

1 **2515**
JOHN P. LAVERY, ESQ.
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7 Attorneys for Appellants
CARSON TAHOE HEALTH SYSTEM and
8 GALLAGHER BASSETT SERVICES, INC.

Electronically Filed
Oct 27 2021 09:08 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

9
10 **IN THE SECOND JUDICIAL DISTRICT COURT OF**
THE STATE OF NEVADA IN AND FOR THE
11 **COUNTY OF WASHOE**

12 CARSON TAHOE HEALTH SYSTEM and
13 GALLAGHER BASSETT SERVICES, INC.,

CASE NO: CV21-00809

DEPT. NO.: VIII

14 Appellants,

15 vs.

16 STEPHEN YASMER,

17 Respondent.

18 **NOTICE OF APPEAL**

19 TO: STEPHEN YASMER, Respondent and,

20 TO: EVAN BEAVERS, ESQ., NEVADA ATTORNEY FOR INJURED WORKERS,
21 counsel of record for Respondent.

22 NOTICE IS HEREBY GIVEN that Appellants, CARSON TAHOE HEALTH SYSTEM and
23 GALLAGHER BASSETT SERVICES, INC., (hereinafter referred to as "Appellants"), in the above-
24 entitled action, hereby appeal to the Supreme Court of the State of Nevada from the attached "Order
25 Granting Motion to Dismiss Petition For Judicial Review entered in this action on September 20, 2021
26

27 . . .

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1 which dismissed Appellants' Petition for Judicial Review and the "Notice of Entry of Order" filed on
2 October 14, 2021.

3 DATED this 21st day of October, 2021.

4 Respectfully submitted,

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6
7 By: /s/ L. Michael Friend

8 JOHN P. LAVERY, ESQ.

9 Nevada Bar No. 004665

10 L. MICHAEL FRIEND, ESQ.

11 Nevada Bar No. 011131

12 2300 West Sahara Avenue, Suite 900, Box 28

13 Las Vegas, NV 89102

14 Phone: (702) 893-3383

15 Fax: (702) 366-9563

16 Attorneys for Appellants

17 CARSON TAHOE HEALTH SYSTEM and

18 GALLAGHER BASSETT SERVICES, INC.

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Index of Documents

Exhibit 1 Notice of Entry of Order, CV21-00809 1-12

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CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 21st day of October, 2021, service of the foregoing **NOTICE OF APPEAL** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Stephen Yasmer
2257 Carson River Road
Carson City, NV 89701

Evan Beavers, Esq.
NEVADA ATTORNEY FOR INJURED
WORKERS
1000 E. William Street, Suite 208
Carson City, NV 89701

CARSON TAHOE HEALTH SYSTEM
Attn: Risk Management
1600 Medical Pkwy.
Carson City, NV 89706

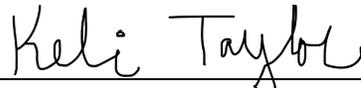
Yvette McCollum, Sr. Claims Adjuster
GALLAGHER BASSETT SERVICES, INC.
PO Box 2934
Clinton, IA 52733

Sheila Y. Moore, Esq., Appeals Officer
NEVADA DEPT. OF ADMINISTRATION
Appeals Division, Appeals Office
1050 E. William Street, Ste. 450
Carson City, NV 89701

Michelle L. Morgando, Esq., Sr. Appeals
Officer
NEVADA DEPT. OF ADMINISTRATION
Appeals Division, Appeals Office
2200 South Rancho Drive, Suite 220
Las Vegas, NV 89102

Laura Freed, Director
DEPARTMENT OF ADMINISTRATION
515 E. Musser Street, Suite 300
Carson City, NV 89701

Aaron D. Ford, Nevada Attorney General
OFFICE OF THE ATTORNEY GENERAL
100 North Carson Street
Carson City, NV 89701



An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

FILED
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CV21-00809
2021-10-21 11:14:21 AM
Alicia L. Lerud
Clerk of the Court
Transaction # 8709853 : sacordag

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“EXHIBIT 1”

1 **2540**
2 **NEOJ**
3 **JOHN P. LAVERY, ESQ.**
4 Nevada Bar No. 004665
5 **L. MICHAEL FRIEND, ESQ.**
6 Nevada Bar No. 011131
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13 Email: michael.friend@lewisbrisbois.com
14 Attorneys for Appellants
15 **CARSON TAHOE HEALTH SYSTEM and**
16 **GALLAGHER BASSETT SERVICES, INC.**

9
10 **IN THE SECOND JUDICIAL DISTRICT COURT OF**
11 **THE STATE OF NEVADA IN AND FOR THE**
12 **COUNTY OF WASHOE**

12 **CARSON TAHOE HEALTH SYSTEM and**
13 **GALLAGHER BASSETT SERVICES, INC.,**

14 Petitioners,

15 v.

16 **STEPHEN YASMER; and the STATE OF**
17 **NEVADA DEPARTMENT OF**
18 **ADMINISTRATION, HEARINGS**
19 **DIVISION, APPEALS OFFICE, an Agency of**
20 **the State of Nevada,**

21 Respondents.

CASE NO: CV21-00809

DEPT. NO.: VIII

22 **NOTICE OF ENTRY OF ORDER**

23 **TO: ALL INTERESTED PARTIES AND THEIR RESPECTIVE COUNSEL.**

24 ...

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1 YOU, AND EACH OF YOU, PLEASE TAKE NOTICE that an **ORDER GRANTING**
2 **MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW** was entered with the Clerk of
3 the Court in the above-captioned matter on the 20th day of September, 2021. A copy of which is
4 attached hereto and made a part hereof.¹

5 DATED this 14th day of October, 2021.

6 Respectfully submitted,
7 LEWIS BRISBOIS BISGAARD & SMITH LLP

8
9 By /s/ L. Michael Friend
10 JOHN P. LAVERY, ESQ.
11 Nevada Bar No. 004665
12 L. MICHAEL FRIEND, ESQ.
13 Nevada Bar No. 011131
14 2300 West Sahara Avenue, Suite 900, Box 28
15 Las Vegas, NV 89102
16 Phone: (702) 893-3383
17 Fax: (702) 366-9563
18 Attorneys for Appellants
19 CARSON TAHOE HEALTH SYSTEM and
20 GALLAGHER BASSETT SERVICES, INC.
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26
27 ¹ **NOTICE:** Pursuant to NRCP Rule 4, should any party desire to appeal this final District Court Order, the notice
28 of appeal must be filed with the clerk of the District Court after entry of a written judgment or order, and no later than
thirty (30) days after the date that the written notice of entry of the judgment or order appealed from is served.

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Index of Documents

Exhibit 1 Order Granting Motion to Dismiss Petition for Judicial Review 1-6

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CERTIFICATE OF MAILING

Pursuant to NRCF Rule 5(b), I hereby certify that, on the 14th day of October, 2021, I served a true and correct copy of the above and foregoing document entitled **NOTICE OF ENTRY OF ORDER** by depositing same in the United States Mail, with first-class postage fully prepaid thereon, and addressed as follows:

Stephen Yasmer
2257 Carson River Road
Carson City, NV 89701

Evan Beavers, Esq.
NEVADA ATTORNEY FOR INJURED WORKERS
1000 E. William Street, Suite 208
Carson City, NV 89701

CARSON TAHOE HEALTH SYSTEM
Attn: Risk Management
1600 Medical Pkwy.
Carson City, NV 89706

Yvette McCollum, Sr. Claims Adjuster
GALLAGHER BASSETT SERVICES, INC.
PO Box 2934
Clinton, IA 52733

Keli Taylor

An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

1 **SECOND JUDICIAL DISTRICT COURT**
2 **COUNTY OF WASHOE, STATE OF NEVADA**

3 **AFFIRMATION**
4 **Pursuant to NRS 239B.030**

5 The undersigned does hereby affirm that the preceding document, Notice of Entry
6 of Order filed in case number: CV21-00809

7
8 Document does not contain the Social Security number of any person.

9 **- OR -**

10
11 Document contains the Social Security number of a person as required by:

12 A specific state or federal law, to wit:

13 _____

14 **- or -**

15 For the administration of a public program

16 **- or -**

17 For an application for a federal or state grant

18 **- or -**

19 Confidential Family Court Information Sheet
20 (NRS 125.130, NRS 125.230 and NRS 125B.055)

21
22 Date: 10/14/21

23 /s/ L. Michael Friend
(Signature)

24 L. MICHAEL FRIEND, ESQ.
(Print Name)

25 Petitioners
26 (Attorney for)

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“EXHIBIT 1”

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

CARSON TAHOE HEALTH SYSTEM
and, GALLAGHER BASSET SERVICES,
INC.,

Case No. CV21-00809

Dept. No. 8

Petitioner,

vs.

STEPHEN YASMER; and APPEALS
OFFICE of the DEPARTMENT OF
ADMINISTRATION,

Respondents.

ORDER GRANTING MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW

Before the Court are two motions: (1) *Motion to Stay Pending Appeal* (“*Motion to Stay*”), filed by Petitioner, CARSON TAHOE HEALTH SYSTEM (hereinafter, “CTHS”) and GALLAGHER BASSETT SERVICES, INC. (hereinafter, “Gallagher, Inc.”) on May 3, 2021. Respondent, STEPHEN YASMER, filed his *Opposition to Petitioner’s Motion for Stay Pending Appeal* (“*Opposition*”), on May 26, 2021. This matter was submitted to the Court on June 30, 2021; and

(2): a *Motion to Dismiss Petition for Judicial Review* (“*Motion to Dismiss*”) filed on August 2, 2021, by Respondent, STEPHEN YASMER. The Petitioners, CTHS and GALLAGHER, INC., filed their *Opposition to Respondent’s Motion to Dismiss Petition for Judicial Review* (“*Opposition*”) on August 12, 2021, to which the Respondent filed a *Reply* on

1 August 17, 2021. On September 13, 2021, the Court entertained argument during a hearing on
2 the *Motion to Stay* and the *Motion to Dismiss*, and took the matters under submission.

3 Having reviewed the pleadings, relevant authorities, and arguments of counsel, the
4 Court **GRANTS** the Respondent's *Motion to Dismiss Petition for Judicial Review*, and finds as
5 follows¹:

6 **I. BACKGROUND**

7 According to the record, Stephen Yasmer (hereinafter "Respondent"), was employed at
8 CTHS. *Opp'n to Pet'r Mot. For Stay Pending Appeal*, 1: 26-27. While working, the
9 Respondent was carrying a box of supplies down a stair case when he mis-stepped and fell.
10 *Pet'r Mot. For Stay Pending Appeal*, 3: 11-13. As a result of the fall, Respondent was
11 diagnosed with a dislocation, and fracture of his left ankle. *Id.* 3: 8-9. The Respondent
12 underwent surgery for his injury. *Id.* 3: 19.

13 Respondent filed a claim for workers' compensation benefits, which was denied by
14 Gallagher, Inc. *Opp'n to Pet'r Mot. For Stay Pending Appeal*, 3: 9-11. The Respondent
15 appealed that determination, and the Hearing Officer affirmed the claim denial. *Pet'r Mot. For*
16 *Stay Pending Appeal*, 3: 22-25. The Respondent appealed this decision to an Appeals Officer
17 who reversed the Petitioner Administrator's denial of liability for Respondent's claim. *Id.* 3:
18 27-29. As a result, Gallagher, Inc. was ordered to accept the Respondent's claim for benefits as
19 a workers' compensation claim. *Opp'n to Pet'r Mot. For Stay Pending Appeal*,
20 4: 16-20.

21 **II. LEGAL STANDARD**

22 In order to challenge a final decision and order issued by a Nevada Department of
23 Administration appeals officer, a party must file a petition for judicial review. NRS 616C.370.
24 When a party seeks judicial review of an administrative decision [in Nevada], strict compliance
25 with the statutory requirements is a precondition to jurisdiction by the court of judicial review.
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27
28 ¹ In light of the Court's order granting the *Motion to Dismiss Petition for Judicial Review*, the
Motion for Stay Pending Appeal is rendered moot.

1 *Kame v. Employment Security Dep't.*, 105 Nev. 22, 25, 769 P.2d 66, 68 (1989) citing *Teepe v.*
2 *Review Board of Indiana Emp. Sec. Div.*, 136 Ind. App. 331, 200 N.E. 2d 538, 539 (1964).

3 Requirements for judicial review petitions are contained in NRS 233B.130(2), which requires
4 that petitions are filed:

5 "In the district court in and for Carson City, in and for the county in which the aggrieved
6 party resides, or in and for the county where the agency proceeding occurred."
NRS 233B.130(2)(b).

7 The Nevada Supreme Court has held that failure of a petitioner to strictly comply with the
8 requirements set out in NRS 233B.130(2) results in a lack of jurisdiction for a district court to
9 consider a petition for judicial review. *Washoe County v. Otto*, 128 Nev. 424, 434, 282 P.3d
10 719, 726 (2012).

11 **III. DISCUSSION**

12 **A. The Motion to Dismiss Petition for Judicial Review Is Granted Because The** 13 **Second Judicial District Court Lacks Jurisdiction.**

14 In his *Motion to Dismiss*, the Respondent asserts the Second Judicial District Court does
15 not have jurisdiction because the *Petition for Judicial Review* was not filed in the proper district
16 court. Petitioner contends that jurisdiction is proper as to both CTHS and Gallagher, Inc.

17 In support, Petitioner first argues because CTHS has two locations in Reno and treats
18 patients throughout northern Nevada, it can establish residency in Washoe County as a domestic
19 corporation. Additionally, Petitioner attests that as an aggrieved party, Gallagher, Inc. has the
20 capacity to select the forum. *Pet'r Opp'n to Resp't Mot. to Dismiss Pet. for Judicial. Review*, 4:
21 13-14.

22 NRS 233B.130(2)(b) requires a petition for judicial review be filed in one of three
23 specific places. One location permitted by the statute is in the district court in and for Carson
24 City. The instant *Petition for Judicial Review* was filed in the Second Judicial District Court in
25 and for the County of Washoe. Under the statutory requirements, the Court does not have
26 jurisdiction to review the *Petition* on this basis.
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1 Alternatively, the statute permits a petition for judicial review to be filed in and for the
2 county in which the aggrieved party resides. For purposes of Nev. Rev. Stat. § 233B.130(2)(b),
3 a corporation's place of residence is that which is listed as the principal place of business in its
4 articles of incorporation. *Liberty Mut. v. Thomasson*, 130 Nev. 28, 34, 317 P.3d 837, 836
5 (2012). Yet, a foreign corporation cannot have a fixed residence in any Nevada county for
6 purposes of Nev. Rev. Stat. § 233B.130(2)(b)'s residency requirement. *Id.*

7 The Petitioner argues that Gallagher, Inc. and CTHS are the aggrieved parties. *Pet'r*
8 *Opp'n to Respt's Mot. to Dismiss Pet. for Judicial Review*, 4: 1-5. Gallagher, Inc. is a foreign
9 corporation, that is licensed by the Nevada Department of Insurance to conduct business
10 throughout Nevada. *Id.* 4: 11-13. The Nevada Supreme Court has determined that a foreign
11 corporation, such as Gallagher, Inc., cannot have a fixed residence in any Nevada county for
12 these jurisdictional purposes. Furthermore, Gallagher, Inc. has not alleged that its principal
13 place of business is in Washoe County. Considering both binding precedent, and the lack of
14 authority to support licensure by the Nevada Department of Insurance conferring any type of
15 residency status, the Court cannot exercise jurisdiction over Gallagher, Inc. under Nev. Rev.
16 Stat. § 233B.130(2)(b).

17 CTHS has offices in Reno, Nevada. However, CTHS maintains over twenty locations
18 statewide, with only two of those locations being in Reno. *Pet'r Opp'n to Respt's Mot. to*
19 *Dismiss Pet. for Judicial Review*, 4: 2-3. Despite maintaining locations in Reno, CTHS has
20 registered its officers and directors to an address in Carson City. *Id.* at Exhibit 8. CTHS has not
21 alleged, nor has it proven that its principal place of business is in Washoe County. Therefore,
22 CTHS has failed to establish that they meet the residency requirements delineated by Nev. Rev.
23 Stat. § 233B.130(2)(b), making jurisdiction improper in Washoe County.

24 The statute finds one more location to be appropriate; a petition for judicial review can
25 be filed in and for the county in which the agency proceeding occurred. In this case, the agency
26 proceeding did not take place in Washoe County. The certificate of service for both the appeals
27 proceeding did not take place in Washoe County. The certificate of service for both the appeals
28 officer's decision and order list an address in Carson City. *Resp't Mot. to Dismiss Pet. for*

1 *Judicial Review*, Exhibit 8. Since the agency proceeding occurred outside of Washoe County,
2 this Court does not have jurisdiction.

3 Under Nevada law, “[a] district court is empowered to render a judgment either for or
4 against a person or entity only if it has jurisdiction over the parties and the subject matter.”
5 *Young v. Nevada Title Company*, 103 Nev. 436, 442, 744, P.2d 902, 905 (1987). The Court
6 cannot find a viable basis under Nev. Rev. Stat. § 233B.130(2)(b) to exercise jurisdiction.

7 Therefore, the *Motion to Dismiss Petition for Judicial Review* is **GRANTED**.

8 **IV. CONCLUSION**

9 Based upon the foregoing, and good cause appearing,

10 IT IS HEREBY ORDERED that Respondent’s *Motion to Dismiss Petition for Judicial*
11 *Review* is **GRANTED** as set forth above. The *Petition for Judicial Review* is
12 **DISMISSED**.

13 **IT IS SO ORDERED.**

14 DATED this 20 day of September, 2021.

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18 BARRY L. BRESLOW
19 DISTRICT JUDGE

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 20 day of September, 2021, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

JOHN P. LAVERY, ESQ.

EVAN BEAVERS, ESQ.

TODD EIKELBERGER, ESQ.



Judicial Assistant

1 **1310**
JOHN P. LAVERY, ESQ.
2 Nevada Bar No. 004665
L. MICHAEL FRIEND, ESQ.
3 Nevada Bar No. 011131
LEWIS BRISBOIS BISGAARD & SMITH
4 2300 West Sahara Avenue, Suite 900, Box 28
Las Vegas, NV 89102
5 Phone: (702) 893-3383
Fax: (702) 366-9563
6 Email: john.lavery@lewisbrisbois.com
Email: michael.friend@lewisbrisbois.com
7 Attorneys for Appellants
CARSON TAHOE HEALTH SYSTEM and
8 GALLAGHER BASSETT SERVICES, INC.

9
10 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
11 **IN AND FOR THE COUNTY OF WASHOE**

12 CARSON TAHOE HEALTH SYSTEM and
GALLAGHER BASSETT SERVICES, INC.,

CASE NO: CV21-00809

DEPT. NO.: VIII

13 Appellants,

14 vs.

15 STEPHEN YASMER,

16 Respondent.

17
18 **CASE APPEAL STATEMENT**

19 1. Name of appellants filing this case appeal statement:

20 Carson Tahoe Health System and Gallagher Bassett Services, Inc.

21 2. Identify the judge issuing the decision, judgment, or order appealed from:

22 Hon. Barry L. Breslow, Second Judicial District Court Judge

23 3. Identify each appellant and the name and address of counsel for each appellant:

24 John P. Lavery, Esq.
25 L. Michael Friend, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
26 2300 West Sahara Avenue, Suite 900, Box 28
Las Vegas, NV 89102
27 Attorneys for Appellants
Carson Tahoe Health Systems and
28 Gallagher Bassett Services, Inc.

1 4. Identify each respondent and the name and address of appellate counsel, if known,
2 for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much
3 and provide the name and address of that respondent's trial counsel): :

4 Evan Beavers, Esq.
5 NEVADA ATTORNEY FOR INJURED WORKERS
6 1000 East William Street, Suite 208
7 Carson City, NV 89701
8 (775) 684-7555
9 Attorneys for Respondent
10 Stephen Yasmer

11 5. Indicate whether any attorney identified above in response to question 3 or 4 is not
12 licensed to practice law in Nevada and, if so, whether the district court granted that attorney
13 permission to appear under SCR 42 (attach a copy of any district court order granting such
14 permission):

15 All attorneys identified above are licensed to practice law in Nevada.

16 6. Indicate whether appellant was represented by appointed or retained counsel in the
17 district court:

18 Appellants retained counsel in the District Court.

19 7. Indicate whether appellant is represented by appointed or retained counsel on
20 appeal:

21 Appellants are represented by retained counsel on appeal.

22 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the
23 date of entry of the district court order granting such leave:

24 Appellants were not granted leave to proceed in forma pauperis.

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9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):

The Petition for Judicial Review of the Appeals Officer’s Decision of April 15, 2021, was filed on May 3, 2021.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

Respondent Stephen Yasmer filed a Motion to Dismiss Petition for Judicial Review on August 2, 2021, due to lack of jurisdiction. The District Court issued an Order Granting Motion to Dismiss Petition for Judicial Review on September 20, 2021.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding:

No.

12. Indicate whether this appeal involves child custody or visitation:

No.

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13. If this is a civil case, indicate whether this appeal involves the possibility of settlement

Yes.

DATED this 21st day of October, 2021.

Respectfully submitted,
LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ L. Michael Friend
JOHN P. LAVERY, ESQ.
Nevada Bar No. 004665
L. MICHAEL FRIEND, ESQ.
Nevada Bar No. 011131
2300 West Sahara Avenue, Suite 900, Box 28
Las Vegas, NV 89102
Phone: (702) 893-3383
Fax: (702) 366-9563
Attorneys for Appellants
CARSON TAHOE HEALTH SYSTEM and
GALLAGHER BASSETT SERVICES, INC.

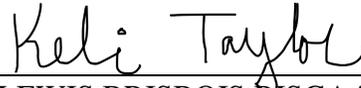


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CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 21st day of October, 2021, service of the foregoing **CASE APPEAL STATEMENT** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Evan Beavers, Esq.
NEVADA ATTORNEY FOR INJURED WORKERS
1000 E. William Street, Suite 208
Carson City, NV 89701



An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

SECOND JUDICIAL DISTRICT COURT

STATE OF NEVADA

COUNTY OF WASHOE

Case History - CV21-00809

Case Description: CTHS, ET AL VS STEPHEN YASMER, ET AL (D8)

Case Number: CV21-00809 Case Type: OTHER JUDICIAL REVIEW/APPEAL - Initially Filed On: 5/3/2021

Parties

<u>Party Type & Name</u>	<u>Party Status</u>
JUDG - BARRY L. BRESLOW - D8	Active
DEFT - STATE OF NEVADA DEPTOF ADMIN, APPEALS OFFICE - @1370925	Active
DEFT - STEPHEN BENNER YASMER - @721584	Active
ATTY - John P. Lavery, Esq. - 4665	Active
ATTY - Evan Bradley Beavers, Esq. - 3399	Active
ATTY - Stephen Todd Eikelberger, Esq. - 9393	Active
PETR - GALLAGHER BASSETT SERVICES, INC. - @1305718	Active
PETR - CARSON TAHOE HEALTH SYSTEM - @1312419	Active

Disposed Hearings

- 1 Department: D8 -- Event: Request for Submission -- Scheduled Date & Time: 5/11/2021 at 16:19:00
Extra Event Text: STIPULATION FOR EXTENSION OF TIME TO FILE OPPOSITION TO MOTION FOR STAY AND TEMPORARILY STAY DECISION AND ORDER I
Event Disposition: S200 - 5/18/2021
- 2 Department: D8 -- Event: Request for Submission -- Scheduled Date & Time: 7/1/2021 at 08:37:00
Extra Event Text: MOTION FOR STAY PENDING APPEAL
Event Disposition: S200 - 8/13/2021
- 3 Department: D8 -- Event: HEARING... -- Scheduled Date & Time: 9/13/2021 at 14:00:00
Extra Event Text: ON MOTION TO STAY CASE
Event Disposition: D840 - 9/13/2021
- 4 Department: D8 -- Event: Request for Submission -- Scheduled Date & Time: 9/13/2021 at 15:00:00
Extra Event Text: (1) MOTION TO STAY PENDING APPEAL; AND (2) MOTION TO DISMISS PETITION BOTH TAKEN UNDER SUBMISSION FOLLOWING ORAL A
Event Disposition: S200 - 9/20/2021

Actions

<u>Filing Date</u>	<u>-</u>	<u>Docket Code & Description</u>
1	5/3/2021	- \$3550 - \$Pet for Judicial Review Additional Text: Petition for Judicial Review on Stephen Yasmer - Transaction 8424154 - Approved By: CSULEZIC : 05-03-2021:12:31:29
2	5/3/2021	- 1817 - Initial Appear. Fee Disclosure Additional Text: Transaction 8424154 - Approved By: CSULEZIC : 05-03-2021:12:31:29
3	5/3/2021	- 3373 - Other ... Additional Text: CIVIL COVER SHEET ON STEPHEN YASMER - Transaction 8424154 - Approved By: CSULEZIC : 05-03-2021:12:31:29
4	5/3/2021	- 2490 - Motion ... Additional Text: DFX: SET AT A SECURITY LEVEL 3 - CONTAINS MEDICAL RECORDS - PETITIONERS' MOTION FOR STAY PENDING APPEAL ON STEPHEN YASMER - Transaction 8424154 - Approved By: CSULEZIC : 05-03-2021:12:31:29

Report Does Not Contain Sealed Cases or Confidential Information

- 5 5/3/2021 - PAYRC - **Payment Received
Additional Text: A Payment of \$255.00 was made on receipt DCDC673436.
- 6 5/3/2021 - 2140 - Mtn Ord Shortening Time
Additional Text: STRIKING THE PETITIONERS; REQUEST FOR ORDER SHORTENING TIME ON MOTION FOR STAY FOR THE FOLLOWING REASON: DOCUMENT IS AN UNSIGNED ORDER THAT IS NOT IDENTIFIED AS A PROPOSED ORDER – WDCR 10(c)(1)
Transaction 8424470 - Approved By: NOREVIEW : 05-03-2021:13:53:56
- 7 5/3/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8424475 - Approved By: NOREVIEW : 05-03-2021:13:54:57
- 8 5/3/2021 - 2610 - Notice ...
Additional Text: OF STRICKEN DOCUMENT: PETITIONERS; REQUEST FOR ORDER SHORTENING TIME ON MOTION FOR STAY (UNSIGNED ORDER; SHOULD NOT BE PART OF MAIN PLEADING BUT ATTACHED AS AN EXHIBIT CONTINUATION) FILED 5-3-21 -
Transaction 8424666 - Approved By: YVILORIA : 05-03-2021:14:44:51
- 9 5/3/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8424674 - Approved By: NOREVIEW : 05-03-2021:14:45:50
- 10 5/4/2021 - 2140 - Mtn Ord Shortening Time
Additional Text: DFX: EXHIBITS PRESENTED INCORRECTLY

NOTICE OF STRICKEN DOCUMENT - UNSIGNED ORDER(S) NOT FILED AS PROPOSED ORDER(S)

Transaction 8426108 - Approved By: NOREVIEW : 05-04-2021:10:15:32
- 11 5/4/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8426112 - Approved By: NOREVIEW : 05-04-2021:10:16:33
- 12 5/4/2021 - 2610 - Notice ...
Additional Text: NOTICE OF STRICKEN DOCUMENT RE: DOCKET 2140 FILED 05/04/2021; UNSIGNED ORDERS NOT FILED AS PROPOSED ORDERS. ORDERS CANNOT BE A PART OF YOUR MAIN DOCUMENT, THEY CAN BE SEPARATED AND FILED AS EXHIBITS TO IT -
Transaction 8426299 - Approved By: SACORDAG : 05-04-2021:10:49:40
- 13 5/4/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8426313 - Approved By: NOREVIEW : 05-04-2021:10:50:45
- 14 5/4/2021 - 2140 - Mtn Ord Shortening Time
Additional Text: PETITIONER'S REQUEST FOR ORDER SHORTENING TIME ON MOTION TO STAY - Transaction 8426677 - Approved By: NOREVIEW : 05-04-2021:12:23:46
- 15 5/4/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8426681 - Approved By: NOREVIEW : 05-04-2021:12:24:46
- 16 5/10/2021 - 3960 - Statement Intent Participate
Additional Text: ATTORNEYS EIKELBERGER AND BEAVERS FOR RESPONDENT, STEPHEN YASMER - Transaction 8436137 - Approved By: SACORDAG : 05-10-2021:13:52:39
- 17 5/10/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8436385 - Approved By: NOREVIEW : 05-10-2021:13:53:33
- 18 5/11/2021 - 4047 - Stip Extension of Time ...
Additional Text: NOTICE OF STRICKEN DOCUMENT - MISSING AFFIRMATION

Transaction 8438725 - Approved By: NOREVIEW : 05-11-2021:13:27:11
- 19 5/11/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8438730 - Approved By: NOREVIEW : 05-11-2021:13:28:11

- 20 5/11/2021 - 2610 - Notice ...
Additional Text: NOTICE OF STRICKEN DOCUMENT RE: DOCKET 4047 FILED 05/11/2021; MISSING AFFIRMATION - Transaction 8438757
- Approved By: SACORDAG : 05-11-2021:13:38:33
- 21 5/11/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8438767 - Approved By: NOREVIEW : 05-11-2021:13:39:31
- 22 5/11/2021 - 4047 - Stip Extension of Time ...
Additional Text: Stipulation to Extend Time to File Opposition to Motion for Stay and Temporarily Stay Decision and Order Pending a Ruling on the Motion - Transaction 8439158 - Approved By: NOREVIEW : 05-11-2021:15:09:25
- 23 5/11/2021 - 3860 - Request for Submission
Additional Text: Transaction 8439168 - Approved By: NOREVIEW : 05-11-2021:15:11:53
DOCUMENT TITLE: STIPULATION FOR EXTENSION OF TIME TO FILE OPPOSITION TO MOTION FOR STAY AND TEMPORARILY STAY DECISION AND ORDER PENDING A RULING ON THE MOTION FILED 05/11/2021
PARTY SUBMITTING: S. EIKELBERGER, ESQ
DATE SUBMITTED: 05/11/2021
SUBMITTED BY: SJA
DATE RECEIVED JUDGE OFFICE:
- 24 5/11/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8439163 - Approved By: NOREVIEW : 05-11-2021:15:10:23
- 25 5/11/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8439172 - Approved By: NOREVIEW : 05-11-2021:15:12:54
- 26 5/18/2021 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 27 5/18/2021 - 3030 - Ord Granting Extension Time
Additional Text: Transaction 8449904 - Approved By: NOREVIEW : 05-18-2021:09:33:40
- 28 5/18/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8449909 - Approved By: NOREVIEW : 05-18-2021:09:34:39
- 29 5/26/2021 - 2645 - Opposition to Mtn ...
Additional Text: OPPOSITION TO PETITIONER'S MOTION FOR STAY PENDING APPEAL - Transaction 8466059 - Approved By: YVILORIA : 05-26-2021:16:38:37
- 30 5/26/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8466111 - Approved By: NOREVIEW : 05-26-2021:16:39:36
- 31 6/4/2021 - 3746 - Record on Appeal
Additional Text: Record on Appeal 1-60 - Transaction 8479475 - Approved By: NOREVIEW : 06-04-2021:12:01:51
- 32 6/4/2021 - 3746 - Record on Appeal
Additional Text: STRIKING THE RECORD ON APPEAL CONTINUATION FOR THE FOLLOWING REASON: DOCUMENT DOES NOT HAVE A DISTRICT COURT CASE NUMBER – WDCR 10(10)(c)(1); DOCUMENT DOES NOT HAVE AN AFFIRMATION – WDCR10(c)(1); UNSIGNED PAPER FILED DOCUMENT – WDCR10(5)
- Transaction 8479475 - Approved By: NOREVIEW : 06-04-2021:12:01:51
- 33 6/4/2021 - 3746 - Record on Appeal
Additional Text: STRIKING THE RECORD ON APPEAL CONTINUATION FOR THE FOLLOWING REASON: DOCUMENT DOES NOT HAVE A DISTRICT COURT CASE NUMBER – WDCR 10(10)(c)(1); DOCUMENT DOES NOT HAVE AN AFFIRMATION – WDCR10(c)(1); UNSIGNED PAPER FILED DOCUMENT – WDCR10(5)
- Transaction 8479475 - Approved By: NOREVIEW : 06-04-2021:12:01:51
- 34 6/4/2021 - 4195 - Transmittal of Rec. on Appeal
Additional Text: trans of ROA - Transaction 8479475 - Approved By: NOREVIEW : 06-04-2021:12:01:51

- 35 6/4/2021 - 1365 - Certificate of Transmittal
Additional Text: Cert of Trans - Transaction 8479475 - Approved By: NOREVIEW : 06-04-2021:12:01:51
- 36 6/4/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8479493 - Approved By: NOREVIEW : 06-04-2021:12:03:13
- 37 6/4/2021 - 2610 - Notice ...
Additional Text: OF STRICKEN DOCUMENT: RECORD ON APPEAL CONTINUATION (NO CASE NO., AFFIRMATION OR SIGNATURE; DOCUMENT NEEDS A DISTRICT COURT & CAUSE COVER PAGE) FILED BY S. MOORE 6-4-21 - Transaction 8480635 - Approved By: YVILORIA : 06-04-2021:16:33:10
- 38 6/4/2021 - 2610 - Notice ...
Additional Text: OF STRICKEN DOCUMENT: RECORD ON APPEAL CONTINUATION (NO CASE NO., AFFIRMATION OR SIGNATURE; DOCUMENT NEEDS A DISTRICT COURT & CAUSE COVER PAGE) FILED BY S. MOORE 6-4-21 - Transaction 8480635 - Approved By: YVILORIA : 06-04-2021:16:33:10
- 39 6/4/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8480642 - Approved By: NOREVIEW : 06-04-2021:16:34:10
- 40 7/1/2021 - 3860 - Request for Submission
Additional Text: Transaction 8522066 - Approved By: NOREVIEW : 07-01-2021:08:43:27

DOCUMENT TITLE: REQUEST FOR SUBMISSION OF MOTION FOR STAY PENDING APPEAL
PARTY SUBMITTING: STEPHEN TODD EIKELBERGER, ESQ.
DATE SUBMITTED: 07/01/2021
SUBMITTED BY: SC
DATE RECEIVED JUDGE OFFICE:
- 41 7/1/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8522076 - Approved By: NOREVIEW : 07-01-2021:08:44:47
- 42 7/13/2021 - 2640 - Opening Brief
Additional Text: Petitioners' Opening Brief CV21-00809 on Stephen Yasmer - Transaction 8541452 - Approved By: NOREVIEW : 07-13-2021:16:25:42
- 43 7/13/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8541460 - Approved By: NOREVIEW : 07-13-2021:16:26:40
- 44 8/2/2021 - 2300 - Mtn to Dismiss Pet
Additional Text: Motion to Dismiss Petition for Judicial Review - Transaction 8573355 - Approved By: SACORDAG : 08-02-2021:14:15:23
- 45 8/2/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8573387 - Approved By: NOREVIEW : 08-02-2021:14:16:39
- 46 8/4/2021 - 3746 - Record on Appeal
Additional Text: STRIKING THE RECORD ON APPEAL CONTINUATION FOR THE FOLLOWING REASON: DOCUMENT DOES NOT HAVE A DISTRICT COURT CASE NUMBER – WDCR 10(10)(c)(1); DOCUMENT DOES NOT HAVE AN AFFIRMATION – WDCR10(c)(1); UNSIGNED PAPER FILED DOCUMENT – WDCR10(5) - Transaction 8578537 - Approved By: NOREVIEW : 08-04-2021:14:43:25
- 47 8/4/2021 - 3746 - Record on Appeal
Additional Text: STRIKING THE RECORD ON APPEAL CONTINUATION FOR THE FOLLOWING REASON: DOCUMENT DOES NOT HAVE A DISTRICT COURT CASE NUMBER – WDCR 10(10)(c)(1); DOCUMENT DOES NOT HAVE AN AFFIRMATION – WDCR10(c)(1); UNSIGNED PAPER FILED DOCUMENT – WDCR10(5) - Transaction 8578537 - Approved By: NOREVIEW : 08-04-2021:14:43:25
- 48 8/4/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8578539 - Approved By: NOREVIEW : 08-04-2021:14:44:17

- 49 8/4/2021 - 2610 - Notice ...
Additional Text: OF STRICKEN DOCUMENT: RECORD ON APPEAL CONTINUATION (NO CASE #, SIGNATURE OR AFFIRMATION; NEEDS A DISTRICT COURT & CAUSE COVER PAGE) FILED 8-4-21 BY SHEILA MOORE - Transaction 8578740 - Approved By: YVILORIA : 08-04-2021:15:28:13
- 50 8/4/2021 - 2610 - Notice ...
Additional Text: OF STRICKEN DOCUMENT: RECORD ON APPEAL CONTINUATION (NO CASE #, SIGNATURE OR AFFIRMATION; NEEDS A DISTRICT COURT & CAUSE COVER PAGE) FILED 8-4-21 BY SHEILA MOORE - Transaction 8578740 - Approved By: YVILORIA : 08-04-2021:15:28:13
- 51 8/4/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8578744 - Approved By: NOREVIEW : 08-04-2021:15:29:06
- 52 8/5/2021 - 3746 - Record on Appeal
Additional Text: Record on Appeal - Transaction 8581324 - Approved By: NOREVIEW : 08-05-2021:15:25:03
- 53 8/5/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8581329 - Approved By: NOREVIEW : 08-05-2021:15:26:01
- 54 8/9/2021 - 1170 - Answering Brief
Additional Text: Respondent's Answering Brief - Transaction 8585426 - Approved By: SACORDAG : 08-09-2021:14:06:31
- 55 8/9/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8585500 - Approved By: NOREVIEW : 08-09-2021:14:07:28
- 56 8/12/2021 - 3790 - Reply to/in Opposition
Additional Text: PETITIONERS' OPPOSITION TO RESPONDENT'S MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW - Transaction 8591703 - Approved By: CSULEZIC : 08-12-2021:10:05:38
- 57 8/12/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8591852 - Approved By: NOREVIEW : 08-12-2021:10:06:24
- 58 8/13/2021 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 59 8/13/2021 - 3242 - Ord Setting Hearing
Additional Text: Transaction 8594621 - Approved By: NOREVIEW : 08-13-2021:11:52:38
- 60 8/13/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8594626 - Approved By: NOREVIEW : 08-13-2021:11:53:36
- 61 8/17/2021 - 3795 - Reply...
Additional Text: Reply in Support of Stephen Yasmer's Motion to Dismiss Petition for Judicial Review - Transaction 8599781 - Approved By: SACORDAG : 08-17-2021:14:14:29
- 62 8/17/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8599850 - Approved By: NOREVIEW : 08-17-2021:14:15:23
- 63 9/15/2021 - 3785 - Reply Brief
Additional Text: PETITIONERS' REPLY BRIEF - Transaction 8646813 - Approved By: YVILORIA : 09-15-2021:10:15:12
- 64 9/15/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8647034 - Approved By: NOREVIEW : 09-15-2021:10:16:11
- 65 9/20/2021 - 3060 - Ord Granting Mtn ...
Additional Text: TO DISMISS PETITION FOR JUDICIAL REVIEW - Transaction 8654513 - Approved By: NOREVIEW : 09-20-2021:11:15:26

- 66 9/20/2021 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 67 9/20/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8654516 - Approved By: NOREVIEW : 09-20-2021:11:16:28
- 68 9/20/2021 - F230 - Other Manner of Disposition
No additional text exists for this entry.
- 69 9/20/2021 - MIN - ***Minutes
Additional Text: HEARING ON MOTION TO STAY - 9/13/21 - Transaction 8655933 - Approved By: NOREVIEW : 09-20-2021:16:44:00
- 70 9/20/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8655939 - Approved By: NOREVIEW : 09-20-2021:16:45:03
- 71 10/14/2021 - 2540 - Notice of Entry of Ord
Additional Text: Notice of Entry of Order CV21-00809 on Stephen Yasmer - Transaction 8698218 - Approved By: NOREVIEW : 10-14-2021:13:09:06
- 72 10/14/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8698222 - Approved By: NOREVIEW : 10-14-2021:13:10:08
- 73 10/21/2021 - \$2515 - \$Notice/Appeal Supreme Court
Additional Text: Transaction 8709853 - Approved By: SACORDAG : 10-21-2021:13:43:47
- 74 10/21/2021 - 1310 - Case Appeal Statement
Additional Text: Transaction 8709853 - Approved By: SACORDAG : 10-21-2021:13:43:47
- 75 10/21/2021 - 2190 - Mtn for Stay Pending Appeal
Additional Text: Transaction 8709853 - Approved By: SACORDAG : 10-21-2021:13:43:47
- 76 10/21/2021 - 2140 - Mtn Ord Shortening Time
Additional Text: Appellants' Request for Order Shortening Time on Motion for Stay CV21-00809 on Stephen Yasmer - Transaction 8710111 - Approved By: NOREVIEW : 10-21-2021:13:11:10
- 77 10/21/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8710117 - Approved By: NOREVIEW : 10-21-2021:13:12:19
- 78 10/21/2021 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$24.00 was made on receipt DCDC681787.
- 79 10/21/2021 - NEF - Proof of Electronic Service
Additional Text: Transaction 8710234 - Approved By: NOREVIEW : 10-21-2021:13:45:45
- 80 10/21/2021 - 1350 - Certificate of Clerk
Additional Text: CERTIFICATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 8710434 - Approved By: NOREVIEW : 10-21-2021:14:32:12

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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE

7
8 CARSON TAHOE HEALTH SYSTEM
and, GALLAGHER BASSET SERVICES,
9 INC.,

Case No. CV21-00809

Dept. No. 8

Petitioner,

10 vs.

11
12 STEPHEN YASMER; and APPEALS
OFFICE of the DEPARTMENT OF
13 ADMINISTRATION,

14 Respondents.
15 _____ /

16 **ORDER GRANTING MOTION TO DISMISS PETITION FOR JUDICIAL REVIEW**

17 Before the Court are two motions: (1) *Motion to Stay Pending Appeal* (“*Motion to*
18 *Stay*”), filed by Petitioner, CARSON TAHOE HEALTH SYSTEM (hereinafter, “CTHS”) and
19 GALLAGHER BASSETT SERVICES, INC. (hereinafter, “Gallagher, Inc.”) on May 3, 2021.
20 Respondent, STEPHEN YASMER, filed his *Opposition to Petitioner’s Motion for Stay*
21 *Pending Appeal* (“*Opposition*”), on May 26, 2021. This matter was submitted to the Court on
22 June 30, 2021; and

23 (2): a *Motion to Dismiss Petition for Judicial Review* (“*Motion to Dismiss*”) filed on
24 August 2, 2021, by Respondent, STEPHEN YASMER. The Petitioners, CTHS and
25 GALLAGHER, INC., filed their *Opposition to Respondent’s Motion to Dismiss Petition for*
26 *Judicial Review* (“*Opposition*”) on August 12, 2021, to which the Respondent filed a *Reply* on
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28

1 August 17, 2021. On September 13, 2021, the Court entertained argument during a hearing on
2 the *Motion to Stay* and the *Motion to Dismiss*, and took the matters under submission.

3 Having reviewed the pleadings, relevant authorities, and arguments of counsel, the
4 Court **GRANTS** the Respondent’s *Motion to Dismiss Petition for Judicial Review*, and finds as
5 follows¹:

6 **I. BACKGROUND**

7 According to the record, Stephen Yasmer (hereinafter “Respondent”), was employed at
8 CTHS. *Opp’n to Pet’r Mot. For Stay Pending Appeal*, 1: 26-27. While working, the
9 Respondent was carrying a box of supplies down a stair case when he mis-stepped and fell.
10 *Pet’r Mot. For Stay Pending Appeal*, 3: 11-13. As a result of the fall, Respondent was
11 diagnosed with a dislocation, and fracture of his left ankle. *Id.* 3: 8-9. The Respondent
12 underwent surgery for his injury. *Id.* 3: 19.

13 Respondent filed a claim for workers’ compensation benefits, which was denied by
14 Gallagher, Inc. *Opp’n to Pet’r Mot. For Stay Pending Appeal*, 3: 9-11. The Respondent
15 appealed that determination, and the Hearing Officer affirmed the claim denial. *Pet’r Mot. For*
16 *Stay Pending Appeal*, 3: 22-25. The Respondent appealed this decision to an Appeals Officer
17 who reversed the Petitioner Administrator’s denial of liability for Respondent’s claim. *Id.* 3:
18 27-29. As a result, Gallagher, Inc. was ordered to accept the Respondent’s claim for benefits as
19 a workers’ compensation claim. *Opp’n to Pet’r Mot. For Stay Pending Appeal*,
20 4: 16-20.

21 **II. LEGAL STANDARD**

22 In order to challenge a final decision and order issued by a Nevada Department of
23 Administration appeals officer, a party must file a petition for judicial review. NRS 616C.370.
24 When a party seeks judicial review of an administrative decision [in Nevada], strict compliance
25 with the statutory requirements is a precondition to jurisdiction by the court of judicial review.
26
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28 ¹ In light of the Court’s order granting the *Motion to Dismiss Petition for Judicial Review*, the
Motion for Stay Pending Appeal is rendered moot.

1 *Kame v. Employment Security Dep't.*, 105 Nev. 22, 25, 769 P.2d 66, 68 (1989) citing *Teepe v.*
2 *Review Board of Indiana Emp. Sec. Div.*, 136 Ind. App. 331, 200 N.E. 2d 538, 539 (1964).

3 Requirements for judicial review petitions are contained in NRS 233B.130(2), which requires
4 that petitions are filed:

5 “In the district court in and for Carson City, in and for the county in which the aggrieved
6 party resides, or in and for the county where the agency proceeding occurred.”
NRS 233B.130(2)(b).

7 The Nevada Supreme Court has held that failure of a petitioner to strictly comply with the
8 requirements set out in NRS 233B.130(2) results in a lack of jurisdiction for a district court to
9 consider a petition for judicial review. *Washoe County v. Otto*, 128 Nev. 424, 434, 282 P.3d
10 719, 726 (2012).

11 **III. DISCUSSION**

12 **A. The Motion to Dismiss Petition for Judicial Review Is Granted Because The** 13 **Second Judicial District Court Lacks Jurisdiction.**

14 In his *Motion to Dismiss*, the Respondent asserts the Second Judicial District Court does
15 not have jurisdiction because the *Petition for Judicial Review* was not filed in the proper district
16 court. Petitioner contends that jurisdiction is proper as to both CTHS and Gallagher, Inc.

17 In support, Petitioner first argues because CTHS has two locations in Reno and treats
18 patients throughout northern Nevada, it can establish residency in Washoe County as a domestic
19 corporation. Additionally, Petitioner attests that as an aggrieved party, Gallagher, Inc. has the
20 capacity to select the forum. *Pet'r Opp'n to Resp't Mot. to Dismiss Pet. for Judicial. Review*, 4:
21 13-14.

22 NRS 233B.130(2)(b) requires a petition for judicial review be filed in one of three
23 specific places. One location permitted by the statute is in the district court in and for Carson
24 City. The instant *Petition for Judicial Review* was filed in the Second Judicial District Court in
25 and for the County of Washoe. Under the statutory requirements, the Court does not have
26 jurisdiction to review the *Petition* on this basis.
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1 Alternatively, the statute permits a petition for judicial review to be filed in and for the
2 county in which the aggrieved party resides. For purposes of Nev. Rev. Stat. § 233B.130(2)(b),
3 a corporation's place of residence is that which is listed as the principal place of business in its
4 articles of incorporation. *Liberty Mut. v. Thomasson*, 130 Nev. 28, 34, 317 P.3d 837, 836
5 (2012). Yet, a foreign corporation cannot have a fixed residence in any Nevada county for
6 purposes of Nev. Rev. Stat. § 233B.130(2)(b)'s residency requirement. *Id.*

7 The Petitioner argues that Gallagher, Inc. and CTHS are the aggrieved parties. *Pet'r*
8 *Opp'n to Respt's Mot. to Dismiss Pet. for Judicial Review*, 4: 1-5. Gallagher, Inc. is a foreign
9 corporation, that is licensed by the Nevada Department of Insurance to conduct business
10 throughout Nevada. *Id.* 4: 11-13. The Nevada Supreme Court has determined that a foreign
11 corporation, such as Gallagher, Inc., cannot have a fixed residence in any Nevada county for
12 these jurisdictional purposes. Furthermore, Gallagher, Inc. has not alleged that its principal
13 place of business is in Washoe County. Considering both binding precedent, and the lack of
14 authority to support licensure by the Nevada Department of Insurance conferring any type of
15 residency status, the Court cannot exercise jurisdiction over Gallagher, Inc. under Nev. Rev.
16 Stat. § 233B.130(2)(b).
17

18 CTHS has offices in Reno, Nevada. However, CTHS maintains over twenty locations
19 statewide, with only two of those locations being in Reno. *Pet'r Opp'n to Respt's Mot. to*
20 *Dismiss Pet. for Judicial Review*, 4: 2-3. Despite maintaining locations in Reno, CTHS has
21 registered its officers and directors to an address in Carson City. *Id.* at Exhibit 8. CTHS has not
22 alleged, nor has it proven that its principal place of business is in Washoe County. Therefore,
23 CTHS has failed to establish that they meet the residency requirements delineated by Nev. Rev.
24 Stat. § 233B.130(2)(b), making jurisdiction improper in Washoe County.

25 The statute finds one more location to be appropriate; a petition for judicial review can
26 be filed in and for the county in which the agency proceeding occurred. In this case, the agency
27 proceeding did not take place in Washoe County. The certificate of service for both the appeals
28 officer's decision and order list an address in Carson City. *Resp't Mot. to Dismiss Pet. for*

1 *Judicial Review*, Exhibit 8. Since the agency proceeding occurred outside of Washoe County,
2 this Court does not have jurisdiction.

3 Under Nevada law, “[a] district court is empowered to render a judgment either for or
4 against a person or entity only if it has jurisdiction over the parties and the subject matter.”
5 *Young v. Nevada Title Company*, 103 Nev. 436, 442, 744, P.2d 902, 905 (1987). The Court
6 cannot find a viable basis under Nev. Rev. Stat. § 233B.130(2)(b) to exercise jurisdiction.

7 Therefore, the *Motion to Dismiss Petition for Judicial Review* is **GRANTED**.

8 **IV. CONCLUSION**

9 Based upon the foregoing, and good cause appearing,

10 IT IS HEREBY ORDERED that Respondent’s *Motion to Dismiss Petition for Judicial*
11 *Review* is **GRANTED** as set forth above. The *Petition for Judicial Review* is
12 **DISMISSED**.

13 **IT IS SO ORDERED.**

14 DATED this 20 day of September, 2021.

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18 _____
19 BARRY L. BRESLOW
20 DISTRICT JUDGE

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CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 20 day of September, 2021, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

- JOHN P. LAVERY, ESQ.
- EVAN BEAVERS, ESQ.
- TODD EIKELBERGER, ESQ.


Judicial Assistant

CASE NO. CV21-00809 CTHS ET AL VS. STEPHEN YASMER ET AL

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

09/13/21
HONORABLE
BARRY L.
BRESLOW
DEPT. NO. 8
M. Schuck
(Clerk)
I. Zihn
(Reporter)
None Present
(Bailliff)

HEARING ON MOTION TO STAY....

Petitioner, Carson Tahoe Health System, without a representative present and represented by John Lavery, Esq.
Petitioner, Gallagher Bassett Services, Inc., without a representative present and represented by John Lavery, Esq.
Respondent, State of Nevada Dept. of Administration, Appeals, without a representative present and represented by Stephen Eikelberger, Esq.
Respondent, Stephen Yasmer, not present and represented by Stephen Eikelberger, Esq.

This hearing was held remotely because of the closure of the courthouse at 75 Court Street in Reno, Washoe County, Nevada due to the National and Local emergency caused by COVID-19. The Court and all the participants appeared via simultaneous audiovisual transmission. The court was physically located in Reno, Washoe County, Nevada which was the site of the court session. Counsel acknowledged receipt of Notice that the hearing was taking place pursuant to Nevada Supreme Court Rules – Part 9 relating to simultaneous audiovisual transmissions and all counsel stated they had no objection to going forward in this manner.

Matter convened at 2:13 p.m.

Counsel Eikelberger indicated Counsel Lavery was attempting to sign onto the webinar.

Court noted technical difficulties as the reason for the lateness of Counsel.

Counsel Lavery placed his appearance on the record.

Counsel Eikelberger placed his appearance on the record.

Court referenced the Motion to Stay filed in the case. He noted Department Eight had several big trials and apologized for the delay in response on the Motion to Stay. He also noted a Motion to Dismiss had been filed.

Counsel Eikelberger referenced the appeals and referenced NRS 233.130. He presented his argument in support.

Counsel Lavery presented his argument to include the jurisdictional issue.

Counsel Eikelberger responded to Counsel Lavery's argument. He noted there was no waiver and jurisdiction was not invoked.

Court questioned Counsel Lavery regarding the Motion to Stay.

Counsel Lavery continued his argument in favor of his Motion to Stay.

Counsel Eikelberger responded to Counsel Lavery argument and noted there was technically a stay. He noted the client was not incurring any expenses at that time.

COURT ORDERED: Both Motions taken under advisement. He indicated to Counsel his decision will be filed within one week. Matter concluded at 2:35 p.m.

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

**CARSON TAHOE HEALTH SYSTEM
and GALLAGHER BASSET SERVICES,
INC.,**

Case No. CV21-00809

Petitioner,

Dept. No. 8

vs.

**STEPHEN YASMER; AND APPEALS
OFFICE of the DEPARTMENT OF
ADMINISTRATION,**

Respondents.

CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on the 21st day of October, 2021, I electronically filed the Notice of Appeal in the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on file with the Second Judicial District Court.

Dated this 21st day of October, 2021.

Alicia L. Lerud
Clerk of the Court
By /s/ SHARI J ACORDAGOITIA

Deputy Clerk