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 EN BANC RECONSIDERATION

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

JOEL D. HENRIOD (SBN 8492)
DANIEL F. POLSENBERG (SBN 2376)
DAN R. WAITE (SBN 4078)
KORY J. KOERPERICH (SBN 14559)
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy., Suite 600
Las Vegas, Nevada 89169

Attorneys for Petitioners/Appellants

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 13th day of March, 2023.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: */s/ Joel D. Henriod*
JOEL D. HENRIOD (SBN 8492)
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200
Attorneys for Petitioners/Appellants

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INTRODUCTION

The panel's order misapplied the abuse of discretion standard to uphold a contempt finding and sanctions on alternative grounds. The panel's order in this writ proceeding also conflicts with a previous panel's order dismissing the appeal on this same issue, in which the previous panel effectively found that the contempt finding would not be interpreted in a manner that could alter the parties' existing rights in the underlying order. Yet the panel's order here used the discretionary writ standard to allow the district court's overly broad reading, which does just that, to remain uncorrected.

The full Court's intervention is now necessary to ensure that parties can receive meaningful appellate review of contempt orders in Nevada, as well as to preserve the appropriate standard of review for contempt findings. This Court should grant en banc reconsideration to reaffirm that the "manifest" abuse of discretion standard and "right results, wrong reasons" doctrine cannot themselves be misused to uphold a contempt finding on alternative grounds—here, grounds different even from those alleged by the moving party in their affidavit supporting the motion for order to show cause, which is supposed to

provide fair notice to the accused party. The Court should also grant reconsideration to provide uniformity between the panel's order dismissing appeal in Docket No. 81390 and the order denying the writ petition in Docket Nos. 81689 and 84538.

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 by recording liens against 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 (emphasis added)), which made sense because that would pierce the Association's corporate veil without legal justification or a court order.

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 a panel of this Court dismissed.[1] *Lytle v. September Trust, Dated March 23,*

[1] The panel dismissing the appeal in Docket No. 81390 consisted of Justice Parraguirre, Justice Hardesty, and Justice Gibbons

1972, et. al., Docket No. 81390 (Order Dismissing Appeal, February 18, 2022), 8 AA 1827-28. In the appeal, the Lytles argued that the contempt order expanded the May 2018 injunction beyond its original meaning and erroneously prevented the Lytles from enforcing their rights as a judgment creditor even against the judgment-debtor Association. Docket No. 81390, AOB 1 ("Appellants maintain the district court substantively expanded the scope of the activity enjoined by the injunction order and then determined that appellants had violated it *ex post facto*."); Docket No. 81390 ARB at 19-20 ("While the district court's order is labeled a contempt order, which is not appealable, what it actually does is expand the Property Owners' rights and diminish the Lytle Trust's rights under the May 2018 order."). If true, that would have granted the Court jurisdiction to hear an appeal from the contempt finding under either NRAP 3A(b)(8) or NRAP 3A(b)3). *See* NRAP 3A(b)(3) (order granting injunction is appealable); NRAP 3A(b)(8) ("special order entered after final judgment" is appealable).

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participating under a general order of assignment.

But a panel of the Court instead held that the contempt order did not alter the Lytles' rights arising from the May 2018 injunction, and did not constitute new injunctive relief. *See Lytle v. September Trust, Dated March 23, 1972*, Docket No. 81390 (Order Dismissing Appeal February 18, 2022). Those findings should have prevented a subsequent court from interpreting the contempt order as altering the Lytles' rights under the May 2018 injunction. Put another way, the dismissal of the appeal effectively assured the Lytles' that their rights under the May 2018 injunction would not be expanded or limited by the contempt finding.

Nonetheless, the panel in this case then denied the Lytles' subsequent petition for a writ of mandamus in a manner that the homeowners will undoubtedly try to argue extinguishes the Lytles' rights as judgment creditors. *See* 12/29/2022 Order Affirming in Docket No. 81689 and Denying Petition for a Writ of Mandamus in Docket No. 84538 ("Order Denying Petition"). And, in the process of doing so, allowed the contempt finding to stand without addressing the real basis for the finding of contempt or the legal dispute presented by the writ. Instead, the panel sua sponte latched on to a criticism of authority the

Lytles attorneys had cited in support of the petition for receivership, holding the Lytles' citations to the *void ab initio* amended CC&Rs in the receivership application violated the law of the case and the May 2018 injunction, which "clearly and unambiguously prohibited the Lytles' future reliance on the Association's powers under the Amended CC&Rs." Order Denying Petition, at 4.

Notably, at the same time, the panel held that "nothing in the plain text of the May 2018 Order prohibited [the Lytles] from seeking the appointment of a receiver over the Association." *Id.* It was only the reliance on the amended CC&Rs that the panel found violated the May 2018 order. *Id.* The panel's reasoning—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 judicially declared *void ab initio*—cannot support a finding of contempt under these circumstances.

The panel denied the Lytles' petition for rehearing on February 13, 2023. The Lytles now petition for en banc reconsideration.

LEGAL STANDARD

En banc reconsideration is appropriate when "(1) reconsideration by the full court is necessary to secure or maintain uniformity of decisions," or "(2) the proceeding involves a substantial precedential, constitutional or public policy issue." NRAP 40A(a).

Here, both considerations are implicated. The panel's order—by upholding the contempt finding on alternative grounds—conflicts with the order dismissing the appeal in docket no. 81390, as well as Nevada precedent as recognized in *Ristenpart v. Second Judicial Dist. Court*, 127 Nev. 1170, 373 P.3d 955, (unpublished decision), Docket No. 55667 (Order Granting Petition July 28, 2011). The panel's decision further implicates substantial precedential, constitutional, or public policy issues by misapplying the abuse of discretion standard for contempt proceedings. In short, the order denying the petition sets bad precedent in which (a) the Court can uphold contempt sanctions on any ground supported by the record, regardless of the district court's actual reasoning or basis raised in the complaining party's affidavit; (b) the standard of relief for a writ petition may be strictly applied to effectively deny meaningful appellate review of contempt orders; and (c)

a party can be held in contempt for its attorneys' legal arguments.

I.

ARGUMENT

The order denying the petition holds the Lytles in contempt for a different reason than the district court did. The panel held that because there was some basis in the lower court's record to find the petitioners in contempt—although different than what the district court relied on to issue contempt sanctions—there was no manifest abuse of discretion warranting relief from the Court. That result conflicts with Nevada precedent and, in the process, also misapplies the abuse of discretion and writ standards in a manner that unreasonably limits a party's ability to obtain appellate relief following contempt proceedings.

A. The Panel's Order Conflicts with other Cases that Hold that a Contempt Finding is Fact-Specific and Cannot Be Upheld on Alternative Grounds

A reviewing court cannot search the record to affirm a contempt finding when the actual basis for the contempt finding is improper. In *Ristenpart v. Second Judicial Dist. Court*, the Court recognized that "[p]recedent limits [the Court's] review to the [conduct] the district court found contemptuous." 127 Nev. 1170, 373 P.3d 955, (unpublished

decision), Docket No. 55667 (Order Granting Petition July 28, 2011). There, the court recognized that when actions are not identified as contemptuous in the contempt order, and there is no individual allotment of punishment for actions, the contempt finding "cannot stand." *Id.* In its decision, the Court cited to *Eaton v. City of Tulsa*, 415 U.S. 697 (1974) and *Houston v. Eighth Judicial District Court*, 122 Nev. 544, 135 P.3d 1269 (2006) as the established precedent supporting its holding.

In *Eaton*, the United States Supreme Court held that "the question [in review of a contempt order] is not upon what evidence the trial judge could find petitioner guilty but upon what evidence the trial judge did find petitioner guilty." 415 U.S. at 698. Similarly, in *Houston*, this Court rejected the minority of jurisdictions that hold "that a contempt finding will be upheld so long as the record contains sufficient information demonstrating the contempt." 122 Nev. at 555, 135 P.3d at 1275. Instead, a Nevada court is required to find contempt with specificity and state the facts upon which the contempt finding is based. *Id.* at 554-55, 135 P.3d at 1275-76; *see also* NRS 22.030. Accordingly, a contempt finding must be reviewed upon the basis for

which it was actually issued, not the basis for which it could have been issued. The panel's order conflicts with *Eaton* and *Houston* by upholding contempt on alternative grounds, which also creates dangerous precedent, bad public policy, and infringes on an alleged contemnor's constitutional rights.

B. "Right Result, Wrong Reason" Does Not Apply to Contempt

Due Process principles caution against 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"). 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 does 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)). Again, it sets bad precedent and infringes on constitutional rights to allow a contempt finding and sanctions to stand when only part of the district court's rationale for those sanctions is found proper.

C. The Panel's Order Denying the Writ Upholds the Contempt Finding for Different Reasons than the District Court

The order denying the petition implicitly applied the doctrine that allows affirmance if the district court reached the right result, even if it did not do so for the right reasons. In other words, because the panel thought there was some reason to find the Lytles in contempt, it denied the petition and held that the district court did not manifestly abuse its discretion.

The full court should not permit a contempt sanction against the Lytles for obtaining a receiver with assessment power, when the only violative conduct affirmed by the panel was citing to improper legal authority for the receiver's power. That was not the basis for the

district court's contempt finding or sanction.

1. 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 successfully moved a court to appoint a receiver with the power to levy assessments against the homeowners. Not because the Lytles cited to the amended CC&Rs when doing so. Indeed, the homeowners did not ask the district court to find the Lytles in contempt because they relied on the amended CC&Rs; the homeowners, as evidenced by their affidavits required to support the motion for an order to show cause, asserted that it was contemptuous for a receiver to seek assessments from them to satisfy the Lytles' judgments.

According to the district court, "the Lytle Trust has no judgment creditor rights to try to collect the [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, respondents 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.

Even if the Lytles never cited to the amended CC&Rs, and only cited to the association's powers under NRS Chapter 82, 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 (Judge Williams) erroneously maintains that any action that affects the homeowners, whether directly or indirectly, is prohibited by its (Judge Bailus's) 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?"). To be clear, 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 the finding of contempt.

It is true that the district court mentioned the Lytles' reliance on the amended CC&Rs in its findings of fact. *See* 6 AA 1447, ¶ 15. But the Lytle's use of the amended CC&Rs in the receivership application was not ultimately why the district court held the Lytles in contempt. The district court's reference to the amended CC&Rs is immediately followed by a finding that plaintiffs failed to inform the receivership court about the injunction that prohibited collection activities against the homeowners, which it believes prohibit indirect action against the homeowners. *See* 6 AA 1447, ¶ 16. The district court's contempt finding is ultimately based on the fact that the Lytles obtained a receiver with assessment power, not *how* the Lytles obtained a receiver with assessment power.

In fact, *none of the affidavits* in support of the motion for order to show cause *included reliance on the amended CC&Rs* as a fact underlying the contempt. And the purpose of those affidavits was 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"), as well as notice to the non-moving party of the allegations against them. *See Awad v. Wright*, 106 Nev. at 411, 794 P.2d at 716 (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 affidavits asserted that "the Order Appointing Receiver violates the permanent injunction issued . . . in May 2018." 4 PA 758, ¶ 10; 761, ¶ 10; 764, ¶ 11. But the order appointing receiver does not reference the amended CC&Rs; there was other authority under Nevada law that supported authorizing the receiver with assessment power. 4 PA 787-95. Instead, the affidavits cite 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, and in the subsequent litigation, has always been whether a receiver with the power to levy assessments against the homeowners violated the May 2018 order.

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

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.

2. The Panel Mistakenly Found that Citing to the Amended CC&Rs Was Sufficient to Uphold the Contempt Finding

The panel's order denying the petition concluded that "the May 2018 Order clearly and unambiguously prohibited the Lytles' future reliance on the Association's powers under the Amended CC&Rs." Order Denying Petition at 4. The Lytles violated that order, the panel reasoned, "by arguing that under the Amended CC&Rs, 'the Association has the power and authority to assess each 'Lot' or unit for the total amount of any judgments against the Association in proportion to ownership within the Association." Order Denying Petition at 5. The panel held that there was "no manifest abuse of discretion in the district court's ruling," because it "relied, in part, on [the Lytles] having argued that the Association, through the receiver, could make special assessments on the Property Owners for the purpose of paying the judgments when the Association had no power to do so under the original CC&Rs." Order Denying Petition at 6.

The panel's order is as notable for what it does not say as it is for what it does say. The panel did not deny the writ by finding that the district court properly interpreted its May 2018 injunction to prohibit collection activities against the association that would indirectly affect the homeowners. Just the opposite, the panel agreed with the Lytles that the May 2018 injunction does not clearly and unequivocally prevent the appointment of a receiver with powers under Nevada law. *See* Order Denying Petition at 4, n.4. Nonetheless, the panel misapplied the abuse of discretion standard to refuse to vacate the contempt order by finding its own *post hoc* justification for it.

According to the panel, it was the reliance on the amended CC&Rs that constituted contempt, not the actual appointment of a receiver with the power to levy assessments. Under normal circumstances, it might be sufficient that there is any basis in the record to support a district court's discretionary act. But contempt requires more. It requires that the actual basis for the contempt finding and sanction are proper. *See Eaton*, 415 U.S. at 698; *Houston*, 122 Nev. at 555, 135 P.3d at 1275.

Here, the panel's order shows that it only found "part" of the district court's rationale appropriate. Specifically, the panel held that

"the district court relied, *in part*, on [the Lytles] having argued" that the amended CC&Rs authorized the association to levy assessments. Order Denying Petition, at 6 (emphasis added). That means that the panel's own reasoning acknowledges that the contempt finding was based on more than the Lytles' reliance on the amended CC&Rs in the application for a receiver. Those other grounds were not addressed in the panel's order, which implies the other grounds were not valid bases for contempt. Accordingly, even if this Court overlooks the fact that the district court's contempt finding was not actually based on the Lytles' use of the amended CC&Rs, it must not overlook that the panel upheld a contempt finding without analyzing the entire basis for the contempt order.

Put another way, the panel'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 injunction, the Lytles ask the full

Court to reconsider the panel's decision and grant the relief in the writ petition.[2]

D. The Panel's Decision Conflicts with the Dismissal of the Appeal in Docket No. 81390

The panel's denial of the writ petition relies heavily on the high standard for granting extraordinary relief, which is to correct a manifest abuse of discretion. But the denial simultaneously reaches a result that gives the Lytles the right to appeal, and therefore would subject the order to an ordinary abuse of discretion standard. *See In re Determination of Relative Rights of Claimants & Appropriators of the Waters of the Humboldt River Stream System & Tributaries*, 118 Nev. 901, 907, 59 P.3d 1226, 1230 (2002). That is, if the district court's contempt finding is permitted to stand without correction, then the

[2] Notably, 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 its basis for granting the receiver assessment powers.

Lytles cannot use their lawful collection remedies because the district court believes those remedies would violate the May 2018 injunction. That reading of the May 2018 injunction alters the Lytles' rights under the injunction, thereby constituting either a special order under NRAP 3A(b)(8) or a new injunction under NRAP 3A(b)(3).

A previous panel of the Court, however, already dismissed the Lytles' appeal, thereby finding that the contempt order did no such thing. Without the full Court's intervention, the Lytles will be left with two arguably inconsistent orders: one of which assured their collection rights were not further diminished by the contempt finding (docket no. 81390), and the other which the homeowners will argue diminished those collection rights (this case).

E. The Panel's Decision Also Creates Bad Precedent By Holding a Party in Contempt for their Attorneys' Legal Arguments

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, which is whether the association has the power to collect assessments from the homeowners to pay its debts.[3] 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. Particularly, here, where the district court's own interpretation of its contempt finding is much broader than the panel's affirmance.

[3] The Lytles maintain, as they did in the receivership action, that the association is a non-profit corporation with power under NRS Chapter 82 to levy dues, assessments, and fees to pay its debts. *See* NRS 82.131(5); *see also* 2 PA 391 (establishing the association as a non-profit corporation). Further, the power to levy assessments to pay the association's debts is implied by necessity, which is a power that the association has a long history of using. 4 PA 859-68.

CONCLUSION

The panel's order sets bad precedent that would allow a contempt finding to be upheld on alternative grounds on appeal. It applies abuse of discretion standards that are not applicable in the context of contempt. And its analysis—by failing to correct the district court's misinterpretation of the May 2018 order that led to the contempt finding—implicitly conflicts with a previous order from the Court involving the same issue.

On the merits, the order denying the petition overlooks that NRS Chapter 82 and implied powers allow the receiver, acting on behalf of the association, to levy assessments against the homeowners to pay its debts. The Lytles therefore ask this Court to grant reconsideration, and direct the district court to vacate the contempt orders and order awarding attorney fees, because (1) nothing in the May 2018 injunction prohibits the Lytles from seeking lawful remedies against the association to collect the judgments, *see* Order Denying Petition 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) or implied by necessity.

Dated this 13th day of March, 2023.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: */s/ Joel D. Henriod*
JOEL D. HENRIOD (SBN 8492)
DANIEL F. POLSENBERG (SBN 2376)
DAN R. WAITE (SBN 4078)
KORY J. KOERPERICH (SBN 14559)
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200

Attorneys for Petitioners/Appellants

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 4,550 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 13th day of March, 2023.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: */s/ Joel D. Henriod*
JOEL D. HENRIOD (SBN 8492)
DANIEL F. POLSENBERG (SBN 2376)
DAN R. WAITE (SBN 4078)
KORY J. KOERPERICH (SBN 14559)
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
(702) 949-8200

Attorneys for Petitioners/Appellants

CERTIFICATE OF SERVICE

I certify that on March 13, 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:

Kevin B. Christensen
Wesley J. Smith
CHRISTENSEN JAMES & MARTIN
7740 W. Sahara Avenue
Las Vegas, Nevada 89117

Attorneys for Respondents September Trust, dated March 23, 1972, Gerry R. Zobrist and Jolin G. Zobrist, as trustees of the Gerry R. Zobrist and Jolin G. Zobrist Family Trust, Raynaldo G. Sandoval and Julie Marie Sandoval Gegen, as trustees of the Raynaldo G. and Evelyn A. Sandoval Joint Living and Devolution Trust dated May 27, 1992, and Dennis A. Gegen and Julie S. Gegen, husband and wife, as joint tenants

Christina H. Wang
FIDELITY NATIONAL LAW GROUP
8363 W. Sunset Road, Suite 120
Las Vegas, Nevada 89113

Attorneys for Respondents Robert Z. Disman and Yvonne A. Disman

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

The Honorable Timothy C. Williams
DISTRICT COURT JUDGE – DEPT. 16
200 Lewis Avenue
Las Vegas, Nevada 89155

Respondent

/s/ Emily D. Kapolnai
An Employee of Lewis Roca Rothgerber Christie LLP