while defending against contempt proceedings rather than in their appropriate contexts.

3. The Court Should Not Force the Lytles to Litigate Their Collection Remedies Through Contempt Proceedings

The district court is set in its erroneous interpretation. *See* 6 PA 1449, ¶ 11, 1450 ¶ 14. Indeed, the Lytles asked the district court to clarify what collection remedies or rights remained under the May 2018 injunction, so that they could comply in the future. *See generally* 6 PA 1425-35. The district court responded by saying it "stripped the Lytle Trust of their ability and right to enforce those judgments vis-à-vis the homeowners in this case," which includes "any action, whether direct or indirect." 7 PA 1557, ¶¶ 1, 7. That means "any action by the Lytle Trust to collect its Judgments against the Association that results in payment of the Judgments by the Plaintiffs is a violation of the May 2018 Order." 7 PA 1558, ¶ 12.

The Court should not permit this unlawful reading of the May 2018 order to persist. The association has no revenue source, except for through the homeowners. That means the district court's interpretation effectively strips the Lytles of all collection remedies against the association. This Court's order denying the petition overlooks that it is a manifest abuse of discretion to interpret the May

2018 injunction to reach lawful collection activities in that manner. *See* Pet. at 14-28. It also overlooks the Court's previous order dismissing appeal, which concluded that the contempt finding would not be interpreted to alter the Lytles' rights under the May 2018 injunction. 8 AA 1827-28.

Nonetheless, despite not addressing the district court's reasoning directly, the order denying the petition does implicitly contradict the district court's faulty interpretation. If the district court's interpretation were correct, the natural basis to deny the writ petition would have been to adopt the district court's reasoning; the Court instead found an alternative basis that did not rely on that interpretation. Further, the order implies that the Lytles still possess the ability to pursue lawful remedies, such as appointment of a receiver, to enforce their judgments. Order Denying Petition, at 4, n.4. The Lytles now ask the Court to make explicit what is implicit in the order's reasoning: the district court cannot hold the Lytles in contempt of the May 2018 order for pursuing lawful collection methods against the association, even if those methods result in the association turning to the homeowners to satisfy the judgments.

This petition is not just about the monetary sanctions and award of attorney fees against the Lytles; it seeks to correct the district court's misinterpretation of the May 2018 order for future actions. If not clarified, the order denying the petition will create additional legal issues and confusion in ongoing proceedings in the lower courts. The divergent reasoning between this Court's order and the district court's contempt finding creates further confusion about what the May 2018 order prohibits and unfairly subjects the Lytles to future contempt proceedings based on unclear legal responsibilities. Conversely, the homeowners will undoubtedly argue that the denial of the writ confirms the district court's interpretation; they will ask lower courts to (improperly) give the interpretations in the district court's contempt finding preclusive effect. That will result in the Lytles having to subject themselves to another finding of contempt for using any collection procedure that indirectly affects the homeowners.

The Court can avoid this confusion by clarifying that the May 2018 order does not strip the Lytles of any lawful collection remedy *against the association*, even if that remedy will result in the association turning to the homeowners to pay the judgment. This

would free the parties to litigate the receiver's authority in the lower courts. Otherwise, the Lytles will have to litigate every future collection remedy as a defense to contempt (either in front of the district court that erroneously interprets its injunction, or potentially a different judge, to whom the homeowners will argue that the issue was finally resolved by the denial of this writ).

The Lytles raised other grounds for the receiver, acting on behalf of the association, to collect assessments from the homeowners under Nevada law. Those issues have not been fully litigated, because the homeowners sought to hold the Lytles in contempt of the May 2018 order rather than litigate the issues on their legal merits. The Lytles respectfully ask the Court to remove the cloud over their future collection attempts by vacating the contempt finding. Or at least clarify that the May 2018 injunction does not clearly and unequivocally prohibit the appointment of a receiver with the power to levy assessments if that power otherwise exists under Nevada law.

C. The Order Overlooks Other Authority for the Receiver to Levy Assessments to Pay its Debts

The order denying the petition overlooks that the Lytles assert authority for the association to collect assessments other than the

amended CC&Rs. The receivership court did not find that the basis for granting that authority to the receiver was the *void ab initio* amended CC&Rs.[3] *See* 4 PA 787-95. Instead, the order appointing receiver gives the receiver "all power and authority of a receiver provided by law." 4 PA 789, ¶ 10. The Lytles have presented good faith arguments for other sources of authority for the receiver, acting in the shoes of the association, to levy assessments to pay the association's debts. As a result, it was a manifest abuse of discretion to hold the Lytles in contempt of the May 2018 injunction.

1. The Association is a Nonprofit Corporation with the Power to Levy Assessments

The Rosemere Estates Property Owners' Association is a non-profit corporation under Nevada law. On February 25, 1997, three years after the original CC&Rs, the association filed its non-profit articles of incorporation under NRS Chapter 82. 2 PA 391 (Non-Profit Articles of Incorporation); 4 PA 808, 822 (CC&Rs were dated January 4, 1994). According to the Secretary of State's website, the association is

[3] As noted above, there are additional orders in the receivership action, not included in this record due to lack of notice issues, that explicitly indicate that the receivership court did not rely on the amended CC&Rs.

still an active nonprofit corporation under Nevada law.

NRS 82.131(5) provides that "every corporation may . . . [l]evy dues, assessments and fees." This power can be limited by a corporation's articles of incorporation. But, here, the association's articles do not limit that power. Accordingly, the association maintains the power to levy dues, assessments, and fees under NRS 82.131(5).

In their application to appoint a receiver, the Lytles argued that the receiver should have assessment power on behalf of the association because NRS Chapter 82 authorizes it. 4 PA 831-32. The district court then granted the receiver "all power and authority of a receiver provided by law," which included assessment power to pay the association's debts. 4 PA 789-92, ¶ 10(q). The district court specifically appointed the receiver under the authority provided both by NRS 32.010(1) and NRS 82.476. 4 PA 787. NRS 82.476 is only applicable to the association as a nonprofit corporation, indicating that the powers of a nonprofit corporation—including to levy assessments—also apply to the association. This authority has not been challenged in the receivership action and no court has otherwise found that the

association lacks the power to levy assessments to pay a judgment.[4]

The Lytles have repeatedly asserted that they cannot be held in contempt for seeking a lawful remedy. In particular, it was proper to seek appointment of a receiver with assessment powers under NRS Chapter 82. The Lytles made this argument in defense of the contempt proceedings in the district court. *See, e.g.*, 4 PA 858. They made the argument again in the dismissed appeal from the contempt proceedings. The Lytles argued that "[t]he justification for the contempt order appears to rest on the faulty assumption that the Association lacks authority to levy assessments against the Property Owners to pay the Association's obligation to the Lytle Trust" and that "the receivership case is the proper place to litigate that issue, not through contempt proceedings." 8 AA 1803, 1814-15. Finally, the Lytles once again

[4] At oral argument, counsel for the real parties in interest (except the Dismans) conceded that the legal question of whether the association has the power to levy assessments has not yet been litigated and resolved in any lower court action. 12/6/22 Oral Argument, at 29:21-29:4. To the extent previous court orders touched on the association's power to levy assessments, it was dicta because the association's authority to levy assessments was not directly in controversy in those previous proceedings. The parties should litigate that issue in future actions involving the association and receiver.

argued in this proceeding that the association has authority to levy assessments under NRS Chapter 82. Pets.' Reply, at 14-16.

Yet the order denying the petition overlooks that NRS Chapter 82 allows the receiver, acting on behalf of the association, to levy assessments. The Lytles therefore ask the Court to correct this misunderstanding and to grant the petition because (1) nothing in the May 2018 order prohibits the Lytles from seeking lawful remedies against the association to collect the judgments, *see* Order at 4, n.4; and (2) it was proper to grant the receiver the power of assessment, because the association itself has that power under NRS 82.131(5).

2. The Association's Power to Levy Assessments is Also Implied by Necessity

The order holds that "the original CC&Rs do not allow for the Association to impose assessments on property owners." Order Denying Petition, at 2. The order does not address the Lytles' arguments that, in addition to Chapter 82, the power to levy assessments is also a necessarily implied power of the association. *See* 4 PA 859-70 (contempt proceedings); Pets.' Reply at 16-22. The association has a long history of actually imposing assessments. 4 PA 859-68. And the receivership court itself has ordered the receiver to impose specific

assessments. The Lyles should be permitted to argue those powers in the lower courts without the threat of being held in contempt based on an overbroad and unlawful interpretation of the May 2018 order.

CONCLUSION

For the foregoing reasons, the Lytles respectfully ask the Court to rehear this case and to vacate the contempt order, and the subsequent order clarifying it, as well as the order awarding attorney fees which is predicated on the contempt order. Alternatively, the Court should clarify that collection activities brought lawfully against the association itself do not violate the May 2018 order, even if those actions indirectly affect the homeowners.

Dated this 31st day of January, 2023.

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CERTIFICATE OF COMPLIANCE

1. I certify that this brief complies with the formatting, typeface, and type-style requirements of NRAP 32(a)(4)–(6) because it was prepared in Microsoft Word 2010 with a proportionally spaced typeface in 14-point, double-spaced Century Schoolbook font.

2. I certify that this brief complies with the type-volume limitations of NRAP 40(a) because it contains 4,650 words.

3. I certify that I have read this brief, that it is not frivolous or interposed for any improper purpose, and that it complies with all applicable rules of appellate procedure, including NRAP 28(e). I understand that if it does not, I may be subject to sanctions.

Dated this 31st day of January, 2023.

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CERTIFICATE OF SERVICE

I certify that on January 31, 2023, I submitted the foregoing "Petition for Rehearing" for filing *via* the Court's eFlex electronic filing system.

Electronic notification will be sent to the following:

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I further certify that I caused a copy of this document to be served via hand delivery to the following:

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