

IN THE SUPREME COURT OF THE STATE OF NEVADA

STARR SURPLUS LINES  
INSURANCE CO.,

Petitioner,

vs.

THE EIGHTH JUDICIAL  
DISTRICT COURT of the State of  
Nevada, in and for the County of  
Clark, and THE HONORABLE  
MARK DENTON, District Judge,

Respondents,

and

JGB VEGAS RETAIL LESSEE,  
LLC,

Real Party in  
Interest.

Electronically Filed  
Sep 29 2022 03:17 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court Case No. 84986

District Court Case No. A-20-  
816628-B

**MOTION FOR LEAVE FOR NEVADA STATE MEDICAL  
ASSOCIATION TO FILE AMICUS CURIAE BRIEF**

Adam Hosmer-Henner, Esq. (NSBN 12779)

Chelsea Latino (NSBN 14227)

Jane Susskind (NSBN 15099)

McDonald Carano LLP

100 West Liberty Street, Tenth Floor

Reno, Nevada 89501

Telephone: (775) 788-2000

ahosmerhenner@mcdonaldcarano.com

clatino@mcdonaldcarano.com

jsusskind@mcdonaldcarano.com

*Attorneys for Amicus Curiae Nevada State Medical Association*

## **I. INTRODUCTION**

Pursuant to NRAP 29(c), the Nevada State Medical Association (“NSMA”) requests leave from this Court to participate as amicus curiae and file its proposed amicus curiae brief in this matter. The NSMA does not seek leave to file an amicus curiae brief in support of either party, but rather believes it will provide this Court with a perspective distinct from either of the parties and grounded in science.

## **II. THE INTERESTS OF NSMA**

The NSMA is a non-profit organization founded in 1875 to identify and address the needs of Nevada physicians and their patients and allow its members to share the latest medical knowledge and collaborate on best practices for their patients. The NSMA is the oldest and largest physician advocacy organization in the State of Nevada, and its members include practicing physicians and surgeons, medical researchers, educational faculty, and institutional administrators throughout the state. One of the primary purposes of the NSMA is to act on behalf of its members by representing their common interests before the Nevada courts.

This case concerns one of the most significant threats to the public health in the past century. The NSMA has an interest in this case because misinformation about the seriousness of COVID-19 and its causative virus, SARS-CoV-2, can undermine physician-patient trust and the public health of Nevadans. The briefs of Petitioner Starr Surplus Lines Insurance Co. (“Petitioner”) and amicus curiae American Property Casualty Insurance Association (“APCIA”) contain precisely the kind of scientifically inaccurate statements—minimizing the seriousness of COVID-19 and inaccurately claiming SARS-CoV-2 can be removed from a property by routine surface cleaning—that can cause patients to ignore the medical advice of our members and fail to protect themselves against this deadly virus.

The NSMA’s interests are in the accurate development of the law that affects its members and the medical community in the State of Nevada and across the country.

### **III. REASONS AN AMICUS BRIEF IS DESIRABLE.**

The NSMA respectfully submits that its proposed amicus curiae brief will be of assistance to the Court. The NSMA seeks to fulfill the classic role of amici curiae by “[h]ighlighting factual, historical, or legal

nuance glossed over by the parties,” “[e]xplaining the broader regulatory or commercial context in which a question comes to the court,” “[p]roviding practical perspectives on the consequences of potential outcomes,” and “[o]ffering a different analytical approach.” *Prairie Rivers Network v. Dynegy Midwest Generation, LLC*, 976 F.3d 761, 763 (7th Cir. 2020) (Scudder, J., in chambers). To that end, the NSMA’s brief provides scientific evidence demonstrating the seriousness of COVID-19 and its causative virus, SARS-CoV-2, and how the virus spreads.

The NSMA has participated as amicus curiae in other appeals in this Court involving important issues affecting the medical community. *See, e.g., Howell v. Patience Marie Frazier*, Docket No. 83224; *Valley Health Sys., LLC v. Murray*, Docket No. 79658. The NSMA believes it can similarly provide this Court with a scientific perspective to assist this Court in determining the issues before it.

#### IV. CONCLUSION

For all of the above reasons, the NSMA respectfully requests that the Court grant this motion and accept and file the accompanying amicus curiae brief.

## AFFIRMATION

The undersigned does hereby affirm that the preceding document does not contain the Social Security number of any person.

Submitted on September 29, 2022.

McDONALD CARANO LLP

By: /s/ Adam Hosmer-Henner  
Adam Hosmer-Henner (NSBN 12779)  
Chelsea Latino (NSBN 14227)  
Jane Susskind (NSBN 15099)  
100 W. Liberty Street, Tenth Floor  
Reno, Nevada 89501

*Attorneys for Amicus Curiae  
Nevada State Medical Association*

## CERTIFICATE OF SERVICE

Pursuant to NRAP 25(b), I hereby certify that I am an employee of McDONALD CARANO LLP and that on September 29, 2022, a true and correct copy of the foregoing MOTION FOR LEAVE FOR NEVADA STATE MEDICAL ASSOCIATION TO FILE AMICUS CURIAE BRIEF was e-filed and e-served on all registered parties to the Supreme Court's electronic filing system.

Daniel F. Polsenberg, Esq.  
Joel D. Henriod, Esq.  
Abraham G. Smith, Esq.  
LEWIS ROCA ROTHGERBER CHRISTIE LLP  
3993 Howard Hughes Parkway  
Suite 600  
Las Vegas, NV 89169

Amy M. Samberg, Esq.  
Lee H. Gorlin, Esq.  
CLYDE & CO LLP  
7251 W. Lake Mead Blvd.  
Suite 430  
Las Vegas, NV 89128

*Attorneys for Petitioner Starr Surplus Lines Insurance Company*

Bradley Schrager, Esq.  
WOLF RIFKIN SHAPIRO  
SCHULMAN & RABKIN, LLP  
3773 Howard Hughes Pkwy  
Suite 590 South  
Las Vegas, NV 89169

Robert L. Eisenberg  
LEMONS, GRUNDY & EISENBERG  
6005 Plumas Street, 3<sup>rd</sup> Floor  
Reno, NV 89519

*Attorneys for Real Party in Interest JGB Retail Vegas Lessee, LLC*

VIA E-MAIL only:

The Honorable Judge Mark Denton  
Trial Court Judge  
EIGHTH JUDICIAL DISTRICT COURT DEPARTMENT NO. 13  
Regional Justice Center, Courtroom 16D  
200 Lewis Avenue  
Las Vegas, NV 89155  
Dept13lc@clarkcountycourts.us

Marc T. Ladd, Esq.  
COHEN ZIFFER FRENCHMAN  
& MCKENNA LLP  
1325 Avenue of the Americas  
New York, NY 10019  
mladd@cohenziffer.com

Wystan M. Ackerman  
ROBINSON+COLE  
280 Trumbull Street  
Hartford, CT 06103  
wackerman@rc.com

/s/ Caitlin Pagni  
An Employee of McDonald Carano LLP