IN THE SUPREME COURT OF NEVADA

JOHN DATTALA,

Appellant,

vs.

PRECISION ASSETS; ACRY DEVELOPMENT LLC; WFG NATIONAL TITLE INSURANCE COMPANY,

Respondents.

Case No. 84762

APPEAL

from the Eighth Judicial District Court, Department XIV
The Honorable Adriana Escobar, District Judge
District Court Case No. A-19-794335-C

RESPONDENT WFG NATIONAL TITLE INSURANCE COMPANY'S RESPONSE TO PETITION FOR EN BANC RECONSIDERATION

WRIGHT, FINLAY & ZAK, LLP
Christina V. Miller, Esq.
Nevada Bar No. 12448
Yanxiong Li, Esq.
Nevada Bar No. 12807
7785 W. Sahara Ave., Suite 200
Las Vegas, NV 89117
Attorneys for Respondent, WFG National Title Insurance Company

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I. INTRODUCTION

Appellant John Dattala's ("Dattala") Petition for En Banc Reconsideration represents nothing more than a repeat attempt to obtain reconsideration of the same points that he raised before both the district court and the Panel previously. Even more egregious though is the fact that Dattala does not set forth any cogent argument in support of en banc reconsideration. While the words "public policy" appear fleetingly in a single subheading and a sentence in the conclusion section of the Petition, Dattala fails to set forth any argument that meets the en banc reconsideration standard. In fact, the position he advocates contradicts Nevada's public policy to resolve claims on their merits. Accordingly, Respondent WFG National Title Insurance Company ("WFG") respectfully submits that the Petition should be summarily denied.

But even if this Court considers Dattala's arguments, the record confirms that the Petition and arguments advanced therein are frivolous. The Petition presents nothing more than an improper attempt to obtain reconsideration of arguments previously presented and rejected. Dattala advances misrepresentations of the evidence and procedural history of the action and simultaneously ignores binding legal precedent. For all of these reasons, en banc reocnsideration is not appropriate and the Petition should be denied.

II. LEGAL STANDARD FOR EN BANC RECONSIDERATION

> En banc reconsideration of a decision of a panel of the Supreme Court is **not favored** and ordinarily will not be ordered except when (1) reconsideration by the full court is necessary to secure or maintain uniformity of decisions of the Supreme Court or Court of Appeals, or (2) the proceeding involves a substantial precedential, constitutional or public policy issue…**En banc reconsideration is available only under the limited circumstances set forth in Rule 40A(a)**…

NRAP 40A(a) (emphasis added).

> A petition based on grounds that full court reconsideration is necessary to secure and maintain uniformity of the decisions of the Supreme Court or Court of Appeals **shall demonstrate that the panel's decision is contrary to prior, published opinions of the Supreme Court or Court of Appeals and shall include specific citations to those cases**. If the petition is based on grounds that the proceeding involves a substantial precedential, constitutional or public policy issue, the petition **shall concisely set forth the issue, shall specify the nature of the issue, and shall demonstrate the impact of the panel's decision beyond the litigants involved**. The petition shall be supported by points and authorities and shall contain such argument in support of the petition as the petitioner desires to present. **Matters presented in the briefs and oral arguments may not be reargued in the petition**, and **no point may be raised for the first time**.

NRAP 40A(c) (emphasis added).

NRAP 40A(g) provides that en banc reconsideration is a "rigid standard". The Rule also permits this Court to enter sanctions against Dattala's counsel for filing a frivolous petition that multiplies the proceedings and increases costs "unreasonably and vexatiously." *Id.* Sanctions may include payment of Respondent WFG's attorney's fees and costs. *Id*.

III. LEGAL ARGUMENT

A. The Petition fails to meet the rigid standards of Rule 40A(a).

NRAP 40A(a) expressly provides that en banc reconsideration is only permitted when "(1) reconsideration by the full court is necessary to secure or maintain uniformity of decisions of the Supreme Court or Court of Appeals, or (2) the proceeding involves a substantial precedential, constitutional or public policy issue." Denial of en banc reconsideration is required where a "petition does not qualify under the stringent requirements imposed by NRAP 40A[.]" *Recontrust Co., N.A. v. Zhang*, 130 Nev. 1, 10, 317 P.3d 814,

Dattala's Petition fails to set forth any discussion of the applicable standard for en banc reconsideration and makes a mere passing reference to NRAP 40A, claiming "[t]he legal reasoning in the Order of Affirmance is seriously different from the court's prior legal decisions and this case involves a substantial precedential, constitutional, or public policy issue." Petition at p.2. But this vague statement fails to meet the requirements set forth in NRAP 40A(c). That rule requires that Dattala "shall" concisely: demonstrate that the panel's decision is contrary to prior, published opinions of the Supreme Court or Court of Appeals and include specific citations to those cases; or set forth the public policy issue, specify the nature of the issue and demonstrate the impact of the panel's decision beyond the litigants

involved. *Id*.; *S.N.E.A. v. Daines*, 108 Nev. 15, 19, 824 P.2d 276, 278 (1992) ("'shall' is mandatory[.]"); Black's Law Dictionary, 1375 (6th ed. 1990) (defining "shall" as "imperative or mandatory…inconsistent with the a concept of discretion.").

Dattala fails to concisely set forth any of the foregoing requirements to either challenge that the Order of Affirmance was contrary to prior published opinion of the Nevada Supreme Court or Court of Appeals or presents a public policy issue to this en banc Court for consideration. Instead, Dattala simply reargues (often simply copying portions of his arguments from prior briefing) points that were already presented to the district court and the Panel and rejected. This is in violation of NRAP 40A(c), prohibiting rearguing any "[m]atters presented in the briefs and oral arguments."

Specifically, as it pertains to WFG,[1] Dattala extends two arguments to this Court: (1) that there was evidence presented to the district court and Panel, allegedly admitted to by WFG, that "proves" Lillian Medina ("Medina") was WFG's agent; and (2) the district court, and subsequently the Panel, should not have upheld

[1] Dattala makes additional arguments against Respondents Precision Assets ("Precision") and Acry Development, LLC ("Acry"). WFG does not address those separate arguments and anticipates that Precision and Acry will each submit a separate Response to the Petition to address those arguments against them. WFG reserves its right to join in those arguments presented in Precision and/or Acry's Responses which may also equally apply to WFG.

summary judgment in favor of WFG in light of the separate default judgment against Bursey. *See* Opposition at pp. 6-8, 11-12, 13-17, 19-23, 26-27. But these arguments have been repeatedly raised by Dattala and rejected as contrary to the evidentiary record and binding legal precedent. *See* discussion in Section III.B., *infra*. NRAP 40A expressly prohibits using a Petition for En Banc Reconsideration as a mechanism to reargue and seek reconsideration of matters already presented in Dattala's appellate briefs. For ease of reference, WFG summarizes exactly where Dattala made identical arguments in his Opening Brief and Reply Brief, as follows:

Dattala's Petition Arguments	**Location in Dattala's Opening and Reply Briefs**
Medina was WFG's agent; WFG admitted that Medina was its agent.	Opening Brief at pp. 3, 5, 17, 32-38. Reply Brief at pp. 8-10.
WFG was bound by the Default Judgment against Bursey and Medina; summary judgment in favor of WFG was precluded by the "findings" in the Default Judgment; WFG failed to appeal the Default Judgment.	Opening Brief at pp. 4, 5, 6, 22, 32, 40. Reply Brief at pp. 13-14, 20-21.

Accordingly, for each of these reasons, Dattala has failed to meet the rigid standard of NRAP 40A and the Petition must be summarily denied for failure to present any issue that is the proper subject of en banc reconsideration, pursuant to NRAP 40A(a).

B. Dattala's en banc reconsideration arguments are nonetheless contradicted by the evidentiary record, binding legal precedent and advocate a violation of longstanding public policy to resolve claims on their merits.

Even if this Court considers the merits of Dattala's Petition, his arguments nonetheless fail and reflect simply an attempt to mislead this Court into granting reconsideration through misrepresentations of the evidence and procedural history of this action and intentional disregard for legal precedent.

i. There is no evidence in the record to show that Medina was WFG's agent.

Dattala repeatedly argues that WFG admitted that Medina was its agent, citing WFG's Interrogatory Response No. 12. *See* Petition at pp. 6-8, 13-15. But Dattala's paraphrase blatantly mischaracterizes the actual language of WFG's response to Interrogatory No. 12, which recites in full:

> **INTERROGATORY NO. 12:**
>
> State with specificity all actions taken and communications evidencing your supervision of Lilian Medina on April 29, 2019.
>
> **[RESPONSE TO] INTERROGATORY NO. 12:**
>
> In addition to the General Objections, WFG further objects to this Interrogatory on the grounds that it is vague and ambiguous. Without waiving any objections, after making reasonable inquiry, and on information known or readily available to it, WFG has been unable to identify information responsive to this Interrogatory. **Lilian Medina is an independent notary / signing agent and WFG has no responsibility to supervise her actions.**

5 JA 1132 (emphasis added).

Dattala's decision to continue to paraphrase WFG's interrogatory response as admitting Medina was "WFG's agent" (Petition at pp. 8, 13 and 14) is a clear misstatement and borderline sanctionable considering the underlying record. *See* Dattala's Opening Brief ("AOB") at 6, 32; NRAP 28.2(a)(3) (in presenting his brief, Dattala's counsel certified every assertion in the briefs regarding matters in the record has support in the appendices of documents); AOB 42-43 (counsel's certification). The Panel agreed with the district court that WFG's interrogatory response "when read in its full and proper context, cannot give rise to a *reasonable* inference that Medina was WFG's agent." Order of Affirmance at 6. Dattala does not present any other admissible evidence in the record to refute this conclusion. Instead, Dattala argues that the "finding" in the Default Judgment – that Medina was WFG's agent – required the district court to deny summary judgment to WFG. Petition at pp.13-15. But, as the Panel correctly noted, this argument failed for several reasons: the Default Judgment was only entered against Bursey and Medina, not WFG; the "finding" that Medina was WFG's agent in the Default Judgment was simply copied by Dattala's counsel from the allegations in Dattala's operative complaint; and the Default Judgment could not be applied to WFG because it was a party that timely answered the complaint and defended against Dattala's allegations. *See* Order of Affirmance at p.2, and pp.4-6.

Accordingly, the Panel reached a sound conclusion based on the evidentiary record and en banc reconsideration should be denied.

ii. The Default Judgment against Bursey and Medina cannot override Summary Judgment on the merits in favor of WFG.

Dattala next contends that the district court wrongfully granted summary judgment in favor of WFG and against Dattala, despite Dattala's alleged presentation of documentary evidence at the default judgment prove-up hearing that directly contradicted the findings of fact from the summary judgment hearing two weeks earlier. *See* Petition at pp.15-16. Dattala further contends that Respondents, including WFG, had notice and a full opportunity to participate in the default judgment prove-up proceedings but intentionally did not participate and were bound by the result thereof. *Id.* at 19. Neither of these arguments have merit and advocate for a violation of longstanding public policy in Nevada that claims should be resolved on their merits.

First, it is simply false and contradicted by the procedural record that WFG did not participate in the default judgment proceedings. The record confirms that Dattala acknowledged during the October 13, 2021, prove-up hearing underlying his Default Judgment that the application for dispositive sanctions against Bursey was unrelated to claims against WFG. *See* 10 JA 2051-54 ("We only have two defendants left after these summary judgment motions which there aren't orders on it… All the

allegations that are unopposed against Medina and Bursey are facts. And so that pretty (sic) resolves my client's case…"). WFG similarly voiced its concerns regarding the confusion and prejudice that may occasion from facts deemed admitted against defaulting parties but not WFG. *See* 10 JA 2054-55, 2066. But after the district court's confirmation that WFG would not be bound by Dattala's default against Medina and Bursey, it was unnecessary for WFG to participate further in the prove-up proceeding against the defaulting co-defendants. *See* 10 JA 2079. The Panel agreed, acknowledging that the record confirmed that "WFG's counsel attended the October 13, 2021, prove-up hearing, expressed his belief that any issues adjudicated at that hearing would not impact WFG's interests, and departed the hearing only after being assured that his belief was accurate." Order of Affirmance at p.5-6, fn.5. Accordingly, Dattala's argument that WFG intentionally did not participate in the default prove up proceedings is false and should not be given any consideration by this Court.

Second, Dattala's contentions are defeated by binding Nevada precedent, confirming that WFG, an answering party that vigorously contested liability, is not bound by default against a codefendant who failed to answer or whose answer was stricken. *LoMastro v. Am. Family Ins. Grp.* (Estate of LoMastro), 124 Nev. 1060, 1067, 195 P.3d 339, 344 (2008). The *LoMastro* court further confirmed that facts

actually litigated should generally trump facts established based on non-participation of a party. *Id*., 124 Nev. at 1067, 195 P.3d at 344-45. **Such a rule comports with the Nevada Supreme Court's preference and Nevada's public policy for deciding cases on their merits**. *See, e.g., Hansen v. Universal Health Servs., Inc.*, 112 Nev. 1245, 1247-48, 924 P.2d 1345, 1346 (1996) (citing *Price v. Dunn*, 106 Nev. 100, 105, 787 P.2d 785, 787 (1990); *Hotel Last Frontier v. Frontier Prop.*, 79 Nev. 150, 155, 380 P.2d 293, 295 (1963)); *see also Stoecklein v. Johnson Elec., Inc.*, 109 Nev. 268, 271, 849 P.2d 305, 308 (1993) ("[T]he district court must consider the state's underlying basic policy of deciding a case on the merits whenever possible."). *See* WFG's Answering Brief at pp. 26-27.

Although Dattala cites *LoMastro* in his Petition to support his baseless argument that WFG did not participate in the default prove-up proceedings (Petition at p.19), the foregoing record directly contradicts Dattala's position and his refusal to acknowledge WFG's actions and concerns voiced in relation to (or rather Dattala's intentional misrepresentation to this Court that WFG intentionally did not participate in) the default prove-up proceedings should be viewed with extreme skepticism by this Court. Accordingly, this Court should summarily disregard Dattala's false account of proceedings before the district court and deny en banc reconsideration.

Third, Dattala argues that WFG is bound by the Default Judgment because it was entered after the ruling on the summary judgment orders, the Default Judgment was certified as final pursuant to NRCP 54(b) and WFG did not seek reconsideration of or appeal from the Default Judgment. Petition at pp. 21-22. But this argument ignores (1) the foregoing precedent confirming that it is public policy in Nevada to resolve claims on their merits and not bind litigants that are actively defending claims to be bound by default against non-responsive litigants, and (2) fundamental concepts of civil procedure, outlined by the Panel in its Order Denying Rehearing, filed on June 16, 2023.

Specifically, the Panel correctly concluded that the Default Judgment was not entered against WFG, so WFG would have lacked standing to appeal that judgment. Order of Affirmance at 2 (citing *Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 446, 874 P.2d 729, 734 (1994) (recognizing that to have standing to appeal a judgment, a party must have a personal or property right that is adversely affected by the judgment). Although the Petition includes a single summary statement that "WFG…had both a personal and a property right affected by the [Default Judgment]" (Petition at p.6), no meaningful legal points and authorities are actually set forth under this subsection heading or elsewhere. Again, though, WFG could not have a personal or property right affected by the Default Judgment, thereby requiring

it to appeal therefrom, because the Default Judgment was only against Bursey and Medina and **only awarded monetary damages against them**. 7 JA 1554. More importantly, Dattala did not challenge the district court's grant of summary judgment in favor of WFG on the quiet title/declaratory relief claims (*see* WFG's Answering Brief at p.32) and, therefore, Dattala has waived that argument as to any interest in the subject properties on appeal and cannot raise it for the first time in its Petition. NRAP 40A(c).

Alternatively, the Panel concluded that "even if WFG had standing, Dattala does not meaningfully dispute that the district court had already orally granted summary judgment for WFG and indicated to WFG's counsel at the outset of the October 15, 2021, prove-up hearing that WFG's interests would not be impacted by any issues adjudicated at that hearing." Order of Affirmance at 2 (citing *Mrs. Condies Salad Co. v. Colo. Blue Ribbon Foods, LLC*, No. 11-cv-02118-KLM, 2012 WL 5354848, at *5-6 (D. Colo. Oct. 30, 2012) (compiling case law that has recognized that "findings and conclusions in a default judgment are not binding as 'law of the case' against other defendants who are not in default.")). Dattala does not challenge or otherwise present any legal points and authorities to contest this conclusion.

The record on appeal and legal precedent relied on by the district court and

the Panel confirm that Dattala is not entitled to en banc reconsideration relief. Accordingly, WFG respectfully submits that the Petition must be denied.

C. The Court should enter sanctions against Dattala's counsel and order repayment of WFG's attorney's fees incurred in responding to the frivolous Petition.

> Unless a case meets the **rigid standards of Rule 40A(a)**, the duty of counsel is discharged without filing a petition for en banc reconsideration of a panel decision. **Counsel filing a frivolous petition shall be deemed to have multiplied the proceedings in the case and to have increased costs unreasonably and vexatiously**. At the discretion of the court**, counsel personally may be required to pay an appropriate sanction, including costs and attorney's fees, to the opposing party**.

NRAP40A(g) (emphasis added).

"[A] frivolous action has been defined as one that is "baseless," and "baseless" means that "the pleading [not] well grounded in fact [or is not] warranted by exiting law or a good faith argument for the extension, modification or reversal of existing law." *Simonian v. Univ. & Cmty. College Sys.*, 122 Nev. 187, 196, 128 P.3d 1057, 1063 (2006) (quoting *Jordan v. State Dep't of Motor Vehicles*¸121 Nev. 44, 58, 110 P.3d 30, 41 (2005) (considering frivolous to mean a lack of "arguable basis either in law or in fact") (quoting *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)). The Nevada Supreme Court has also defined a frivolous or groundless claim as one not supported by "any credible evidence at trial." *Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1354, 971 P.2d 383,

387 (1998). NRS 18.010(2)(b) explains that it is the intent of the Legislature to allow for sanctions to punish and deter frivolous and vexatious claims because they "overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public." This same logic applies to the intent behind NRCP 40A(g) to deter frivolous petitions for en banc reconsideration that do not meet the rigid standards of Rule 40A(a) to deter needless multiplication of proceedings and wasting the time and resources of the Nevada Supreme Court and counsel.

Here, as set forth in Sections III.A. and III.B., Dattala's Petition is frivolous for several reasons: (1) the Petition fails to meet the rigid standards of Rule 40A(a) and the required content of a petition for en banc reconsideration set forth in Rule 40A(c); (2) Dattala's arguments against WFG simply repeat arguments previously presented to the district court and Panel which were rejected, thereby violating Rule 40A(c)'s express directive that "[m]atters presented in the briefs and oral arguments may not be reargued in the petition[.]"; and (3) Dattala's arguments against WFG are not supported by the evidentiary record or binding Nevada precedent set forth in *Lomastro*, 124 Nev. at 1067, 195 P.3d at 344.

For all these reasons, it is appropriate for the Court to find that the Petition is frivolous and unreasonably and vexatiously multiplied the appellate proceedings.

Dattala presented his Petition for En Banc Reconsideration but failed to cogently argue either of the bases for en banc reconsideration set forth in NRAP 40A(a). Moreover, the Petition reflects Dattala's willful failure to acknowledge applicable legal precedent and repeat intentional misrepresentations of the evidentiary and procedural records. Dattala's actions fit squarely within the purpose of awarding sanctions described in NRAP 40A(g). Consequently, it is within this Court's discretion and appropriate for the reasons set forth herein, to enter sanctions against Dattala's counsel and order him to reimburse WFG its attorney's fees incurred in responding to the Petition, in the amount of $4,288.00. A true and correct copy of the invoice of counsel for WFG and declaration of counsel in support, setting forth all attorney's fees reasonably and necessarily incurred by WFG to respond to the Petition, are attached hereto as **Exhibit 1**.[2]

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[2] Billing entries unrelated to WFG's Response to Petition for En Banc Reconsideration, or otherwise subject to attorney-client privilege, have been redacted.

IV. CONCLUSION

For these reasons, Respondent WFG respectfully requests that this Court deny the Petition for En Banc Reconsideration and enter sanctions against Dattala's counsel, directing him to reimburse WFG's attorney's fees and costs in the amount of $4,288.00 incurred in responding to the frivolous Petition.

DATED this 24th day of July, 2023.

WRIGHT, FINLAY & ZAK, LLP

/s/ Christina V. Miller
Christina V. Miller, Esq.
Nevada Bar No. 12448
7785 W. Sahara Ave., Suite 200
Las Vegas, NV 89117
Attorneys for Respondent, WFG National Title Insurance Company

CERTIFICATE OF COMPLIANCE

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

(a) This brief has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in Times New Roman, font size 14.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) and NRAP 40A(d) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is

(a) Proportionately spaced, has a typeface of 14 points or more, and contains 3,545 words.

3. Finally, I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e), 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 if the accompanying brief is

not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 24th day of July, 2023.

WRIGHT, FINLAY & ZAK, LLP

/s/ Christina V. Miller
Christina V. Miller, Esq.
Nevada Bar No. 12448
7785 W. Sahara Ave., Suite 200
Las Vegas, Nevada 89117
Attorneys for Respondent, WFG National Title Insurance Company

CERTIFICATE OF SERVICE

I certify that I electronically filed on the 24th day of July, 2023, the foregoing **RESPONDENT WFG NATIONAL TITLE INSURANCE COMPANY'S RESPONSE TO PETITION FOR EN BANC RECONSIDERATION** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal were served with a true and correct copy via the following means:

[ ] By placing a true copy enclosed in sealed envelope(s) addressed as follows:

[X] (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

John Benedict
Benjamin Childs
David Snyder
Zachary Ball
Micah Echols
Charles Finlayson

[X] (Nevada) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Tonya Sessions
An Employee of WRIGHT, FINLAY & ZAK, LLP

EXHIBIT 1

DECLARATION OF CHRISTINA V. MILLER, ESQ. IN SUPPORT OF RESPONDENT WFG NATIONAL TITLE INSURANCE COMPANY'S REQUEST FOR ATTORNEY'S FEES PURSUANT TO NRAP 40A(g)

I, Christina V. Miller, Esq., hereby declare under penalty of perjury that the following assertions are true and correct to the best of my ability:

1. I am an attorney licensed to practice in the State of Nevada and I am a partner with the law firm of Wright, Finlay & Zak, LLP, counsel of record for Respondent WFG National Title Insurance Company ("WFG") in the above-identified action. I am in good standing with the State Bar and have been licensed to practice law in the State of Nevada since October 2012. I have been representing mortgage lenders, loan servicers, and title companies before the district courts of the State of Nevada, Nevada Supreme Court, United States District Court, District of Nevada and Ninth Circuit Court of Appeals since 2015.

2. I make this declaration in support of WFG's request for payment of WFG's attorney's fees incurred in responding to Appellant John Dattala's ("Dattala") frivolous Petition for En Banc Reconsideration ("Petition"), pursuant to NRAP 40A(g), as set forth at length in WFG's Response to the Petition.

3. I make this declaration based on my personal knowledge of the events set forth herein and I am competent to testify, and can and will testify, to all such information contained herein to the best of my knowledge.

///

4. WFG has actually and necessarily incurred $4,288.00 in attorney's fees to respond to the Petition. These fees account for 12.8 hours of attorney billable time at a rate of $335.00 per hour. 12.8 hours is a reasonable amount of time to respond to the Petition, considering the extensiveness of the underlying record before the district court and Panel of the Nevada Supreme Court, as well as the Petition which was 25-pages in length and included a 19-page "Discussion" section. Further, the undersigned counsel's billable rate is standard for a partner with commensurate knowledge and experience in the residential real property and financial services industry.

5. A true and correct copy of the invoice of counsel for WFG, setting forth the breakdown of legal work performed in response to the Petition, is attached hereto as **Exhibit A.**

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 24th day of July, 2023.

/s/ Christina V. Miller
CHRISTINA V. MILLER, ESQ.

EXHIBIT A

PRE-BILL

Closing Date: 07/24/2023

WFG National Title Insurance Company

16700 Valley View Avenue, Ste. 275
La Mirada, CA 90638

606-2022685: Dattala, John II

Rate: Level 335 2022

Matter ID:	606-2022685
Opened:	05/20/2022
Total Billed Fees:	
Total Billed Costs:	0.00
Total Paid:	
Responsible:	CVM
Billing:	CVM
Managing:	CVM

Professional Fees

				Hours	Rate	Amount
07/10/2023	CVM	2278881	Review Nevada Supreme Court Order directing Respondents to file an Answer to Appellant's Petition for En Banc Reconsideration.	0.10	335.00	33.50
07/10/2023	CVM	2278883	Correspondence with client regarding	0.10	335.00	33.50
07/12/2023	CVM	2281202	Review prior arguments raised by Dattala before the district court and on appeal in preparation for drafting Response to Petition for En Banc Reconsideration.	1.40	335.00	469.00
07/12/2023	CVM	2281203	Prepare outline of Response to Dattala's Petition for En Banc Reconsideration.	0.40	335.00	134.00
07/13/2023	CVM	2281204	Begin drafting Response to Petition for En Banc Reconsideration.	3.60	335.00	1,206.00
07/14/2023	CVM	2281205	Continue drafting Response to Dattala's Petition for En Banc Reconsideration.	2.30	335.00	770.50
07/19/2023	CVM	2282045	Continue draft Response to Petition for En Banc Reconsideration to include argument regarding Dattala's position is against Nevada public policy and seeking sanctions for filing a frivolous Petition.	3.70	335.00	1,239.50

07/19/2023	CVM	2282046	Correspondence with client regarding	0.10	335.00	33.50
07/20/2023	CVM	2282253	Multiple email and phone correspondence with client regarding	0.30	335.00	100.50
07/24/2023	CVM	2283095	Continue draft and finalize Response to Petition for En Banc Reconsideration to include attorney's fees and complete Table of Contents.	0.80	335.00	268.00
					Sub-total Fees:	$5,125.50

Rate Summary

Christina V. Miller	15.30	hours at $335.00/hr	5,125.50
Total hours:	15.30		

Expenses	Units	Price	Amount
		Sub-total Expenses:	

	Fees	Disb	Total		
Current A/R Balance	268.00	0.00	268.00	Previous Balance Due:	$268.00
+/- Unbilled Fees/Disb	5,125.50		5,125.50	Total Payments:	$0.00
Balance if billed in full	5,393.50	0.00	5,393.50	**Total Now Due:**	**$5,393.50**
				Total Current Billing:	$5,125.50