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Electronically Filed  
Feb 14 2022 12:47 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

GREGORY O. GARMONG,

Appellant,

Case No. 83356

v.

WESPAC; GREG CHRISTIAN,

Respondents.

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Appeal from the Second Judicial District Court

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**RESPONDENTS' ANSWERING BRIEF**

## **NRAP 26.1 DISCLOSURE**

The undersigned counsel of record hereby certify that no corporate or other entities are non-governmental parties in this case the identities of which need be disclosed herein pursuant to NRAP 26.1(a). However, the undersigned counsel of record certify that the following qualify as persons whose identities must be disclosed pursuant to the provisions of NRAP 26.1. These representations are made in order that the judges of this Court may evaluate the possible need for disqualification or recusal.

1. WESPAC Advisors, LLC, *Respondent*;
2. Greg Christian, *Respondent*; and
3. Thomas C. Bradley (Nevada State Bar No. 1621), *Counsel for Respondents*.

Dated this 14th day of February, 2022.

By /s/ Thomas C. Bradley  
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## **JURISDICTIONAL STATEMENT**

There is jurisdiction in this Court under NRAP 3A(b)(8): “A special order entered after final judgment.” The District Court made an award of attorney’s fees post-confirmation of an arbitrator’s final award.

Following an Arbitrator Award and subsequent appeal, Respondents (Defendants below) WESPAC and Christian moved for attorney’s fees. Defendant’s *Second Amended Motion for Attorney’s Fees*, RA046-RA128.<sup>1</sup> The District Court awarded attorney’s fees and confirmed the Arbitration Award on July 12, 2021. *Order Granting Defendant’s Second Amended Motion for Attorney’s Fees and Costs; Order Confirming Arbitrator’s Final Award*, July 12, 2021, RA175-RA185.

On July 16, 2021, the District Court entered a “Final Judgment,” which was an award of attorney’s fees to the Respondents. RA186-RA188. On the same date, WESPAC and Christian filed and served their written Notice of Entry of Judgment. RA189-RA193.

On August 10, 2021, Appellant Garmong filed a Notice of Appeal from the Final Judgment awarding attorney’s fees. RA194-RA195; SA 9-10.

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<sup>1</sup> References to Respondent’s Appendix (“RA”) include just the Bates number of the document. Respondents have filed their own brief Appendix containing only the relevant pleadings for the Court’s convenience, in light of the fact Appellant’s Appendix contains many irrelevant documents that comprise **NINE** volumes and is too voluminous for ease of reference.

## **ROUTING STATEMENT**

This is an appeal from a postjudgment order in a civil case. NRAP 17(b)(7).

It is presumptively assigned to the Court of appeals. NRAP 17(b)(5).

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## **I. INTRODUCTION**

This is an appeal from an order of the Second Judicial District Court granting an unopposed motion for attorney's fees. Because this appeal also contains numerous other claims which Appellant has unsuccessfully appealed in the past, this Court lacks jurisdiction to review these already denied claims.

## **II. STATEMENT OF THE ISSUES**

1. Whether the District Court should have granted Appellant's motion for extension of time to file an opposition to the Respondents' second amended motion for attorney's fees.

2. Whether the District Court and the Court of Appeals improperly relied on the Declaration of attorney Thomas C. Bradley in awarding Respondents additional attorney's fees and costs incurred by Respondents in the confirmation of the Arbitration Award in the District Court and the Court of Appeals

## **III. STANDARD OF REVIEW**

Findings of fact and conclusions of law, supported by substantial evidence, will not be set aside unless they are clearly erroneous. Sheehan & Sheehan v. Nelson Malloy & Co., 121 Nev. 481, 486, 117 P.3d 219 (2005). "Substantial evidence is that evidence which a reasonable mind might accept as adequate to support a conclusion." J.D. Constr. v. IBEX Int'l Grp., LLC, 126 Nev. 366, 380, 240 P.3d 1033, 1043 (2010) (internal quotation marks omitted). This Court must determine if

there is clear and convincing evidence as to each count sustained. Clear and convincing evidence “is beyond a mere preponderance of the evidence.” *See* Albert H. Wohlers & Co. v. Bartgis, 114 Nev. 1249, 1260 n.4, 969 P.2d 949, 957 n.4 (1998) (internal quotation marks omitted); *see also* In re Discipline of Drakulich, 111 Nev. 1556, 1566, 908 P.2d 709, 715 (1995) (clear and convincing evidence “need not possess such a degree of force as to be irresistible, but there must be evidence of tangible facts from which a legitimate inference ... may be drawn” (internal quotation marks omitted)).

#### **IV. STATEMENT OF THE CASE**

This is an action for breach of a financial management agreement brought by Appellant (Plaintiff below) Gregory Garmong. The Complaint included claims for Breach of the Nevada Deceptive Trade Practices Act, Breach of Fiduciary Duty as well as other claims against Respondents (Defendants below) Greg Christian, a financial advisor at Respondent WESPAC Advisors. Six years after the District Court first ordered the parties to engage in binding arbitration, the Arbitrator, Judge Phillip Pro issued an “Interim Award” wherein he ruled that Mr. Garmong failed to prove any of his claims and permitted WESPAC and Mr. Christian to file a motion for attorneys’ fees and costs. Judge Pro subsequently awarded Respondents \$111,649.96 as reasonable attorneys’ fees and costs.

On August 8, 2019, the District Court confirmed the Arbitration Award



including the Arbitrator's award of fees and costs. The Nevada Court of Appeals later affirmed the Order of the District Court. Respondents subsequently requested an additional award of \$45,084.50 in attorney's fees and costs incurred by Respondents in the confirmation of the Arbitration Award in the District Court and the Court of Appeals. Appellant failed to timely file an opposition. The District Court subsequently declined to allow Appellant to file an untimely opposition. Appellant now seeks to appeal the order granting the unopposed motion for attorney's fees. Thus, nearly ten years after the Complaint was filed, the case continues.

## **V. STATEMENT OF FACTS**

On March 9, 2021, District Court Judge Simons aptly described the first seven years of procedural history of this case as follows:

This is an action for breach of a financial management agreement and carries with it a robust procedural history. Mr. Garmong filed his Complaint on May 9, 2012. On September 19, 2012, Defendants filed their Motion to Dismiss and Compel Arbitration. On December 13, 2012, this Court<sup>1</sup> entered its Order granting Defendants' request to compel arbitration but denying the motion to dismiss. Mr. Garmong then filed his Combined Motions for Leave to Rehear and for Rehearing of the Order of December 13, 2012 Compelling Arbitration ("Reconsider Motion"). The motion was opposed by Defendants. Mr. Garmong did not file a reply and this case was stagnant for nearly a year until January 13, 2014, when the Court entered its Order to Proceed. Mr. Garmong filed his reply on February 3, 2014. The Reconsider Motion was denied on April 2, 2014.

Mr. Garmong then sought writ relief from the Nevada Supreme Court. On December 18, 2014, the Nevada Supreme Court

entered its Order Denying Petition for Writ of Mandamus or Prohibition. The Supreme Court next entered its Order Denying Rehearing on March 18, 2015, and, subsequently, entered its Order Denying En Banc Reconsideration on May 1, 2015.

After the Nevada Supreme Court's orders were entered, this Court again entered an Order for Response, instructing the parties to proceed with this case. Order, November 17, 2015. In response, the parties indicated they had initiated an arbitration proceeding with JAMS in Las Vegas. Notice of Status Report, December 1, 2015.

On June 8, 2016, Mr. Garmong filed his Motion for a Court-Appointed Arbitrator, arguing the JAMS arbitrators were prejudiced against Mr. Garmong. This matter was fully briefed; and, on July 12, 2016, this Court entered its Order re: Arbitration requiring three arbitrators. The parties then stipulated to select one arbitrator, to reduce costs. Stipulation to Select One Arbitrator, October 17, 2016. In accordance, this Court entered its Order Appointing Arbitrator on October 31, 2016, appointing Michael G. Ornstil, Esq., as arbitrator. After it was determined Mr. Ornstil was unavailable, Mr. Garmong stipulated to the appointment of either retired Judge Phillip M. Pro or Lawrence R. Mills. Esq.

On November 13, 2017, this Court entered its Order Granting Motion to Strike, which stayed the proceeding pending the outcome of the arbitration and directed the parties to file an amended complaint and other responsive papers at the direction of Judge Phillip M. Pro. Order Granting Motion to Strike, p. 2. On February 21, 2017, this Court entered its Order Appointing Arbitrator, appointing Judge Phillip M. Pro ("Judge Pro").

On March 27, 2017, Mr. Garmong filed Plaintiff's Objection Pursuant to NRS 38.231(3) and 38.241(e) That There is No Agreement to Arbitrate; Notification of Objection to the Court. Despite prior determinative orders from this Court, Mr. Garmong again objected to arbitration on the basis there was no agreement to arbitrate.

On May 23, 2017, this Court entered its Order to Show Cause Why Action Should not be Dismissed for Want of Prosecution Pursuant to NRCP 41(E), finding "Mr. Garmong and Defendants were ordered

numerous times to participate in arbitration as early as December 13, 2012." The Court found the file did not contain any evidence the parties had proceeded to arbitration as ordered. Order, p. 4. Accordingly, the Court ordered the parties to show cause why the action should not be dismissed for want of prosecution. Order, p. 4.

The parties had their first arbitration conference in April 2017. On June 22, 2018, without asking for leave of Court to lift the stay, Mr. Garmong filed his Motion to Disqualify Arbitrator Pro, Vacate Order Denying Motion for Summary Judgment and Appoint New Arbitrator ("Motion to Disqualify"). The Court thereafter entered its Order Denying Plaintiffs Motion to Disqualify Arbitrator Pro; Order Denying Motion to Vacate Order Denying Motion for Summary Judgment; Order Denying Motion to Appoint New Arbitrator ("Arbitrator Order") on November 11, 2019.

Defendants thereafter filed Defendants' Motion for Limited Relief From Stay to File Motion for Attorney's Fees and Sanctions ("Motion for Sanctions") requesting limited relief from this Court's order staying the proceeding pending the outcome of arbitration. While the Motion for Sanctions was under consideration, Defendants filed their Notice of Completion of Arbitration Hearing on October 22, 2018.

The Court found, with completion of the arbitration, Defendants' Motion for Sanctions was moot. Additionally, the Court took notice of Defendants' Notice of Completion of Arbitration and determined there were additional decisions to be rendered regarding the Notice. Judge Pro found Mr. Garmong's claims, for: (1) Breach of Contract, (2) Breach of Implied Warranty, (3) Breach of the Implied Covenant of Good Faith and Fair Dealing, (4) Nevada's Deceptive Trade Practices Act, (5) Breach of Fiduciary Duty of Full Disclosure, (6) Intentional Infliction of Emotional Distress and (7) Unjust Enrichment, all failed as a matter of law because Mr. Garmong did not establish his claims by a preponderance of the evidence. Final Award, p. 8-9. Furthermore, after weighing the necessary factors required by Brunzell v. Golden Gate National Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), Judge Pro found Defendants were entitled to an award of reasonable attorneys' fees in the total sum of \$111,649.96. Final Award, p. 11.

After the Final Award, the litigation proceeded with several filings. On August 8, 2019, this Court entered its Order Re Motions ("ORM"): (1) granting Defendants' Petition for an Order Confirming Arbitrator's Final Award and Reducing Award to Judgment, Including, Attorneys' Fees and Costs; (2) denying Plaintiffs Motion to Vacate Arbitrator's Final Award; (3) denying Plaintiffs Motion to Vacate Arbitrator's Award of Attorneys' Fees; (4) denying Plaintiffs Motions to Vacate Arbitrator's Award of Denial of Plaintiffs Motion for Partial Summary Judgment and for the Court to Decide and Grant Plaintiffs Motion for Partial Summary Judgment ("Motion to Vacate MSJ Decision"); and, (5) granting Defendants' Motion for an Order to File Exhibit as Confidential. ORM, p. 15-16.

On August 27, 2019, this Court entered its Order directing: (1) WESPAC to file an Amended Motion for the Award of Attorneys' Fees; (2) allowing Mr. Garmong the standard response time to file and serve his opposition to Defendants' Amended Motion for the Award of Attorneys' Fees; and, (3) providing WESPAC would not be required to file a Proposed Final Judgment until ten (10) days following this Court's ruling on WESPAC's Amended Motion for the Award of Attorneys' Fees. Order, p. 1.

On December 6, 2019, this Court entered its Order Denying Motion to Alter or Amend Judgment ("AA Order") maintaining its prior rulings within the ORM. On January 7, 2020, Mr. Garmong filed his Notice of Appeal to the Nevada Supreme Court regarding this Court's Arbitrator Order, ORM, and AA Order.

*Order Holding Issuance of Order o Defendants' Amended Motion for Attorney's Fees in Abeyance*, March 9, 2020, RA001-RA008.

On March 9, 2021, the District Court elected to decide that motion following Appellant's appeal and directed Respondents (Defendants below) to "resubmit after disposition of the current appeal." *Order Holding Issuance of Order on Defendants' Amended Motion for Attorney's Fees in Abeyance*, March 9, 2020, RA001-RA008.

In addition, the Court made clear that “[t]his Order does not affect the \$111,649.96 in attorney’s fees and costs previously confirmed by this Court prior to the appeal.”

*Id.*

The Nevada Court of Appeals affirmed the Order of the District Court on December 1, 2020. *Order of Affirmance*, December 1, 2020, RA009. Appellant subsequently filed a Petition for Rehearing on January 4, 2021 which was denied on February 17, 2021. *Petition for Rehearing*, January 4, 2021, RA020-RA044; *Order Denying Rehearing*, February 17, 2021, RA045.

On February 18, 2021, Respondents filed *Second Amended Motion For Attorney’s Fees* which were incurred: “(1) to confirm the award before this Court and oppose the *Motion to Alter or Amend the Judgment*; (2) to confirm the award on appeal to the Nevada Court of Appeals.” *Second Amended Motion for Attorney’s Fees*, February 18, 2021, RA046-RA128. Respondents’ Motion not only requested an order the Arbitrator’s Final Award of \$111,649.96, but also an additional award of \$45,084.50 in attorney’s fees and costs incurred by Respondents in the confirmation of the Arbitration Award in the District Court and the Court of Appeals. *Id.* Included with Respondents’ Motion was a Declaration by Respondents’ counsel, Thomas C. Bradley, in which Mr. Bradley declared, under penalty of perjury that the “total fees and costs incurred and paid by the Defendants following the Arbitration Award are \$45,084.50.” *Id.* at RA053-RA054. Included with Mr.

Bradley's Declaration were copies of six pages of detailed invoices he had previously submitted to Respondents. *Id.* at RA055-RA059.

Because the case was still on appeal, the parties agreed "to defer any ruling on the attorney's fees until the conclusion of the appeal" and on March 1, 2021, filed a *Stipulation For Extension of Time to Oppose Defendants' Second Amended Motion for Attorneys' Fees*. RA129-RA130. In the *Stipulation*, the parties further agreed that "the plaintiff may have to and including ten (10) calendar days after the Nevada Supreme Court acts on the petition for review under NRAP 40 in which to file the points and authorities in opposition to the defendants' second amended motion for attorney's fees." *Id.* The District Court thereafter extended the time for Appellant to file an opposition to *Defendants' Second Amended Motion for Attorneys Fees* in an Order filed March 1, 2021. *Order Extending Time for Plaintiff to File Points and Authorities in Opposition to Defendants' Second Amended Motion*, March 1, 2021, RA131-RA132.

On April 6, 2021, the Nevada Supreme Court entered an *Order Denying Petition for Review*. RA133.

Appellant did not file his opposition by the April 16, 2021 deadline. Five days later, on April 21, 2021, Respondents' counsel filed a *Request for Submission for Defendants' Second Amended Motion for Attorney's Fees*. RA134-RA140.

Thereafter, on April 26, 2021, Appellant filed a *Motion to Strike Declaration*

*of Thomas C. Bradley in Support of Second Amended Motion for Attorney's Fees and Costs.* RA141-RA144.

The next day, April 27, 2021, Appellant filed a *Motion for Extension of Time to File Opposition to Defendant's Second Amended Motion for Attorney's Fees and Costs.* RA145-RA152.

After further briefing by the parties, on June 11, 2021, the District Court filed an *Order Denying Motion For Extension of Time to File Opposition to Defendant's Second Amended Motion For Attorney's Fees and Costs.* RA153-RA164. On July 7, 2021, the District Court issued an *Order Denying Motion to Strike Declaration of Thomas C. Bradley in Support of Second Amended Motion for Attorney's Fees and Costs.* RA165-RA174.

On July 12, 2021, the District Court granted Respondents' motion for attorney's fees and confirmed the Arbitrator's Final Award. *Order Granting Defendants' Second Amended Motion for Attorney's Fees; Order Confirming Arbitrator's Final Award*, July 12, 2021, RA175-187. A Final Judgment, confirming the Arbitrator's award of fees and costs in the amount of \$111,649.96 and ordering Appellant to pay to Respondents the additional sum of \$45,084.50 in attorney's fees and costs incurred by Respondents in the confirmation of the Arbitration Award in the District Court and the Court of Appeals was entered on July 16, 2021. *Final Judgment*, July 16, 2021, RA186-188; *Notice of Entry of Judgment*, July 16, 2021,

RA189-193.

Appellant thereafter filed a Notice of Appeal in which he stated that he is appealing: the Final Judgment filed by the District Court on July 16, 2021; the District Court's order granting Respondents' Second Amended Motion for Attorney's Fees; the District Court's order confirming the Arbitrator's Final Award; the District Court's order denying his motion for extension of time to oppose Respondents' Second Amended Motion for Attorney's Fees and Costs; and the District Court's order denying his motion to strike attorney Thomas C. Bradley's Declaration in support of Respondents' *Second Amended Motion for Attorneys' Fees*. *Notice of Appeal*, August 11, 2021, RA194-RA195.

## **VI. LEGAL ARGUMENT**

### **A. The Court Correctly Denied Appellant's Motion for an Extension of Time**

In his current appeal, Appellant claims that his *Motion For Extension of Time to File Opposition to Defendants' Second Amended Motion for Attorney's Fees and Costs*, should have been granted as Respondents would have suffered no prejudice as a result of the extension. Appellant Brief at pg. 49. Appellant further argues that by failing to contact Appellant's counsel prior to requesting submission of *Defendants' Second Amended Motion*, which Mr. Bradley did five days after the agreed upon deadline, Respondents' counsel "violated the letter and spirit of the Nevada Rule of Professional Conduct Rule 3.5A." Appellant Brief at pg. 50. As a



result, Appellant claims that Respondents' counsel "essentially took a default against the plaintiff[.]" Appellant Brief at pg. 51.

Appellant's supposition that Respondents' counsel has violated Rule 3.5A is nonsense. That Rule states in its entirety: "Relations With Opposing Counsel. When a lawyer knows or reasonably should know the identity of a lawyer representing an opposing party, he or she should not take advantage of the lawyer by causing any default or dismissal to be entered without first inquiring about the opposing lawyer's intention to proceed." Thus, Rule 3.5A is limited to situations where counsel seeks entry of a default or a complete dismissal of an action. The Rule does not relate to a litigant's responsibility to timely file a pleading and does not require that the opposing party be reminded of their responsibility to follow the Rules of Civil Procedure.

In addition, District Court Rule 13(3)states:

Within 10 days after the service of the motion, the opposing party shall serve and file his written opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion should be denied. Failure of the opposing party to serve and file his written opposition may be construed as an admission that the motion is meritorious and a consent to granting the same.

DCR 13(3).

DCR 13(3) clearly sets forth no requirement that counsel remind the opposing party or his lawyer of their duty to timely file an opposition or the date that the

opposition is due.

As the District Court observed in its *Order Denying Motion For Extension Of Time To File Opposition To Defendant's Second Amended Motion For Attorney's Fees and Costs*:

The Court does not find good cause exists to extend the deadline for Mr. Garmong to file an opposition in light of the policy considerations discussed in Huckabay Props. Mr. Garmong has received an adverse judgment through arbitration which has been reviewed by the Nevada Supreme Court and affirmed in its entirety; the petition for rehearing was denied; and, Mr. Garmong's petition for review was denied. See Order of Affirmance, p. 10. As Huckabay Props. describes, there is a strong public interest in resolving cases expeditiously and this case has languished for over nine years. The parties' interests in reaching a stable and final judgment are high as the parties have undoubtedly lost time at great expense of the past nine years and allowing further litigation of attorney's fees after the arbitrator's award has been confirmed only extends that time and expense for both parties.

RA161-RA162.

As the Court concluded, Appellant's argument that the Respondents would suffer no prejudice "because the *Defendants' Second Amended Motion for Attorney's Fees* has been pending since August of 2019, illustrates the point that Respondents have had judgment in their favor for nearly two years, and, yet this case still has not concluded." RA162.

Here, as the Nevada Supreme Court made clear in Huckabay Props., not only must clients "be held accountable for the acts and omissions of their attorneys, but also that the policy for deciding cases on their merits "is not boundless" "and must

be weighed against other policy considerations, including . . . the parties' interests in bringing litigation to a final and stable judgment[.]” Huckabay Props. v. NC Auto Parts, 130 Nev. 196, 203-204, 322 P.3d 429, 433-434 (2014) (*quoting* Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship, 507 U.S. 380, 396-97, 113 S.Ct. 1489 (1993)).

**B. Thomas C. Bradley’s Declaration was Legally Sufficient**

In addition, Appellant claims that Mr. Bradley’s Declaration attached to *Defendants’ Second Amended Motion For Attorney’s Fees* should be stricken as the Declaration does not specify that the statements contained in the Declaration were made on Mr. Bradley’s “personal knowledge.” Appellant Brief at pg. 39.

Rule 56(c)(4) of the Nevada Rules of Civil Procedure states in its entirety:

**Affidavits or Declarations.** An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

Nowhere does the Rule require that an affidavit or declaration contain the magic words “personal knowledge.” Rather, the Rule simply requires that an affidavit or declaration “be made on personal knowledge.” Indeed, none of the cases cited by Appellant insist that an affidavit contain the words “personal knowledge.” *See, e.g.* Morgan v. Board of Country Commissioners of Eureka County, 9 Nev. 360 (1874); Mardirossian & Associates, Inc. v. Ersoff, 62 Cal. Rptr.3d 665, 675 153 Cal.App.4th 257 (2007)(Finding that under California law, “there is no legal

requirement that an attorney supply billing statements to support a claim for attorney fees” rather, the only requirement is that “the attorney’s testimony must be based on the attorney’s personal knowledge of the time spent and fees incurred.”).

In its *Order Denying Motion To Strike Declaration Of Thomas C. Bradley In Support of Second Amended Motion For Attorney’s Fees And Costs*, the District Court agreed that Appellant “cites no authority which strictly requires the words ‘personal knowledge’ to be included in the declaration and it is clear Mr. Bradley’s declaration is based on facts he has personal knowledge of.” RA172.

The Court further observed that “[t]he Court is satisfied Mr. Bradley’s first declaration is legally sufficient because ‘it states positively the facts and circumstances upon which such belief is founded’ as required by Morgan.” RA172.

In the absence of any law to support his position regarding the District Court’s denial of an extension of time to file an opposition and an equal absence of law to support his position regarding the legal sufficiency of Thomas C. Bradley’s Declaration, Appellant’s claims must be rejected in their entirety.

### **C. Other Claims Made by Appellant**

In his Statement of the Issues, Appellant seeks to re-litigate other issues, including the denial of his motion for partial summary judgment and the issue of the applicability of NRCP Rule 68 in the Arbitration proceedings, both of which have already been decided and affirmed by this Court.

Throughout his Brief, Appellant has consistently accused the Arbitrator and the courts of ignoring the law and using “grossly inaccurate facts.” Appellant’s Opening Brief at pg. 5, 7, 12, 28. In addition, Appellant was apparently so agitated by the Court of Appeals’ decision following his first appeal, that he has now accused the Appellate Court Judges of violating “the judges’ oath of office and Nevada Code of Judicial Conduct Canons 1 and 2 and associated Rules.” Appellant’s Opening Brief at pg. 21. These defamatory statements demonstrate: (1) the level of Appellant’s disrespect for Nevada judges and (2) the utter lack of meritorious arguments relied upon by Appellant.

Given the lack of any legal justification for the instant appeal, this appeal appears to be nothing more than another attempt by Appellant to “harass, cause unnecessary delay, or needlessly increase the cost of litigation.” NRCP 11(b)(1).

## **VII. CONCLUSION**

Appellant is attempting to re-litigate issues of law and fact that have previously been determined by the District Court and affirmed by the Court of Appeals. Furthermore, in the instant Appeal, Appellant has added two additional claims neither of which has any legal basis.

While Respondents are not requesting sanctions, Respondents are convinced that the past ten years of costly and delay-producing litigation was brought and continued year after year for improper purposes, as described in NRCP 11. This

litigation has caused Respondents to expend hundreds of thousands of dollars and hundreds of hours of time to defend these frivolous claims. The Respondents simply desire to put an end to a decade of litigation and do not wish to litigate whether Rule 11 sanctions should be imposed. This Court, however, may desire to consider appropriate sanctions on its own.

Dated this 14th day of February, 2022.

By /s/ Thomas C. Bradley  
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## **CERTIFICATE OF COMPLIANCE**

1. I hereby certify that this brief complies with the following formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14 point font and Times New Roman.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(c), it is proportionally spaced, has a typeface of 14 points or more and contains 3,939 words.

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

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relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 14th day of February, 2022.

By /s/ Thomas C. Bradley  
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**CERTIFICATE OF SERVICE BY ELECTRONIC FILING**

I hereby certify that I am an employee of the LAW OFFICE OF THOMAS C. BRADLEY, and that on the 14th day of February, 2022, I did serve by way of electronic filing, a true and correct copy of the above and foregoing **RESPONDENT’S ANSWERING BRIEF** on the following:

Carl M. Hebert, Esq.  
2215 Stone View Drive  
Sparks, Nevada 89436

By: /s/ Mehi Aonga  
An employee of  
THOMAS C. BRADLEY, ESQ.