### IN THE SUPREME COURT OF THE STATE OF NEVADA

ROWEN SEIBEL, an individual, and GR BURGR LLC, a Delaware limited liability company,

Appellants,

VS.

PHWLV, LLC, a Nevada limited liability company; and GORDON RAMSAY, an individual,

Respondents.

Supreme Court Case No. 84934
District Court Case No. Electronically Filed
A-17-751759-BJan 30 2023 01:35 PM
Elizabeth A. Brown
Clerk of Supreme Court
APPELLANTS' RESPONSE TO NOTICE
OF FAILURE TO PAY FOR APPELLATE
TRANSCRIPTS

Appellants Rowen Seibel ("Mr. Seibel") and GR Burgr, LLC ("GRB" and together with Mr. Seibel, "Appellants"), by and through their counsel, respond to the Notice of Failure to Pay for Appellate Transcripts filed January 27, 2023 by the Court Recorder (the "Notice"). In brief, Appellants have paid the additional amount that was owed for the transcript for the December 14, 2020 hearing before the Honorable Tim Williams (the "12/14/2020 Transcript"). As shown below, non-payment for the 12/14/2020 Transcript was due to confusion and was not intentional.

On October 27, 2022, this Court entered its Order Reinstating Briefing and associated deadlines for requesting transcripts. On November 10, 2022, Appellants filed two (2) Requests for Transcript of Proceedings—one seeking the 12/14/2020 Transcript and one seeking the transcript for the May 17, 2017 hearing before the Honorable Joe Hardy (the "5/17/2017 Transcript").

On November 14, 2022, Appellants' counsel received a \$103.00 invoice associated with the 12/14/2020 Transcript. (*See* Invoice No. 15650, attached as Page 1 of 4

Exhibit A.) Payment was issued via check. (See Check No. 27697, attached asExhibit B.) The 12/14/2020 Transcript was received the same day.

On December 28, 2022, Appellants' counsel received a \$120.24 invoice associated with the 5/17/2017 Transcript. (*See* Invoice No. 31704-207, attached as **Exhibit C**.) The invoice was paid via credit card. (*See* Email from Dictabird Transcript Services, dated Dec. 28, 2022, attached as **Exhibit D**.) The 5/17/2017 Transcript was received the next day.

On January 5, 2023, Appellants' counsel received a \$412.00 invoice associated with the 12/14/2020 Transcript. (*See* Invoice No. 16000, attached as **Exhibit E**.)

Because Appellants' counsel had already received – and paid – a prior invoice for the 12/14/2020 Transcript, an email was sent to the Court Reporter requesting clarification. (*See* Jan. 5-9, 2023 E-String, attached as **Exhibit F**.) Appellants' counsel was advised that if they had a copy of the 12/14/2020 Transcript, then their request "for the appeal transcript is an old request and you no longer need it," in which case the additional invoice would be voided. (*See id.*) Because Appellants' counsel had received the 12/14/2020 Transcript as noted above, they confirmed that no further transcript was needed, and the additional invoice was voided. (*See id.*)

Upon receipt of the Notice, Appellants' counsel contacted the Court Reporter giving notice that they would pay any additional amount owed for the 12/14/2020 Transcript. (*See* Jan. 30, 2023 E-String, attached as **Exhibit G**.) The Court Reporter acknowledged the reason for the confusion and agreed to "file the transcript and []

send the certificate of service as soon as the invoice is paid." (*See id.*) Appellants' counsel received another copy of the \$412.00 invoice associated with the 12/14/2020 Transcript and promptly paid it. (*See* Invoice 16000A, attached as **Exhibit H**; Receipt of Payment Email, attached as **Exhibit I**.)

Based on the foregoing, no action is required on this Court's part related to the 12/14/2020 Transcript.

DATED this 30<sup>th</sup> day of January, 2023.

BAILEY KENNEDY

By: /s/ Joshua P. Gilmore

JOHN R. BAILEY

DENNIS L. KENNEDY

JOSHUA P. GILMORE

PAUL C. WILLIAMS

Attorneys for Appellants

#### **CERTIFICATE OF SERVICE**

I certify that I am an employee of BAILEY KENNEDY and that on the 30<sup>th</sup> day of January, 2023, service of the foregoing was made by mandatory electronic service through the Nevada Supreme Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

JAMES J. PISANELLI Email: JJP@pisanellibice.com

DEBRA L. SPINELLI

M. MAGALI MERCERA

DLS@pisanellibice.com

MMM@pisanellibice.com

300

Las Vegas, NV 89101

PISANELLI BICE PLLC Attorneys for Respondent PHWLV, LLC

400 South 7<sup>th</sup> Street, Suite

JOHN D. TENNERT Email: jtennert@fennemorelaw.com

GEENAMARIE CARUCCI wbeavers@fennemorelaw.com
WADE BEAVERS gcarucci@fennemorelaw.com

**FENNEMORE CRAIG,** Attorneys for Respondent Gordon Ramsay

P.C.

7800 Rancharrah Parkway Reno, NV 89511

MARIA L. GARIBAY, Email: garibaym@clarkcountycourts.us COURT RECORDER Regional Justice Center, DC, Dept. XVI

200 Lewis Avenue, Las Vegas, NV 89155

/s/ Susan Russo
Employee of BAILEY ❖ KENNEDY

### EXHIBIT A

## EXHIBIT A

MARGARET ISOM

Bill To

### **Invoice**

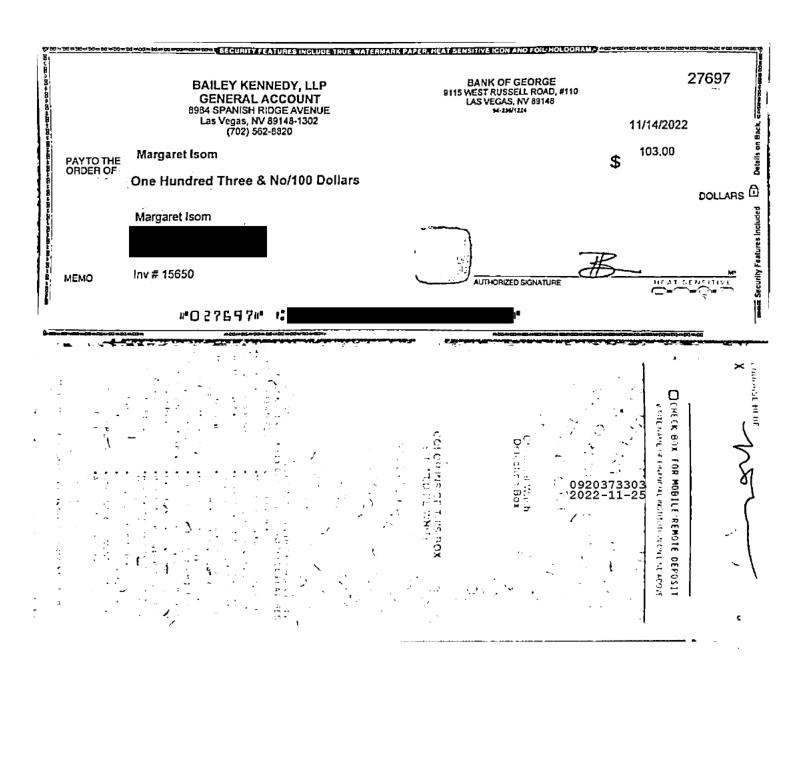
Date	Invoice #
11/14/2022	15650

Ship To

BAILEY KENNEDY, LLP ACCOUNTS PAYABLE 8984 SPANISH RIDGE AVE LAS VEGAS, NEVADA 891							
P.O. Number Terms	Rep	Ship	Via	F	.O.B.		Project
A-17-751759-B Due on recei	pt	11/14/2022					
Quantity Item Code		Descript	ion		Price Ea	ach	Amount
103 4	V PHWLV - A	ГRANSCRIPT - 12- -17-751759-В	-14-2020 - ROWE	N SEIBEL		1.00	103.00
MAKE CHECK PAYABLE TO MARC CHARGED AFTER 30 DAYS	GARET ISOM RE	PORTING - LATE	FEE OF 18% PER	R ANNUM	Total		\$103.00

### EXHIBIT B

### EXHIBIT B



## EXHIBIT C

### EXHIBIT C



Dictabird Transcription Services, LLC 12295 W Camas Dr Boise, ID 83709-8129 United States dictabirdtranscription@gmail.com | 208-412-6710

### ROWEN SEIBEL V. PHWLV, LLC -- A-17-751759-B

ROWEN SEIBEL V. PHWLV, LLC -- A-17-751759-B | Motions | Department 5 | Judge Hardy

#### Customer

Joshua P. Gilmore Bailey Kennedy, LLP jgilmore@baileykennedy.com 702-562-8820 8984 Spanish Ridge Ave Las Vegas, NV 89148

#### **Invoice Details**

PDF created December 28, 2022 \$120.24

#### **Payment**

Due December 28, 2022 \$120.24

Items	Quantity	Price	Amount
4 Days - Transcript	24	\$5.01	\$120.24
Subtotal			\$120.24

Total Due \$120.24



## EXHIBIT D

### EXHIBIT D

#### **Susan Russo**

From: Sent:	Joshua Gilmore Thursday, December 29, 2022 9:02 AM
То:	Susan Russo
Subject:	FW: You paid an invoice! (#31704-207)
Joshua P. Gilmore, Esq.   Bailey & 8984 Spanish Ridge Avenue, Las (702) 562-8820 (main)   (702) 789	
www.BaileyKennedy.com	
recipient(s) above and may contain you have received this message in	ntial communication from Bailey Kennedy, LLP and is intended only for the named in information that is a trade secret, proprietary, privileged or attorney work product. If n error, or are not the named or intended recipient(s), please immediately notify the te this e-mail message and any attachments from your workstation or network mail
From: Dictabird Transcription Ser Sent: Wednesday, December 28, To: Joshua Gilmore <jgilmore@b Subject: You paid an invoice! (#32</jgilmore@b 	aileykennedy.com>
	Dictabird Transcription Services, LLC

Invoice Paid

\$120.24

Paid with Visa 3274 on December 28, 2022 at 5:15 PM

ROWEN SEIBEL V. PHWLV, LLC -- A-17-751759-B

Invoice #31704-207

December 28, 2022

#### Customer

Joshua P. Gilmore

Bailey Kennedy, LLP

jgilmore@baileykennedy.com

702-562-8820

8984 Spanish Ridge Ave

Las Vegas, NV 89148

#### Download Invoice PDF

#### Message

ROWEN SEIBEL V. PHWLV, LLC -- A-17-751759-B I Motions I Department 5 I Judge Hardy

<b>*</b> 400.0
\$120.2
\$120.2
\$120.2
\$120.2

Visa 3274 12/28/22, 5:15 PM

#### Send estimates or invoices for your business?

Process \$1,000 in sales free when you sign up for Square.

#### **Get Started**

#### **Dictabird Transcription Services, LLC**

12295 W Camas Dr Boise, ID 83709-8129 United States dictabirdtranscription@gmail.com 208-412-6710

Please contact Dictabird Transcription Services, LLC about its privacy practices.

### EXHIBIT E

### EXHIBIT E





### Reporter's transcript on appeal

We appreciate your business.

Customer
Ashley LaCroix
Bailey Kennedy
alacroix@baileykennedy.com
702-562-8820

Invoice Details
PDF created January 5, 2023
\$412.00

Payment
Due January 5, 2023
\$412.00

Items	Quantity	Price	Amount
Reporter's Transcript  48  REPORTER'S TRANSCRIPT ON APPEAL - ROWEN SEIBEL V. PHWLV, LLC - 12-14-2020, CASE NO. A-17-751759-B	103	\$4.00	\$412.00
Subtotal			\$412.00

Total Due \$412.00



## EXHIBIT F

## EXHIBIT F

 From:
 Ashley LaCroix

 To:
 Peggy Isom

 Cc:
 Joshua Gilmore

**Subject:** Duplicate Invoice for TS in Case No. A-17-751759-B

**Date:** Thursday, January 5, 2023 1:51:00 PM

Attachments: 23.01.05 Isom Dept. Inv. 16000 TS Hearing on 12-14-2020.pdf

22.11.14 Isom Dept. 16 Invoice 15650 for TS Hearing on 12-14-2020.pdf

Good afternoon Ms. Isom,

We received Invoice #16000 (the first attachment) today via email in the amount of \$412.00 for the December 14, 2020 hearing transcript in Case No. A-17-751759-B. However, we had previously received Invoice #15650 (the second attachment) in the amount of \$103.00 for this same transcript on November 14, 2020. Payment was issued in the form of Bailey Kennedy, LLP check no. 27697. Can you please advise as to why we received the second invoice?

Thank you, Ashley

#### **Ashley LaCroix**

Paralegal

BAILEY KENNEDY, LLP

8984 Spanish Ridge Avenue Las Vegas, Nevada 89148-1302

Main: (702) 562-8820 | Fax: (702) 562-8821

Direct: (702) 789-4541 | ALaCroix@BaileyKennedy.com

\_\_\_\_\_

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### Reporter's transcript on appeal

We appreciate your business.

Customer
Ashley LaCroix
Bailey Kennedy
alacroix@baileykennedy.com
702-562-8820

Invoice Details
PDF created January 5, 2023
\$412.00

Payment
Due January 5, 2023
\$412.00

Items	Quantity	Price	Amount
Reporter's Transcript  48  REPORTER'S TRANSCRIPT ON APPEAL - ROWEN SEIBEL V. PHWLV, LLC - 12-14-2020, CASE NO. A-17-751759-B	103	\$4.00	\$412.00
Subtotal			\$412.00

Total Due \$412.00



MARGARET ISOM

Bill To

Invoice

Date	Invoice #
11/14/2022	15650

Ship To

MAKE CHECK CHARGED AFT	I PAYABLE TO MARGA ER 30 DAYS	ARET ISOM RE	PORTING - LATE	FEE OF 18% PER	ANNUM	Total	I	\$103.00
103		REPORTERS T	TRANSCRIPT - 12-		N SEIBEL		1.00	103.00
Quantity	Item Code		Descript	ion		Price Ea	ach T	Amount
P.O. Number		Rep	Ship 11/14/2022	Via	F.	.O.B.		Project
				l L				
ACCO 8984 S	Y KENNEDY, LLP UNTS PAYABLE PANISH RIDGE AVEN EGAS, NEVADA 8914							

From: Ashley LaCroix
To: Peggy Isom

Cc: <u>Joshua Gilmore</u>; <u>Susan Russo</u>; <u>Stephanie Kishi</u>

**Subject:** RE: Duplicate Invoice for TS in Case No. A-17-751759-B

**Date:** Monday, January 9, 2023 1:20:46 PM

I received the notice of the invoice cancellation.

Thank you!

#### **Ashley LaCroix**

Paralegal

BAILEY \* KENNEDY, LLP

8984 Spanish Ridge Avenue Las Vegas, Nevada 89148-1302

Main: (702) 562-8820 | Fax: (702) 562-8821

Direct: (702) 789-4541 | ALaCroix@BaileyKennedy.com

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**From:** Peggy Isom <dept16reporter@gmail.com>

Sent: Monday, January 9, 2023 1:00 PM

**To:** Ashley LaCroix <ALaCroix@baileykennedy.com>

Subject: Re: Duplicate Invoice for TS in Case No. A-17-751759-B

### Okay. It is voided.

Peggy Isom

On Mon, Jan 9, 2023 at 9:31 AM Ashley LaCroix <<u>ALaCroix@baileykennedy.com</u>> wrote:

Good morning Peggy,

Yes, please void the invoice.

Thank you, Ashley

#### **Ashley LaCroix**

Paralegal

BAILEY❖KENNEDY, LLP

8984 Spanish Ridge Avenue Las Vegas, Nevada 89148-1302

Main: (702) 562-8820 | Fax: (702) 562-8821

Direct: (702) 789-4541 | ALaCroix@BaileyKennedy.com

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**From:** Peggy Isom < dept16reporter@gmail.com>

Sent: Sunday, January 8, 2023 5:43 PM

**To:** Ashley LaCroix <<u>ALaCroix@baileykennedy.com</u>>

Subject: Re: Duplicate Invoice for TS in Case No. A-17-751759-B

When you file an appeal, you are responsible to provide all parties a copy of the transcript.

There is some confusion. If you already have a copy of the transcript, then I assume the request for the appeal transcript is an old request and you no longer need it. If that is the case, I will void the invoice because I won't be providing an appeal transcript.

If I am incorrect, please let me know.

Peggy Isom

On Thu, Jan 5, 2023 at 1:51 PM Ashley LaCroix <<u>ALaCroix@baileykennedy.com</u>> wrote:

Good afternoon Ms. Isom,

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Thank you, Ashley

#### **Ashley LaCroix**

Paralegal

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Main: (702) 562-8820 | Fax: (702) 562-8821

Direct: (702) 789-4541 | ALaCroix@BaileyKennedy.com

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## EXHIBIT G

## EXHIBIT G

From: <u>Joshua Gilmore</u>
To: <u>Peggy Isom</u>

Cc: Susan Russo; Ashley LaCroix

Subject: Seibel v. PHWLV, District Ct. Case No. A751759, Nev. Sup. Ct. Case No. 84934

Date: Monday, January 30, 2023 9:24:52 AM
Attachments: 23.01.27 Ntc Failure Pay Transcript.pdf

RE Duplicate Invoice for TS in Case No. A-17-751759-B.msg

Ms. Isom,

Good morning. I hope this email finds you well.

On Friday, we received the attached Notice of Failure to Pay for Appellate Transcripts. Pursuant to the attached e-string between you and Ashley LaCroix of my office, dated January 5-9, 2023, we understood that no further amount was owed for the 12.14.2020 transcript. Perhaps I misunderstood your exchanges with Ms. LaCroix and should have requested clarification. In any event, if an additional sum is owed for the 12.14.2020 transcript, please issue an invoice to us and we will promptly pay it. Please know that we are not trying to avoid paying whatever amount may be owed for your work in preparing the transcript.

Please get back to me at your earliest convenience so that we may advise the Nevada Supreme Court that steps have been taken to immediately address the billing associated with the 12.14.2020 transcript.

Thank you.

Josh

Joshua P. Gilmore, Esq. | Bailey Kennedy, LLP 8984 Spanish Ridge Avenue, Las Vegas, Nevada 89148-1302 (702) 562-8820 (main) | (702) 789-4547 (direct) | JGilmore@BaileyKennedy.comwww.BaileyKennedy.com

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#### IN THE SUPREME COURT OF THE STATE OF NEVADA

ROWEN SEIBEL.

Appellant,

Case No. 84934

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VS.

District Court Case No. A-17-751759-B FILED

PHWLV, LLC,

Respondents.

JAN 27 2023

### Notice of Failure to Pay for Appellate Transcripts

I hereby certify that on the 10<sup>th</sup> day of November, 2022, I received a transcript request from Bailey Kennedy, LLP for the hearing of 12/14/2020. The hearing was reported by Dept. 16's former Court Reporter, Peggy Isom. As a courtesy, I forwarded the request to Peggy Isom. Thereafter, I learned that there was a Certificate of Service overdue with this Court and I immediately advised Peggy. I was then informed by her that under NRAP counsel is required to pay for copies of the transcript for all parties and that when she invoiced counsel for the appellate transcripts they refused to pay since they already had their copy of the transcript. She felt she could not force them to pay for an appeal transcript when they never officially served her requesting the appeal transcript. Therefore, the transcript for December 14th, 2020, and the Certificate of Service which is overdue with this Court have not been filed.

JAN 27 2023 CLERK OF SUPREME COURT
DEPUTY CLERK Respectfully,

MARIA L. GARIBAY, Court Recorder Regional Justice Center, DC, Dept. XVI 200 Lewis Avenue, Las Vegas, NV 89155 (702) 671-4402

From: Ashley LaCroix
To: Peggy Isom

Cc: <u>Joshua Gilmore</u>; <u>Susan Russo</u>; <u>Stephanie Kishi</u>

**Subject:** RE: Duplicate Invoice for TS in Case No. A-17-751759-B

**Date:** Monday, January 9, 2023 1:20:46 PM

I received the notice of the invoice cancellation.

Thank you!

#### **Ashley LaCroix**

Paralegal

BAILEY \* KENNEDY, LLP

8984 Spanish Ridge Avenue Las Vegas, Nevada 89148-1302

Main: (702) 562-8820 | Fax: (702) 562-8821

Direct: (702) 789-4541 | ALaCroix@BaileyKennedy.com

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**From:** Peggy Isom <dept16reporter@gmail.com>

Sent: Monday, January 9, 2023 1:00 PM

**To:** Ashley LaCroix <ALaCroix@baileykennedy.com>

Subject: Re: Duplicate Invoice for TS in Case No. A-17-751759-B

### Okay. It is voided.

Peggy Isom

On Mon, Jan 9, 2023 at 9:31 AM Ashley LaCroix <<u>ALaCroix@baileykennedy.com</u>> wrote:

Good morning Peggy,

Yes, please void the invoice.

Thank you, Ashley

#### **Ashley LaCroix**

Paralegal

BAILEY❖KENNEDY, LLP

8984 Spanish Ridge Avenue Las Vegas, Nevada 89148-1302

Main: (702) 562-8820 | Fax: (702) 562-8821

Direct: (702) 789-4541 | ALaCroix@BaileyKennedy.com

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Sent: Sunday, January 8, 2023 5:43 PM

**To:** Ashley LaCroix <<u>ALaCroix@baileykennedy.com</u>>

Subject: Re: Duplicate Invoice for TS in Case No. A-17-751759-B

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Thank you, Ashley

#### **Ashley LaCroix**

Paralegal

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8984 Spanish Ridge Avenue Las Vegas, Nevada 89148-1302

Main: (702) 562-8820 | Fax: (702) 562-8821

Direct: (702) 789-4541 | ALaCroix@BaileyKennedy.com

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From: Peggy Isom
To: Joshua Gilmore

Subject: Re: Seibel v. PHWLV, District Ct. Case No. A751759, Nev. Sup. Ct. Case No. 84934

**Date:** Monday, January 30, 2023 11:03:34 AM

I will resend the invoice and file the transcript and will send the certificate of service as soon as the invoice is paid. I realize there has been confusion in this matter, and I apologize if I have caused any of the confusion.

(	On Mon, Jan 30, 2023 at 9:24 AM Joshua Gilmore < <u>JGilmore@baileykennedy.com</u> > wrote:
	Ms. Isom,
	Good morning. I hope this email finds you well.
	On Friday, we received the attached Notice of Failure to Pay for Appellate Transcripts. Pursuant to the attached e-string between you and Ashley LaCroix of my office, dated January 5-9, 2023, we understood that no further amount was owed for the 12.14.2020 transcript. Perhaps I misunderstood your exchanges with Ms. LaCroix and should have requested clarification. In any event, if an additional sum is owed for the 12.14.2020 transcript, please issue an invoice to us and we will promptly pay it. Please know that we are not trying to avoid paying whatever amount may be owed for your work in preparing the transcript.
	Please get back to me at your earliest convenience so that we may advise the Nevada Supreme Court that steps have been taken to immediately address the billing associated with the 12.14.2020 transcript.
	Thank you.
	Josh
	Joshua P. Gilmore, Esq.   Bailey Kennedy, LLP
	8984 Spanish Ridge Avenue, Las Vegas, Nevada 89148-1302
	(702) 562-8820 (main)   (702) 789-4547 (direct)   <u>JGilmore@BaileyKennedy.com</u>
	www.BaileyKennedy.com

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## EXHIBIT H

# EXHIBIT H





### Reporter's transcript on appeal

We appreciate your business.

Customer
Ashley LaCroix
Bailey Kennedy
alacroix@baileykennedy.com

702-562-8820

Invoice Details
PDF created January 30, 2023
\$412.00

Payment
Due January 30, 2023
\$412.00

Items	Quantity	Price	Amount
Reporter's Transcript  48  REPORTER'S TRANSCRIPT ON APPEAL - ROWEN SEIBEL V. PHWLV, LLC - 12-14-2020, CASE NO. A-1'7-751759	103	\$4.00	\$412.00
Subtotal			\$412.00

Total Due \$412.00



# EXHIBIT I

# EXHIBIT I

#### **Ashley LaCroix**

From: MARGARET ISOM REPORTING <messenger@messaging.squareup.com>

**Sent:** Monday, January 30, 2023 11:25 AM

**To:** Ashley LaCroix

**Subject:** You paid an invoice! (#16000A)



#### MARGARET ISOM REPORTING

Invoice Paid

\$412.00

Paid with Visa 3274 on January 30, 2023 at 11:25 AM

#### Reporter's transcript on appeal

Invoice #16000A January 30, 2023

#### Customer

Ashley LaCroix
Bailey Kennedy
alacroix@baileykennedy.com
702-562-8820

Download Invoice PDF

#### Message

We appreciate your business.

**Invoice summary** 

**Reporter's Transcript** 

\$412.00

(\$4.00 ea.) x 103

48

REPORTER'S TRANSCRIPT ON APPEAL -ROWEN SEIBEL V. PHWLV, LLC - 12-14-2020, CASE NO. A-1`7-751759

Subtotal \$412.00

Total Paid \$412.00

Visa 3274 01/30/23, 11:25 AM

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Process \$1,000 in sales free when you sign up for Square.

#### **Get Started**

#### MARGARET ISOM REPORTING

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