

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

CARSON TAHOE HEALTH SYSTEM and
GALLAGHER BASSETT SERVICES, INC.

Appellants,

v.

STEPHEN YASMER,

Respondent.

No. 83686

Electronically Filed
Nov 17 2021 12:55 p.m.

DOCKETING STATEMENT
CIVIL APPEALS
Elizabeth A. Brown
Clerk of Supreme Court

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Second Department VIII
County Washoe Judge Barry Breslow
District Ct. Case No. CV21-00809

2. Attorney filing this docketing statement:

Attorney John P. Lavery, Esq. Telephone 702-893-3383

Firm Lewis Brisbois Bisgaard & Smith

Address 2300 W. Sahara Ave. Ste. 900
Las Vegas, Nevada 89102

Client(s) Carson Tahoe Health System and Gallagher Bassett Services, Inc.

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Evan Beavers, Esq. Telephone (775)684-7555

Firm Nevada Attorney for Injured Workers

Address 1000 E. William St., Ste. 208
Carson City, NV 89701

Client(s) Stephen Yasmer

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Judgment after bench trial | <input checked="" type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input checked="" type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input checked="" type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify): _____ |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None

8. Nature of the action. Briefly describe the nature of the action and the result below:

This is a workers' compensation claim for left ankle injuries sustained in a fall on the stairs at work on June 8, 2020. On June 23, 2020, Appellant denied this claim for failure to describe a compensable mechanism of injury. Respondent appealed. The Hearing Officer affirmed claim denial. The Respondent appealed. On April 15, 2021, the Appeals Officer issued a Decision and Order reversing claim denial finding that Respondent had described a compensable industrial injury.

Appellants appealed that Decision and Order in the Second Judicial District of Nevada on May 3, 2021. On August 12, 2021, Respondent filed a Motion to Dismiss based on lack of jurisdiction, as no parties' legal residence was in Washoe County and the proceedings did not occur in Washoe County. On September 20, 2021, the District Court granted Respondent's Motion to Dismiss the Petition for Judicial Review. The Notice of Entry of Order was filed on October 14, 2021.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Whether the Second Judicial District Court has jurisdiction over Appellant's Petition for Judicial Review.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Not aware of any.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This case is presumptively assigned to the Court of Appeals under NRAP 17(b)(10) as it is a Petition for Judicial Review of a final decision of an administrative agency.

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

N/A

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from October 14, 2021

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served October 14, 2021

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed October 27, 2021

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☐ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☒ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify) _____

(b) Explain how each authority provides a basis for appeal from the judgment or order:

This is a Petition for Judicial Review of a workers' compensation Appeals Officer's Decision. Appellants filed their Petition with the Second Judicial District Court pursuant to NRS 233B.130. The District Court dismissed the Petition for lack of jurisdiction. As this final judgment of the District Court aggrieved Appellants, this Court has jurisdiction to hear this appeal under NRS 233B.150.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

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

STEPHEN YASMER and NEVADA DEPARTMENT OF ADMINISTRATION, an Agency of the State of Nevada , Respondents.

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

The Department of Administration did not participate in the District Court Petition.

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

CARSON TAHOE HEALTH SYSTEM - Petitioner for Judicial Review

GALLAGHER BASSETT SERVICES, INC. - Petitioner for Judicial Review

STEPHEN YASMER - Respondent in Petition for Judicial Review

THE DEPARTMENT OF ADMINISTRATION, HEARINGS DIVISION, APPEALS OFFICE - None

Petition for Judicial Review dismissed September 20, 2021

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Carson Tahoe Health/Gallagher Bassett
Name of appellant

L. Michael Friend, Esq.
Name of counsel of record

November 17, 2021
Date


Signature of counsel of record

Clark County, Nevada
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 17 day of November, 2021, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Evan Beavers, Esq.
Nevada Attorney for Injured Workers
1000 E. William St., Ste. 208
Carson City, NV 89701

David Wasick, Esq. - Settlement Judge
P.O. Box 568
Glenbrook, NV 89413

Dated this 17th day of November, 2021

/s/ L. Michael Friend
Signature

1 **2540**
2 **NEOJ**

3 JOHN P. LAVERY, ESQ.
Nevada Bar No. 004665

4 L. MICHAEL FRIEND, ESQ.
Nevada Bar No. 011131

5 LEWIS BRISBOIS BISGAARD & SMITH
2300 West Sahara Avenue, Suite 900, Box 28
Las Vegas, NV 89102
Phone: (702) 893-3383

6 Fax: (702) 366-9563

7 Email: john.lavery@lewisbrisbois.com

8 Email: michael.friend@lewisbrisbois.com

Attorneys for Appellants

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

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

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

14 Petitioners,

15 v.

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

18 Respondents.
19

CASE NO: CV21-00809

DEPT. NO.: VIII

20 **NOTICE OF ENTRY OF ORDER**

21 TO: ALL INTERESTED PARTIES AND THEIR RESPECTIVE COUNSEL.
22

23 ...

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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.

Nevada Bar No. 004665

11 L. MICHAEL FRIEND, ESQ.

Nevada Bar No. 011131

12 2300 West Sahara Avenue, Suite 900, Box 28

Las Vegas, NV 89102

13 Phone: (702) 893-3383

Fax: (702) 366-9563

14 Attorneys for Appellants

CARSON TAHOE HEALTH SYSTEM and

15 GALLAGHER BASSETT SERVICES, INC.

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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

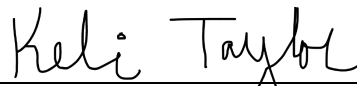
Pursuant to NRCF Rule 5(b), I hereby certify that, on the 14th day of October, 2021, I served a true and correct copy of the above and foregoing document entitled **NOTICE OF ENTRY OF ORDER** by depositing same in the United States Mail, with first-class postage fully prepaid thereon, and addressed as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



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

/s/ L. Michael Friend
23 (Signature)

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

25 Petitioners
26 (Attorney for)

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“EXHIBIT I”

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.
26

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."
7 NRS 233B.130(2)(b).

8 The Nevada Supreme Court has held that failure of a petitioner to strictly comply with the
9 requirements set out in NRS 233B.130(2) results in a lack of jurisdiction for a district court to
10 consider a petition for judicial review. *Washoe County v. Otto*, 128 Nev. 424, 434, 282 P.3d
11 719, 726 (2012).

12 **III. DISCUSSION**

13 **A. The Motion to Dismiss Petition for Judicial Review Is Granted Because The** 14 **Second Judicial District Court Lacks Jurisdiction.**

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

18 In support, Petitioner first argues because CTHS has two locations in Reno and treats
19 patients throughout northern Nevada, it can establish residency in Washoe County as a domestic
20 corporation. Additionally, Petitioner attests that as an aggrieved party, Gallagher, Inc. has the
21 capacity to select the forum. *Pet'r Opp'n to Resp't Mot. to Dismiss Pet. for Judicial. Review*, 4:
22 13-14.

23 NRS 233B.130(2)(b) requires a petition for judicial review be filed in one of three
24 specific places. One location permitted by the statute is in the district court in and for Carson
25 City. The instant *Petition for Judicial Review* was filed in the Second Judicial District Court in
26 and for the County of Washoe. Under the statutory requirements, the Court does not have
27 jurisdiction to review the *Petition* on this basis.
28

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 officer's decision and order list an address in Carson City. *Resp't Mot. to Dismiss Pet. for*
28

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**.

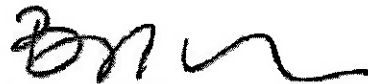
8 **IV. CONCLUSION**

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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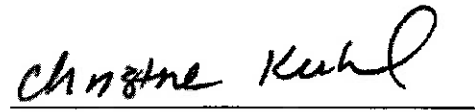
CERTIFICATE OF SERVICE

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