IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF: D.O.T. LITIGATION

CLARK NATURAL MEDICINAL SOLUTIONS LLC; NYE NATURAL MEDICINAL SOLUTIONS LLC; CLARK NMSD, LLC; INYO FINE CANNABIS DISPENSARY LLC; AND RURAL REMEDIES, LLC,
Appellants/Cross-Respondents,

v.

NEVADA ORGANIC REMEDIES LLC; WELLNESS CONNECTION OF NEVADA, LLC; THE STATE OF NEVADA DEPARTMENT OF TAXATION; AND CANNABIS COMPLIANCE BOARD,
Respondents,

and

DEEP ROOTS MEDICAL, LLC
Respondent/Cross-Appellant

Supreme Court Case No. 86151

District Court Case No. A787004

APPEAL FROM ORDER AWARDING COSTS

EIGHTH JUDICIAL DISTRICT COURT
STATE OF NEVADA, CLARK COUNTY
HONORABLE JOANNA S. KISHNER, DISTRICT JUDGE

*****

APPELLANTS' OPENING BRIEF

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IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF: D.O.T. LITIGATION CLARK NATURAL MEDICINAL SOLUTIONS LLC; NYE NATURAL MEDICINAL SOLUTIONS LLC; CLARK NMSD, LLC; INYO FINE CANNABIS DISPENSARY LLC; AND RURAL REMEDIES, LLC, Appellants/Cross-Respondents, v. NEVADA ORGANIC REMEDIES LLC; WELLNESS CONNECTION OF NEVADA, LLC; THE STATE OF NEVADA DEPARTMENT OF TAXATION; AND CANNABIS COMPLIANCE BOARD, Respondents, and DEEP ROOTS MEDICAL, LLC Respondent/Cross-Appellant	**Supreme Court Case No. 86151** District Court Case No. A787004

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. All parent corporations and publicly-held companies owning 10 percent or more of Appellant's stock: None.

2. Names of all law firms whose attorneys have appeared for Appellant (including proceedings in the district court) or are expected to appear in this court:

Bailey Kennedy

Luh & Associates

3. If litigant is using a pseudonym, the litigant's true name: None

DATED: January 11, 2024.

LUH & ASSOCIATES

/s/ Craig D. Slater

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I

JURISDICTIONAL STATEMENT

This is an appeal from post-judgment order awarding costs. 2A.App.422. The order is appealable. NRAP 3A(b)(1) and (8).

Notices of entry of the orders awarding costs were served on January 24, 2023 and February 7, 2023. 2A.App.383; 2A.App.406. A notice of appeal was filed on February 21, 2023. 2A.App.428.

II

ROUTING STATEMENT

This case should be retained by the Supreme Court because the appeal originates from the business court. NRAP 17(a)(9).

III

STATEMENT OF ISSUES

1. Whether the district court erred by denying granting Motion to Retax and Settle Costs, And Awarding Costs to DEEP ROOTS HARVES, INC. and WELLNESS CONNECTION OF NEVADA, LLC under NRS 18.020.

IV

STATEMENT OF CASE

Appellants (hereinafter referred to as "Plaintiffs") filed their complaint on January 4, 2019 (Clark County District Court Case No. A-19-787035-C).

1A.App.1. The Complaint sought judicial review of the State of Nevada, Department of Taxation (the "Department") denial of Plaintiffs' application for a recreational marijuana dispensary license. On January 11, 2019, Plaintiffs' case was consolidated with seven other cases involving similar allegations related to the Department's issuance of recreational marijuana dispensary licenses (Clark County District Court Case No. A-19-787004-B). Plaintiffs filed their First Amended Complaint on September 6, 2019. 1A.App.26. On March 13, 2020, the district court issued its Trial Protocol, creating a phased approach to conducting trials of all the consolidated claims. 1A.App.132. On June 23, 2020, the district court issued Amended Trial Protocol No. 1. 1A.App.149. On July 2, 2020, the district court issued Amended Trial Protocol No. 2. 1A.App.165. Amended Trial Protocol No. 2 was the operative order establishing the protocol for trial of the various phases.

On September 3, 2020, the trial court issued its Findings of Fact, Conclusions of Law and Permanent Injunction addressing the claims heard during Phase Two (claims for equal protection, due process, declaratory relief, intentional interference with prospective economic advantage, intentional interference with contractual relations, and permanent injunction). 1A.App.186. On September 16, 2020, the trial court issued its Findings of Fact, Conclusions of Law and Permanent Injunction addressing the claims of Phase Two (petitions for judicial

review). 1A.App.216.

Shortly after issuing her decisions in this matter, the Honorable Judge Elizabeth Gonzales retired from the bench. As a result, this massive case consisting of seven different consolidated cases involving a multitude of complex legal issues was transferred to the Honorable Judge Joanna Kishner. Judge Kishner was left with the unenviable task of certifying the results of Phases 1 and 2 as final, and addressing all the post-trial motions.

On August 4, 2022, the trial court entered an Order Granting Motion to Certify Trial Phases 1 and 2 As Final Under NRCP 54(b). 1A.App.228. Thereafter, the district court received numerous memorandums of costs filed by numerous entities (defendants) that successfully applied for and received recreational dispensary licenses. It is worth nothing that this is one of three appeals filed by Plaintiffs seeking identical relief from awards of costs.[1] It is also worth noting that several parties who recovered costs did not pursue costs against Plaintiffs. Presumably this was done in recognition of the arguments set forth herein – costs are not recoverable in a claim for judicial review.

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/ / /

[1] Nevada Supreme Court Case Nos. 86151, 86276, and 86771.

V

STATEMENT OF FACTS

A. Plaintiffs' Claims

Plaintiffs consist of four separate entities that submitted applications for recreational marijuana establishment licenses to the Department.1A.App.11. Plaintiffs, along with numerous other entities applied for the recreational marijuana establishment licenses in September of 2018. 1A.App.11. On December 5, 2018, the Department provided written notice to all applicants of the granting or denial of their application. 1A.App.12. Plaintiffs did not receive recreational marijuana establishment licenses and the licenses were issued to other applicants. 1A.App.12.

After receiving the denials, Plaintiffs discovered various discrepancies with the licensing and scoring process. Plaintiffs filed their Complaint on January 4, 2019. 1A.App.1. Plaintiffs filed their Amended Complaint on August 23, 2019. 1A.APP.26. The Amended Complaint alleged the following claims for relief: 1) Petition for Judicial Review; 2) Petition for Writ of Certiorari; 3) Petition for Writ of Mandamus; and 4) Petition for Writ of Prohibition. 1A.App.26.

Plaintiffs' claims were consolidated with seven other lawsuits from other unsuccessful applicants. It is worth pointing out that the parties to the other seven

consolidated lawsuits asserted numerous claims that were not asserted by Plaintiffs.

On June 23, 2020, the district court issued its Trial Protocol. 1A.App.132. Within the Order, the district court established three phases of trial. 1A.App.145. Each phase addressed various claims asserted by the parties to the consolidated action. Specifically, the district court established the following phases:

First Phase – Petitions for Judicial Review; 1A.App.145.

Second Phase – Legality of 2018 recreational marijuana application process (claims for Equal Protection, Due Process, Declaratory Relief, Intentional Interference with Prospective Advantage, Intentional Interference with Contractual Relations, and Permanent Injunction); 1A.App.146.

Third Phase – Writ of Mandamus. 1A.App.146.

The Trial Protocol established by the district court had the trial of Phase 2 occurring first. The Phase 2 trial began on July 17, 2020, and concluded on August 18, 2020. 1A.App.186. Thereafter, Phase 1 trial/hearing (Judicial Review) occurred on September 8, 2020. 1A.App.216.

Worthy of note is that the Trial Protocols expressly indicated that Plaintiffs would only participate in the First Phase – Petition for Judicial Review claims. 1A.App.145; 1A.App.161; 1A.App.177. This fact is evident by the express references to the "DH Flamingo Plaintiffs" when discussing the protocol for Phase

1. 1A.App.145; 1A.App.161; 1A.App.177. The references to the DH Flamingo Plaintiffs referred to the fact that Respondents were parties to the Complaint and Amended Complaints filed by the lead plaintiff – D.H. Flamingo. 1A.App.001; 1A.App.026. The reference to the DH Flamingo Plaintiffs is not found within the discussion of Phase 2 or Phase 3.

In September of 2020, the district court issued written decisions for Phase 1 and Phase 2 proceedings. 1A.App.186; 1A.App.165. With respect to Phase 1, the district court denied the claims for Judicial Review. 1A.App.227. With respect to the claims heard in Phase 2, the district court found in favor of the claimants on the declaratory relief claim and declared that the Department acted beyond its scope and authority when it arbitrarily and capriciously replaced mandatory requirements of Ballot Question No. 2. 1A.App.214. The district court also found that the claims for equal protection were granted in part on the same grounds. 1A.App.214. The district court denied all other Phase 2 claims. 1A.App.214.

On August 4, 2022, the district court entered an order certifying Trial Phases 1 and 2 as Final Under NRCP 54(b). 1A.App.228.

B. Award of Costs to Deep Roots Harvest

On August 8, 2022, Deep Roots Harvest filed its Memorandum of Costs seeking an award of the costs incurred. 2A.App.247. Thereafter, numerous parties filed motions to retax objecting to the costs sought by Deep Roots Harvest on

numerous grounds. Specifically, the following motions to retax and settle costs were filed:

1) High Sierra Holistics, LLC filed their Motion to Retax and Settle Costs re Deep Roots Harvest on August 11, 2022; 2.A.App.284.
2) TGIG Plaintiffs filed a Motion to Retax and Settle Costs on August 11, 2022; and 2.A.App.321.
3) Natural Medicine L.L.C. filed its Motion to Retax and Settle Costs Re Deep Roots Harvest on August 11, 2023. 2.A.App.349.

Plaintiffs filed a Joinder to the various Motions to Retax and specifically joined the arguments set forth in the aforementioned motions to retax. 2.A.App.379. Additionally, Plaintiffs Joinder reminded the trial court that Plaintiffs only asserted judicial review claims that were heard during the one-day hearing during Phase 2 and did not participate during the five-week trial of Phase 1. 2.A.App.379.

The district court conducted three hearings to address all the Motions to Retax and Settle Costs filed in response to the numerous parties seeking to recover costs. The first hearing on costs was conducted on September 16, 2022. 3.A.App.430. The second hearing on costs was conducted on October 21, 2022. 4.A.App.599. The third and final hearing on costs was conducted on December 19, 2022. 5.A.App.787; 6A.App.1028.

On January 24, 2023, the district court entered an Order Denying in Part And Granting In Part The TGIG Plaintiffs' Motion To Retax and Settle Costs, And Awarding Costs to Deep Roots Harvest, Inc. 2.A.App.393. The Notice of Entry was filed on the same day – January 24, 2023. 2.A.App.383. As a result, the district court denied the various Motion to Retax including the joinders thereto and the district court determined that Deep Roots Harvest was entitled to recover its costs of $33,125.29 against various non-prevailing litigants, including Plaintiffs. 2.A.App.392.

C. Award of Costs to Wellness Connection of Nevada

On August 9, 2022, Wellness Connection filed its Memorandum of Costs seeking an award of the costs incurred. 2A.App.250. Thereafter, numerous parties filed motions to retax objecting to the costs sought by Wellness Connection of Nevada on numerous grounds. Specifically, TGIG Plaintiffs filed a Motion to Retax and Settle Costs on August 11, 2022; and 2.A.App.342.

Plaintiffs filed a Joinder to the various Motions to Retax and specifically joined the arguments set forth in TGIG Plaintiff's Motion to Retax. 2.A.App.379. Additionally, Plaintiffs Joinder reminded the trial court that Plaintiffs only asserted judicial review claims that were heard during the one-day hearing during Phase 2 and did not participate during the five-week trial of Phase 1. 2.A.App.379.

On February 4, 2023, the district court entered an Order RE: TGIG Plaintiffs' Motion to Retax and Settle Costs and Joinders. 2.A.App.415. The Notice of Entry was filed on February 7, 2023. 2.A.App.406. As a result, the district court denied the various Motion to Retax including the joinders thereto and the district court determined that Wellness Connection of Nevada was entitled to recover its costs of $53,287.73 against the TGIG Plaintiffs, and the Joinder Plaintiffs, including Plaintiffs. 2.A.App.415.

VI

SUMMARY OF ARGUMENT

The district court erred when it awarded costs to Deep Roots Harvest and Wellness Connection of Nevada as the prevailing party against Plaintiffs. Plaintiffs only asserted claims for judicial review. Judicial Review claims are not one of the enumerated claims where costs are allowed to the prevailing party.

Second, the district court erred by awarding costs against Plaintiffs because none of the costs sought by Deep Roots Harvest and Wellness Connection of Nevada were incurred as part of the judicial review claims. A judicial review claim is limited to a review of the record from the administrative agency. In a judicial review claim, there is no discovery. As discussed below, the costs awarded to Deep Roots Harvest and Wellness Connection of Nevada related to the defense to the claims that were heard during Phase 2 (the trial). None of the costs

incurred by Deep Roots Harvest and Wellness Connection of Nevada were incurred as part of Phase 1.

Additionally, the district court erred by lumping Plaintiffs in with all other parties who asserted claims that were heard during Phase 2 (the trial). During the hearing on the various motions to retax, the district court ruled that because all the cases were consolidated, all the parties that participated in the consolidated action were responsible for costs incurred by the prevailing party irrespective of what claims for relief were asserted by a particular party. Put another way, the district court awarded costs for Phase 2 against Plaintiffs despite the fact that Plaintiffs did not assert any claim that was heard during Phase 2 and therefore did not participate during Phase 2.

VII

ARGUMENT

A. Standards of Review

Award of costs are generally reviewed for abuse of discretion. *Logan v. Abe*, 131 Nev. Adv. Op. 31, 350 P.3d 1139, 1144 (2015). However, decisions that implicate questions of law are reviewed *de novo*. *Thomas v. City of N. Las Vegas*, 122 Nev, 82, 90, 127 P.3d 1057, 1063 (2006). Statutory construction is also reviewed *de novo*. *Leven v. Frey*, 123 Nev. 399, 402, 168 P.3d, 765, 775 (2010).

B. The District Court Erred by Awarding Costs Against Plaintiffs.

1. Costs Are Not Recoverable In a Claim for Judicial Review.

In Nevada, costs of suit are only recoverable if they are authorized by statute or court rule. *Sun Realty v. Eighth Judicial Dist. Court In and For Clark County*, 91 Nev. 774, 776, 542 P.2d 1072, 1074 (1975). NRS 18.020 allows the prevailing party to receive its costs in the following five actions: (1) an action for the recovery of real property or a possessory right thereto; (2) an action to recover the possession of personal property valued more than $2,500; (3) an action to recover money or damages of more than $2,500; (4) a special proceeding; and (5) an action involving title or boundaries of real estate, the legality of any tax, assessment, toll, or municipal fine.

The plain and express language of NRS 18.020 does not allow for the recovery of costs in a judicial review claim. If the Legislature intended to allow costs for petitions for judicial review, the Legislature would have so expressly stated. *Smith v. Crown Financial Services of America*, 111 Nev. 277, 286, 890 P.2d 769, 775 (1995). Not only does the plain language of NRS 18.020 not reference petition for judicial review, but the legislature did not include more expansive phrases in the wording of the statute such as “including but not limited to” or “in other actions where the Court deems appropriate. Thus, the plain language of NRS 18.020 limits recovery of costs to only the five cases specified, and the district

court was required to follow the plain language of the statute. *See, Harris Associates v. Clark County Sch. Dist.*, 119 Nev. 638, 641-42, 81 P.3d 532, 534 (2003).

It is significant that the Legislature did not include petitions for judicial review in the types of cases for which a party may recover its costs. The Legislature is presumed to have knowledge of existing statutes related to the same subject, i.e., NRS Chapter 233B. *See, City of Boulder v. General Sales Drivers*, 101 Nev. 117, 119, 694 P.2d 498 (1985); *Ronnow v. City of Las Vegas*, 57 Nev. 332, 366, 65 P.2d 133 (1937).

Chapter 233B of the NRS does not classify a petition for judicial review as a special proceeding. NRS 233B.130 provides that judicial review in a district court is available to any party who is aggrieved by a final decision from an administrative proceeding in a contested case. An aggrieved party seeking review of a district court's decision on a petition for judicial review may appeal which "shall be taken as in other civil cases." NRS 233B.150. The express language of NRS Chapter 233B lacks any indication that a petition for judicial review is a special proceeding. Rather, it expressly indicates that a claim for judicial review is a "civil case."

NRS 233B.131 is the only section of Chapter 233B which addresses costs in that it allows a court to assess additional costs against a party unreasonably

refusing to limit the record to be transmitted to the reviewing court in for a petition for judicial review. NRS Chapter 233B contains no other mention of assessing costs against a party in a petition for judicial review and it doesn't mention or make reference to NRS Chapter 18.

NRS 18.020, which was enacted in 1911, has been amended six times since then, with the most recent amendment occurring in 1995 where it added to subsection 4 the following language "except a special proceeding conducted pursuant to NRS 306.040." 1995 Stat. of Nev., at 2794. By amending NRS 18.020 multiple times and not including petitions for judicial review as one of the type of cases for which costs may be awarded, the Court may presume that the Legislature intended only to include those types of cases specified in NRS 18.020. *See, Williams v. Clark County Dist. Attorney*, 118 Nev. 473, 487-88, 50 P.3d 536, 545 (2002) (Rose, J., concurring and dissenting in part) ("[W]e have often said that the legislature is presumed to know what it is doing and purposefully uses the specific language [it chooses].").

Here, the district court's orders regarding Deep Roots Harvest and Wellness Connection of Nevada's costs acknowledges that one of the arguments advanced was that costs are not recoverable in a claim for judicial review. 2A.App.391; 2.A.App.413. Specifically, the Wellness Connection order indicates that "the way in which Wellness Connection was named as a defendant in this action, and the

manner in which the various Plaintiffs' cases were consolidated and tried, do not preclude Wellness Connection from being considered a prevailing party against any Plaintiff." 2.A.App.413.

To add to the confusion, the district court's order regarding Wellness Connection states that Wellness Connection's "Memorandum of Costs and Disbursements does not seek costs relating to judicial review proceedings." 2.A.App.413. Despite this statement, the district court's order further provided that "IT IS FURTHER ORDERED that Wellness Connection is awarded costs against each Joinder Plaintiff from the date of Wellness Connection's filing of any answer to such Joinder Plaintiff's complaint."

Simply put, the language within the district court's order is at odds with itself. First the order states that no costs sought were part of the judicial review claim but then proceeds to award costs against the Plaintiffs, when the only claims asserted by Plaintiffs were judicial review claims.

There can be no doubt that the moving parties argued and apprised the trial court of their position that costs are not recoverable in a claim for judicial review. 2A.App.263; 2A.App.289; 2A.App.291; 2A.App.302; 2A.App.309; 2A.App.317; 2A.App.323-324; 2A.App.331; 2A.App.337-338; 2A.App.344-45; 2A.App.356; 2A.App.366; 2A.App.377; and 2A.App.380.

In sum, the district court erred when it awarded costs against Plaintiffs. As set forth above, costs are not recoverable in an action for judicial review. Moreover, a claim for judicial review does not entail any discovery. Because Plaintiffs only asserted claims for judicial review, the district court erred when it lumped Plaintiffs in with all the other parties who asserted claims that were heard during the Phase 2 trial and awarded the costs Essence incurred during discovery.

2. The Costs Awarded to Wellness Connection Were Incurred As Part of Phase 2, Not Phase 1.

The district court also erred by awarding costs against Plaintiffs because all the costs incurred by Wellness Connection were related to defending the claims heard during Phase 2. Put simply, the costs incurred by Deep Roots and Wellness Connection were incurred defending claims that were not asserted by Plaintiffs. Thus, it was improper for the district court to award costs against Plaintiffs. At a bare minimum, the district court should have separated out those costs that were incurred as part of the judicial review claims versus the other claims that were heard during Phase 2.

On August 9, 2022, Wellness Connection filed its Memorandum of Costs. 2A.App.250. In the Memorandum, Wellness Connection sought to recover a total of $55,301.48 in costs. 2A.App.250-52. That sum was comprised of the following:

1) Filing Fees - $1,490.00;

2) Westlaw Legal Research - $12,856.35;

3) Photocopies - $312.00;

4) Deposition and Transcript Fees - $31,885.17;

5) Messenger Services - $1,165.92;

6) Parking - $120.00; and

7) Witness Fees - $235.00.

It is critically important to keep in mind that a claim for judicial review is limited to a review of the administrative agency's record. In that regard, there is no discovery, no trial, or anything other than a hearing. In this matter, the trial court conducted a single hearing on the judicial review claims on September 8, 2020. 1A.App.216. Thereafter, the district court rendered its Findings of Fact and Conclusions of Law. 1A.App.216. The district court's decision clearly indicates that the record consisted of the Record on Review and the Supplement to Record on Review and that the record was provided by the State of Nevada Department of Taxation. 1A.App.220. This demonstrates that there was no need for Wellness Connection to incur the vast majority of the costs sought within Wellness Connection's Memorandum of Costs. For example, no depositions were conducted as part of the judicial review claim. Despite this, the district court awarded deposition costs of more than $31,000 against Plaintiffs. 2.A.App.414.

As a result of the district court's ruling, Wellness Connection recovered each of the categories of costs identified above against Plaintiffs. 2A.App.414.

3. The Costs Awarded to Deep Roots Harvest Were Incurred As Part of Phase 2, Not Phase 1.

On August 8, 2022, Deep Roots Harvest filed its Memorandum of Costs. 2A.App.247. In the Memorandum, Deep Roots Harves sought to recover a total of $44,250.67 in costs. 2A.App.247-48. That sum was comprised of the following:

1) Clerk's Fees - $1102.49;

2) Reporter's Fees - $16,553.45;

3) Expert Witness Fees - $235;

4) Photocopies - $4,718.00;

5) Long distance phone - $292.43;

6) Postage - $106.63;

7) Travel & Lodging - $13,355.24

8) Miscellaneous Fees - $1,339.28;

9) Computerized legal research - $1,472.93; and

10) Trial technology services - $5,075.22.

Clearly the vast majority of costs sought by Deep Roots Harvest related to the Phase 2 trial, not the judicial review hearing. For example, no depositions (reporters fees) were conducted, there was no need for travel and lodging for the

one day hearing, and there was no need for trial technology services. Unfortunately, each of these costs were awarded against Plaintiffs despite the fact that Plaintiffs did not participate in the Phase 2 trial.

Even assuming for arguments sake that costs are recoverable in an action for judicial review, the district court erred by not undertaking any analysis to determine what costs, if any, were related to the judicial review claims (Phase 1) as opposed to the costs incurred in the Phase 2 trial. Because Plaintiffs did not assert any of the claims that were heard during Phase 2, it was necessary for the district court to determine what costs were incurred during Phase 1 and Phase 2. Here, the district court's orders awarding costs to Wellness Connection and Deep Roots Harvest results in costs awarded against Plaintiffs for claims that Plaintiffs did not assert.

During the hearings on this matter, counsel for Plaintiffs specifically requested that the district court make a determination as to which costs were incurred during Phase 1 versus Phase 2 and explained why such a finding was necessary. 3A.App.536-43;4A.App.662-55; 5A.App.846-63. Ultimately, the district court declined to engage in such an analysis and instead found that because this action was consolidated, all the non-prevailing parties were in the same position. 5A.App.863.

VIII

CONCLUSION

Accordingly, the award of costs to Wellness Connection of Nevada and Deep Roots Harves against Plaintiffs should be vacated. Alternatively, the issue should be remanded to the district court for a determination of what costs were incurred as part of the judicial review claims (Phase 1) versus what costs were incurred as part of the Phase 2 trial.

DATED: January 11, 2024.

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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 MS Word in 14 point Times New Roman type style.

2. This brief complies with the type-volume limitation in NRAP 32(a)(7)(A)(ii) [14,000 words].

3. Finally, I hereby certify that I have read this appellate 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 appropriate references to 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: January 11, 2024

LUH & ASSOCIATES

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CERTIFICATE OF SERVICE

I certify that I am an employee of Luh & Associates, and that on this date, I served a true copy of the foregoing document to be served via the Court's electronic filing and service system ("E-Flex") to all parties on the current service list:

Aaron Ford
Kiel Ireland
L. Rose
Clarence Gamble
David Koch
Brody Wight
Karson Bright
Heidi Parry Stern

Dated this 11th day of January, 2024.

/s/ Victoria Grant
Victoria Grant