

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

LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT FOR THE STATE OF  
NEVADA, IN AND FOR THE  
COUNTY OF CLARK, AND THE  
HONORABLE ADRIANA ESCOBAR,  
DISTRICT JUDGE,

Respondents,

and

DUE DILIGENCE GROUP, LLC, a  
limited liability company,

Real Party in Interest.

Supreme Court Case No. **Electronically Filed**  
**Aug 05 2022 04:15 p.m.**  
**Elizabeth A. Brown**  
**Clerk of Supreme Court**

**PETITION FOR WRIT OF PROHIBITION,**  
**OR ALTERNATIVELY, MANDAMUS**

**Marquis Aurbach**

Craig R. Anderson, Esq.

Nevada Bar No. 6882

Jackie V. Nichols, Esq.

Nevada Bar No. 14246

10001 Park Run Drive

Las Vegas, Nevada 89145

Telephone: (702) 382-0711

Facsimile: (702) 382-5816

canderson@maclaw.com

jnichols@maclaw.com

Attorneys for Petitioner Las Vegas Metropolitan Police Department

MAC:14687-419 4803006\_1.docx

## **NRAP 26.1 DISCLOSURE**

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the Justices of this Court may evaluate possible disqualification or recusal.

1. The Las Vegas Metropolitan Police Department (LVMPD) is a governmental entity and has no corporate affiliation.

2. LVMPD is represented in the District Court and this Court by the law firm of Marquis Aurbach.

Dated this 5th day of August, 2022.

MARQUIS AURBACH

By: /s/ Jackie V. Nichols  
Craig R. Anderson, Esq.  
Nevada Bar No. 6882  
Jackie V. Nichols, Esq.  
Nevada Bar No. 14246  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Petitioner Las Vegas  
Metropolitan Police Department

## **TABLE OF CONTENTS**

I.	ROUTING STATEMENT .....	1
II.	INTRODUCTION AND OVERVIEW OF RELIEF REQUESTED.....	2
III.	ISSUES PRESENTED .....	2
IV.	STANDARDS OF REVIEW FOR WRIT PETITIONS .....	2
	A.    STANDARDS FOR REVIEWING QUESTIONS OF LAW.....	2
	B.    STANDARDS FOR REVIEWING PETITIONS FOR WRITS OF PROHIBITION. ....	3
V.	RELEVANT FACTUAL AND PROCEDURAL BACKGROUND.....	4
	A.    DDG BRINGS SUIT UNDER THE NPRA AGAINST LVMPD.....	4
	B.    JUDGE ESCOBAR RECUSES HERSELF FROM THE CASE. ....	5
	C.    THE CASE IS REASSIGNED TO DEPARTMENT 9.....	6
	D.    JUDGE ESCOBAR ROUTINELY DISQUALIFIES HERSELF IN NPRA CASES.....	7
VI.	LEGAL ARGUMENT.....	7
VII.	CONCLUSION.....	15

## **I. ROUTING STATEMENT**

The Supreme Court should retain this Writ Petition because it involves a matter of public policy and first impression pertaining to a judge's duty to sit and a sufficient basis for recusal under Nevada Code of Judicial Conduct (NCJC) 2.11(a)(1). *Ham v. District Court*, 93 Nev. 409, 415, 566 P.2d 420, 424 (1977) (recognized that judges have a duty to preside); *City of Las Vegas Downtown Redevelopment Agency v. Eighth Judicial Dist. Court ex rel. Cty. of Clark*, 116 Nev. 640, 643, 5 P.3d 1059, 1061 (2000) (a judge is presumed to be impartial unless established by sufficient facts and legal grounds).

Specifically, this Writ Petition concerns whether a district court judge may recuse themselves under NCJC (a)(1) as a result of a friendship with a non-party, political figure, Governor Steve Sisolak, when the subject matter of the underlying lawsuit pertains to whether records in the Las Vegas Metropolitan Police Department's possession related to Sheriff Lombardo's personal emails are subject to the Nevada Public Records Act (NPRA).

Based upon NRAP 17(a)(10) and (11), this Writ Petition involves both issues of statewide importance and issues of first impression. This matter is not one that would be presumptively assigned to the Court of Appeals under NRAP 17(b).

## **II. INTRODUCTION AND OVERVIEW OF RELIEF REQUESTED**

There are two fundamental legal principles that this Court must apply in determining whether Judge Escobar's voluntary disqualification was proper. First, a judge must hear all cases assigned to her unless disqualification is required. Second, the judiciary is presumed to be impartial. Here, there is no evidence to overcome Judge Escobar's presumption of impartiality and no rule or law that requires disqualification in the instant case. Accordingly, LVMPD requests this Court reassign the underlying petition back to Department 14.

## **III. ISSUES PRESENTED**

Whether the Honorable Judge Adriana Escobar improperly recused herself under Nevada Code of Judicial Conduct 2.11(A), Comment 1 because of her friendship with a non-party, Governor Steve Sisolak.

## **IV. STANDARDS OF REVIEW FOR WRIT PETITIONS**

### **A. STANDARDS FOR REVIEWING QUESTIONS OF LAW.**

This Court reviews questions of law de novo. *See Birth Mother v. Adoptive Parents*, 118 Nev. 972, 974, 59 P.3d 1233, 1235 (2002). Statutory interpretation is a question of law which this Court reviews de novo. *See id.* Although this Court generally reviews petitions for extraordinary relief with an abuse of discretion standard, this Court will still apply a de novo standard of review to questions of law, such as statutory interpretation, in writ petition proceedings. *See Int'l Game*

*Tech., Inc. v. Dist. Ct.*, 124 Nev. 193, 198, 179 P.3d 556, 559 (2008) (citation omitted).

**B. STANDARDS FOR REVIEWING PETITIONS FOR WRITS OF PROHIBITION.**

A writ of prohibition is the appropriate remedy for a lower court's improper exercise of jurisdiction. *See* NRS 34.320; *see also Smith v. Dist. Ct.*, 107 Nev. 674, 818 P.2d 849 (1991). A writ of prohibition may issue to arrest the proceedings of a district court exercising its judicial functions, when such proceedings are in excess of the jurisdiction of the district court. *See id.* "Jurisdictional rules go to the very power" of a court's ability to act. *Pengilly v. Rancho Santa Fe Homeowners Ass'n*, 116 Nev. 646, 649, 5 P.3d 569, 571 (2000) (citations omitted).

Although an individual can appeal a final judgment, where there is no legal remedy, extraordinary relief is justified. *See Zhang v. Dist. Ct.*, 120 Nev. 1037, 1039, 103 P.3d 20, 22 (2004), *abrogated on other grounds by Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 181 P.3d. 670 (2008). In particular, a writ of prohibition is an appropriate avenue to challenge a district court's voluntary recusal from a case. *See Ham v. Eighth Judicial Dist. Court*, 93 Nev. 409, 412, 566 P.2d 420, 422 (1977).

Petitions for extraordinary writs are addressed to the sound discretion of the Court and may only issue where there is no “plain, speedy, and adequate remedy” at law. *See* NRS 34.330; *see also State ex rel. Dep’t of Transp. v. Thompson*, 99 Nev. 358, 360, 662 P.2d 1338, 1339 (1983). However, “each case must be individually examined, and where circumstances reveal urgency or strong necessity, extraordinary relief may be granted.” *See Jeep Corp. v. Dist. Ct.*, 98 Nev. 440, 443, 652 P.2d 1183, 1185 (1982) (citing *Shelton v. Dist. Ct.*, 64 Nev. 487, 185 P.2d 320 (1947)).

This Court will exercise its discretion to consider writ petitions, despite the existence of an otherwise adequate legal remedy, when an important issue of law needs clarification, and this Court’s review would serve considerations of public policy, sound judicial economy, and administration. *See Dayside Inc. v. Dist. Ct.*, 119 Nev. 404, 407, 75 P.3d 384, 386 (2003), *overruled on other grounds by Countrywide Home Loans, Inc. v. Thitchener*, 124 Nev. 725, 192 P.3d 243 (2008).

## **V. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND**

### **A. DDG BRINGS SUIT UNDER THE NPRA AGAINST LVMPD.**

Real Party in Interest, Due Diligence Group, LLC (“DDG”) filed a Petition for Writ of Mandamus in the district court under the Nevada Public Records Act (NPRA) seeking access to e-mails between Sheriff Joseph Lombardo (“Sheriff Lombardo”) and various individuals involved in his campaign for Governor. *See*

Application for Order Compelling Disclosure of Public Records Pursuant to NRS 239.011/Petition for Writ of Mandamus. Petitioner's Appendix ("PA") 001-016 (Exhibit 1). Subsequently, DDG filed a motion for an order from the district court to grant the motion. *See* Exhibit 2, Motion for Order Granting Plaintiff's Application for Writ of Mandamus at PA 017-036. LVMPD substantively opposed the motion and also sought to dismiss the suit on the basis that DDG was not the real party in interest.<sup>1</sup> *See* Exhibit 3, LVMPD's Opposition to DDG's Motion for an Order Granting Application and Countermotion to Dismiss at PA 037-077. One of the arguments raised by LVMPD is that the records sought do not pertain to a provision of LVMPD's public service as required for records to be disclosed under the NPRA. *See id.* Rather, the records pertain to Sheriff Lombardo's run for Governor not in relation to his position as Sheriff over LVMPD. *Id.* DDG then filed its reply. *See* Exhibit 4, DDG's Reply in Support of its Motion for Order Granting Application at PA 078-091. DDG contends that the records do fall within the ambit of the NPRA. *See* Exhibits 1 at PA 001-016 and 4 at PA 078-091.

**B. JUDGE ESCOBAR RECUSES HERSELF FROM THE CASE.**

---

<sup>1</sup> If Governor Sisolak is the real party in interest, then LVMPD recognizes that the Honorable Judge Escobar would then have a basis under Rule 2.11 to recuse herself. However, because that has not been established, LVMPD maintains that recusal is wholly improper.



The underlying case was initially before the honorable Judge Adriana Escobar in Department 14. *See* Exhibit 1 at PA 001-016. Judge Escobar held a hearing on DDG’s motion on July 14, 2022. *See* Exhibit 5, Transcript at PA 092-103. Prior to hearing any argument, Judge Escobar announced that she was required to recuse herself under Nevada Code of Judicial Conduct 2.11. *Id.* at PA 097. Relying on comment one to that Rule, Judge Escobar stated that she has nearly 30 years of friendship with Governor Sisolak and previously served on the Taxicab Authority together. *Id.* at PA 098. Judge Escobar further stated that her husband (unnamed) serves on Governor Sisolak’s subcabinet. *Id.* Based on these circumstances, Judge Escobar issued a minute order providing that recusal was necessary under Rule 2.11(A), Comment 1 because the “Court’s impartiality would be questioned due to a personal connection to a party cited in the pleadings.” *See* Exhibit 6, Minute Order issued July 27, 2022 at PA 104-106.

**C. THE CASE IS REASSIGNED TO DEPARTMENT 9.**

After Judge Escobar issued her minute order, the matter was reassigned to Department 9 before the Honorable Judge Maria Gall. *See* Exhibit 7, Docket at PA 107-109. Currently, Judge Gall is expected to decide an outstanding contested motion for pro hac vice in chambers on August 12, 2022. *Id.* A hearing on the merits of DDG’s initial motion is currently scheduled to be heard on August 17, 2022. *Id.*

#### **D. JUDGE ESCOBAR ROUTINELY DISQUALIFIES HERSELF IN NPRA CASES.**

At the initial hearing, Judge Escobar stated she understood that she has a duty to preside over cases assigned to her. *See* Exhibit 4 at 078-091. Judge Escobar, however, has routinely recused herself from cases addressing the NPRA. First, Judge Escobar recused herself in *ABC et al, v. LVMPD*, Eighth Judicial District Court, Case No. A-17-764030-W, concerning public records pertaining to the 1 October shooting that occurred on the Las Vegas Strip. *See* Exhibit 8, Recusal Order dated January 22, 2019 at PA 110-112. The basis for recusal was that the Police Protective Association (PPA) contributed to her judicial campaign. *Id.* A year later, Judge Escobar relies on the same basis for recusing herself from a public records litigation pertaining to the Alpine Fire that occurred in December 2019. *See* Exhibit 9, Recusal Order dated February 18, 2020 at PA 113-114.

#### **VI. LEGAL ARGUMENT**

As a general rule, a judge has a duty to “preside to the conclusion of all proceedings, in the absence of some statute, rule of court, ethical standard, or other compelling reason to the contrary.” *Ham v. District Court*, 93 Nev. 409, 415, 56 P.2d 420, 424 (1977). The Nevada Code of Judicial Conduct (“NCJC”) mandates a sitting judge to hear and decide matters assigned to the judge, except when

disqualification is required by Rule 2.11 or other law. NCJC 2.7. The Comment related to this specific rule establishes that:

Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge's respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial, or unpopular issues or involve difficult, controversial, or unpopular parties or lawyers.

*Id.* at cmt. 1. Equally important is the notion that a judge is **presumed** to be impartial unless established by sufficient facts and legal grounds. *City of Las Vegas Downtown Redevelopment Agency v. Eighth Judicial Dist. Court ex rel. Cty. of Clark*, 116 Nev. 640, 643, 5 P.3d 1059, 1061 (2000). NCJC 2.4 further provides:

(A) A judge shall not be swayed by public clamor or fear of criticism.

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.

“Because a judge has a duty to sit, there must be a compelling reason—in other words, a showing of sufficient factual and legal grounds—warranting judicial disqualification or recusal.” *Humboldt Cnty. Pub. Def. v. Sixth Jud. Dist. Ct. of State*, 126 Nev. 722, 367 P.3d 781 (2010).

In the present case, Judge Escobar asserted that her impartiality may reasonably be questioned “due to a personal connection to a party cited in the pleadings.” Exhibits 5 at PA 092-103 and 6 at PA 104-106. At the hearing, Judge Escobar made it clear she was recusing herself based on her 30-year friendship with Governor Steve Sisolak. Exhibit 5 at PA 098. Judge Escobar further acknowledged that the public record request at issue in the litigation was related to Sheriff Joseph Lombardo who is currently Governor Sisolak’s opponent in the upcoming Governor’s election. *Id.* It was based on this attenuated link that Judge Escobar voluntarily recused herself even though judges are apolitical and non-partisan.

NCJC 2.11(a) requires a judge to disqualify herself in any proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to the following circumstances:

1) The judge has a personal bias or prejudice concerning a party or a party’s lawyer, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judge knows that the judge, the judge’s spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

(a) a party to the proceeding or an officer, director, general partner, managing member, or trustee of a party;

(b) acting as a lawyer in the proceeding;

(c) a person who has more than a de minimis interest that could be substantially affected by the proceeding; or

(d) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary, or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

(4) [Reserved.]

(5) The judge, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(6) The judge:

(a) served as a lawyer in the matter in controversy or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(b) served in governmental employment and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;

(c) was a material witness concerning the matter; or

(d) previously presided as a judge over the matter in another court.

Judge Escobar's sole basis for recusal is the fact that she asserts she has a personal connection with a party cited in the pleadings, that "party" being

Governor Sisolak. Importantly, Governor Sisolak is not a party to this action, and the only time Governor Sisolak is even noted in the Petition for Writ of Mandamus is at Paragraph 21 and Paragraph 42 where DDG alleges that emails already produced by LVMPD included “press releases from Governor Sisolak regarding new and pending state legislation.” The fact that Governor Sisolak is not actually a party, and the only mention of him is in reference to press releases, and Judge Escobar has a friendship with him is not sufficient to *reasonably* question her impartiality which is the standard this Court uses to review a judge’s recusal. *City of Las Vegas Downtown Redevelopment Agency v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark*, 116 Nev. 640, 644, 5 P.3d 1059, 1062 (2000). Importantly, none of enumerated circumstances outlined above are applicable to Judge Escobar’s basis for recusal. Rather, Judge Escobar relied on Comment 1 to Rule 2.11 to support her recusal. Comment 1 of Rule 2.11 provides:

Under this Rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (6) apply. For example, if a judge were in the process of negotiating for employment with a law firm, the judge would be disqualified from any matters in which that law firm appeared, unless the disqualification was waived by the parties after disclosure by the judge.

A long-term friendship, without more, is not sufficient in law or fact for recusal under Rule 2.11(A).

While the inquiry into judicial bias begins with the judge herself, it does not end there. *Humboldt Cnty. Pub. Def. v. Sixth Jud. Dist. Ct. of State*, 126 Nev. 722, 367 P.3d 781 (2010). Jurist disqualification requires an “extreme showing of bias.” *Las Vegas Downtown Redev. Agency v. Hecht*, 113 Nev. 632, 636, 940 P.2d 127, 129 (1997); *see also In re Petition to Recall Dunleavy*, 104 Nev. 784, 790, 769 P.2d 1271, 1275 (1988) (observing that an “allegation of bias in favor or against an attorney ... generally states an insufficient ground for disqualification” (emphasis added)). The personal bias necessary to disqualify must “stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case.” *United States v. Beneke*, 449 F.2d 1259, 1260–61 (8th Cir. 1971) citing *United States v. Grinnell Corp.*, 384 U.S. 563, 583, 86 S.Ct. 1698, 1710, 16 L.Ed.2d 778 (1966).

The standard for assessing judicial bias is “whether a reasonable person, knowing all the facts, would harbor reasonable doubts about [a judge’s] impartiality.” *PETA v. Bobby Berosini, Ltd.*, 111 Nev. 431, 438, 894 P.2d 337, 341 (1995); *see also* Richard E. Flamm, *Judicial Disqualification* § 5.5 (1996). Whether a judge’s “impartiality can reasonably be questioned under an objective standard, however, is a question of law and this Court will exercise its independent judgment of the undisputed facts.” *Berosini*, 111 Nev. at 437, 894 P.2d at 341 (citing *Flier v. Superior Court* (Perkins), 23 Cal.App.4th 165, 28 Cal.Rptr.2d 383,

386 (Ct.App.1994); *State v. Rochelt*, 165 Wis.2d 373, 477 N.W.2d 659, 661 (Wis.Ct.App.1991)).

Unlike the majority of cases decided by this Court, the instant case pertains to a voluntary recusal. This Court addressed voluntary recusal in *Humboldt Cnty. Pub. Def.* when the judge concluded that he could no longer be impartial towards one of the attorneys. Affirming the district court's decision, the Court reasoned that:

The case before us does not involve a mere allegation of bias, but rather, an **unequivocal admission of bias**. Judge Wagner's personal bias toward Stermitz prompted him to enter the order of recusal. The animosity between Judge Wagner and Stermitz is undisputed and the friction between the two stems from ongoing controversies concerning the operation of the Humboldt County Public Defender's Office.

*Id.* at \*3 (emphasis added).

Judge Escobar made no indication of actual bias or prejudice as a result of her “friendship” with the Governor. Thus, the presumption of Judge Escobar's impartiality and her duty to hear and decide cases assigned to her must stand. The undisputed fact known is that Judge Escobar has a 30-year friendship with Governor Sisolak. Although the subject matter of the emails, in LVMPD's view, pertain to Sheriff Lombardo's campaign for Governor, friendship with the current Governor could not harbor reasonable doubt as to whether LVMPD records are subject to disclosure under the NPRA. If Judge Escobar's basis was sufficient, it is



likely that the majority of judges in the State of Nevada would be required to recuse themselves, including those that were appointed by Governor Sisolak, like the Honorable Judge Maria Gall was recently appointed.

Indeed, as the Ninth Circuit Court has observed, a judge is not a “sterile creature who dons judicial robes without any prior contacts in the community but rather is very likely to be a man or woman with a broad exposure to all kinds of citizens of all shades of persuasion and background. A judge is not required to forsake established friendships and professional relationships with members of the bar just because he has taken a seat on the bench.” *United States v. Mosesian*, 972 F.2d 1346, \*6 (9th Cir.1992) (unpublished). A judge has neighbors, friends, business and social relationships, but generally those associations are not the personal bias or prejudice on which recusal can be based. *See Commonwealth of Pennsylvania v. Local Union 542, Int’l Union of Operating Eng’rs.*, 388 F.Supp. 155, 159 (E.D.Pa.1974). “[F]riendship between a judge and a lawyer, or other participant in a trial, without more, does not require recusal.” *In re Complaint of Jud. Misconduct*, 816 F.3d 1266, 1268 (9th Cir. 2016).

Importantly, neither party questioned her impartiality as Judge Escobar voluntarily recused herself based on a personal relationship with Governor Sisolak. Judge Escobar also did not assert she could not be impartial, Judge Escobar just asserted she believed there could be a question of impartiality because of the

relationship without offering any more facts or law to support it. However, having a personal relationship – without more – is not a compelling reason warranting judicial disqualification or recusal. Accordingly, LVMPD requests that this Court determine that a 30-year friendship with Governor Steve Sisolak, who has no relation to the instant case, is not a sufficient basis for recusal under Rule 2.11(A), Comment 1 and require that Judge Escobar preside over the instant case.

## **VII. CONCLUSION**

Based on the foregoing, LVMPD asks that this Court grant its Writ Petition in its entirety and issue an order reassigning this case back to Department 14.

Dated this 5th day of August, 2022.

MARQUIS AURBACH

By: /s/ Jackie V. Nichols  
Craig R. Anderson, Esq.  
Nevada Bar No. 6882  
Jackie V. Nichols, Esq.  
Nevada Bar No. 14246  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Petitioner Las Vegas  
Metropolitan Police Department

**DECLARATION OF JACKIE V. NICHOLS, ESQ. IN SUPPORT OF  
PETITION FOR WRIT OF MANDAMUS AND PROHIBITION**

JACKIE V. NICHOLS, ESQ., being first duly sworn, deposes and says:

1. I am an attorney with the law firm of Marquis Aurbach and attorney of record for Petitioner, Las Vegas Metropolitan Police Department, in the above-captioned case. I have personal knowledge of the matters stated in this affidavit, except for those stated upon information and belief. To those matters stated upon information and belief, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will do so if called upon.

2. The Petition for Writ of Prohibition is properly before this Court as LVMPD does not have a plain, speedy, and adequate remedy and extraordinary relief is justified. *See Ham v. Eighth Judicial Dist. Court*, 93 Nev. 409, 412, 566 P.2d 420, 422 (1977).

3. Specifically, the recusal order issued by the Honorable Judge Adriana Escobar must be vacated, and the Court must order Judge Escobar to abide by her duty to preside over the instant case.

4. Judge Escobar improperly recused herself by relying on her 30-year friendship with non-party, public figure Governor Steve Sisolak.

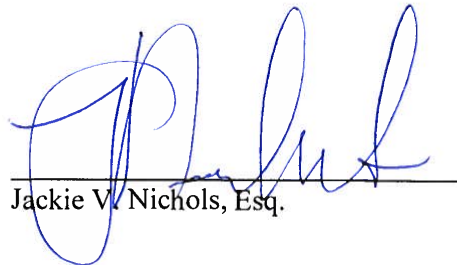
5. Governor Steve Sisolak plays no role in this case. The instant case pertains to records sought under the Nevada Public Records Act, including emails between Sheriff Lombardo and his campaign team.

6. Judge Escobar's voluntary recusal runs afoul of her duty to preside and the presumption of impartiality.

7. This writ petition is LVMPD's only remedy for relief as Judge Escobar's recusal order is not directly appealable.

8. I certify and affirm that the Petition for Writ of Prohibition is filed in good faith, and that the Petitioner, Las Vegas Metropolitan Police Department, has no plain, speedy, and adequate remedy in the ordinary course of law that the Petitioner, Las Vegas Metropolitan Police Department, could pursue in absence of the extraordinary relief requested.

Dated this 5th day of August, 2022.



Jackie V. Nichols, Esq.

## **CERTIFICATE OF COMPLIANCE**

1. I hereby certify that this brief 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 brief has been prepared in a proportionally spaced typeface using Microsoft Word 2007 in 14-point Times New Roman font.

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 21(d) because it is either:

☒ proportionally spaced, has a typeface of 14 points or more and contains 3,397 words; or

☐ does not exceed \_\_\_\_\_ pages.

3. Finally, I hereby certify that I have read this brief, 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 brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief 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. I understand that I may be subject to

sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 5th day of August, 2022.

MARQUIS AURBACH

By: /s/ Jackie V. Nichols  
Craig R. Anderson, Esq.  
Nevada Bar No. 6882  
Jackie V. Nichols, Esq.  
Nevada Bar No. 14246  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Petitioner Las Vegas  
Metropolitan Police Department

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **PETITION FOR WRIT OF PROHIBITION OR ALTERNATIVELY, MANDAMUS** was filed electronically with the Nevada Supreme Court on the 5th day of August, 2022. Electronic Service of the foregoing document shall be made in accordance with the Master Service List.

I further certify that due to the exigent nature of the accompanying Emergency Motion for Stay, that all parties received a copy via email as follows:

Honorable Maria Gall  
Eighth Judicial District Court Judge, Department 9  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155  
DC9Inbox@clarkcountycourts.us  
*Current Presiding Judge*

Honorable Adriana Escobar  
Eighth Judicial District Court Judge, Department 14  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155  
DC14Inbox@clarkcountycourts.us  
*Real Party in Interest*

Bradley S. Schrager, Esq.  
Daniel Bravo, Esq.  
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP  
3773 Howard Hughes Parkway, Suite 590 South  
Las Vegas, Nevada 89169  
bschrager@wrslawyers.com  
dbravo@wrslawyers.com  
*Attorneys for Plaintiff Due Diligence Group, LLC*

Jonathan Berkon, Esq. (*pro hac vice forthcoming*)  
Courtney Weisman, Esq. (*pro hac vice forthcoming*)  
Meaghan Mixon, Esq. (*pro hac vice forthcoming*)  
Maya Sequeira, Esq. (*pro hac vice forthcoming*)  
Elias Law Group LLP  
10 G St. NE Suite 600  
Washington, DC 20002  
jberkon@elias.law  
cweisman@elias.law  
mmixon@elias.law  
msequeira@elias.law  
*Attorneys for Plaintiff Due Diligence Group, LLC*

/s/ Leah A. Dell  
\_\_\_\_\_  
An employee of Marquis Aurbach