

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

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

Appellants,

v.

STEPHEN YASMER,

Respondents.

Supreme Court Case No. 83686  
Electronically Filed  
May 27 2022 10:03 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANTS' REPLY BRIEF**

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I.

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### **III.**

#### **REPLY**

The issue before this Court is whether the Second Judicial District Court, Washoe County, has subject matter jurisdiction over the petition for judicial review. In reply to Claimant's brief, Appellants contend the forum is proper because of the lack of delay or prejudice to Claimant, the Employer's ties to Washoe County, and because Nevada law favors hearing cases on the merit.

Most importantly, there has been no prejudice to Claimant. Claimant participated in the underlying litigation, allowing the case to proceed for three months before raising the subject issue. Appellants filed their petition for judicial review on May 3, 2021. (App. Vol. I at 1-74.) Claimant filed a Statement of Intent to Participate on May 10, 2021, and requested additional time to oppose Appellants' motion for stay pending appeal. (App. Vol. I at 75-83.) Thereafter, Claimant filed his opposition on May 26, 2021 (App. Vol. I at 84-111), the Hearings Division transmitted the record on appeal on June 4, 2021 (App. Vol. I at 112-115), and Petitioners filed their opening brief on July 13, 2021 (App. Vol. I at 116-133). It was not until after all of this occurred, that on August 4, 2021, Claimant moved to dismiss the petition for lack of jurisdiction. (App. Vol. I at 134-199.)

Had Claimant been prejudiced or otherwise took issue with the forum, he could have raised the issue prior to months of time, work, and expense of others. Moreover, at the time he made his appearance, there was still time for Appellants to file in Carson City, if that was where Claimant wanted the petition heard.

In addition, the Employer considered Washoe County the appropriate forum. The Employer is part of the Carson Tahoe Health System comprehensive healthcare network featuring two hospitals, two urgent cares, and a provider network with twenty-one regional locations, including two in Washoe County, serving patients throughout Northern Nevada. This connection to Washoe County is sufficient to establish jurisdiction.

Finally, this court has repeatedly held that cases are to be heard on the merits if possible. Passarelli v. J-Mar Dev., 102 Nev. 283, 285, 720 P.2d 1221, 1223(1986). The underlying claim is an administrative action. Because there is no prejudice to Claimant and no delay to the proceedings, Appellants believe the claim should be heard on the merits.

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IV.

**CONCLUSION**

Based on the above, Appellants respectfully request that jurisdiction vest with the Second Judicial District Court, Washoe County, and the case be remanded for this matter to proceed on the merits.

DATED this 27 day of May, 2022.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By:



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**CERTIFICATE OF COMPLIANCE**

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

2. I further certify that this reply complies with the type-volume limitations of NRAP 32(a)(7)(A)(ii) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionally spaced, has a typeface of 14 points or more, and contains 423 words and 34 lines of text.

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

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4. I understand that I may be subject to sanctions in the event that the accompanying reply is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 27 day of May, 2022.

LEWIS BRISBOIS BISGAARD & SMITH LLP

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## **CERTIFICATE OF MAILING**

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 27 day of May, 2022, service of the attached APPELLANTS' REPLY BRIEF was made this date by depositing a true copy of the same for mailing, first class mail, and/or electronic service as follows:

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