

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

2
3 SUSAN REEVES

4 Appellant,

5 vs.

6 DIVISION OF INDUSTRIAL
7 RELATIONS, and DEPARTMENT OF
8 ADMINISTRATION, APPEALS
9 OFFICER, and Agency of the State of
10 Nevada,

11 Respondents.

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Supreme Court Case No.: 62468
District Court Case No.: A-11-644791-J

(Request for Oral Argument)

12 **RESPONDENT'S ANSWERING BRIEF**

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I.

NRAP 26.1 DISCLOSURE

IN THE SUPREME COURT OF THE STATE OF NEVADA

SUSAN REEVES

Appellant,

vs.

DIVISION OF INDUSTRIAL
RELATIONS, an Agency of the State
of Nevada, and DEPARTMENT OF
ADMINISTRATION, APPEALS
OFFICER, an Agency of the State of
Nevada

Respondents.

Supreme Court Case No.: 62468

District Court Case No.: A-11-644791-J

The undersigned counsel of record certifies that the following are persons and entities described in NRAP 26.1(1), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Respondent, CANNON COCHRAN MANAGEMENT SERVICES, INC.
[CCMSI], has no parent company or publicly companies that own 10% or more of Appellee's stock.

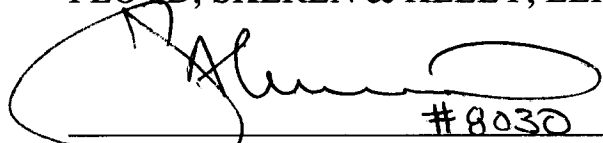
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2 underlying administrative hearings and District Court action, and is expected to appear
3 in this court:
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IV.
JURISDICTIONAL STATEMENT

This Court's appellate jurisdiction in this matter is based on NRS 233B.150, which permits any aggrieved party to obtain a review of any final judgment of the District Court by appeal to the Supreme Court. *See* NRS 233B.150 (2013). Furthermore, this appeal is from a final order of the District Court dated 12/24/12 denying the Appellant's petition for Judicial Review, and the Notice of Appeal was filed Court on 01/15/13. *See* Appellant's Trial Court Record ("TCR"), Volume 5 at 1182-1183, 1185-1186.¹

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V.
STATEMENT OF THE ISSUES

1. Whether the District Court correctly denied the Appellant's Petition for Judicial Review after finding the Appeals Officer's Decision dated 06/15/11 was supported by substantial evidence and without error of law or abuse of discretion in affirming DIR's determination letters dated 07/22/10 and 10/01/10, respectively?

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¹ Pursuant to the Court's Order Directing Compliance with NRAP 9 and Setting Briefing Schedule dated 12/23/13 permitting citation to the trial court record, and the Appellant's electing to cite to the trial court record, the Appellee also elects to cite to the trial court record on file for consistency.

VI.
STATEMENT OF THE CASE

Appellant Susan Reeves (hereinafter referred to as “REEVES”) seeks review of the District Court’s Order dated December 24, 2012 denying her Petition for Judicial Review regarding the June 15, 2011 Decision and Order by Appeals Officer Shirley Lindsey denying her request for a benefit penalty related to alleged untimely temporary total disability (TTD) payments. Bally’s Grand Hotel & Casino (hereinafter “BALLY’S”), the employer, and Cannon Cochran Management Services, Inc. (hereinafter “CCMSI”) (collectively referred to as “Respondents”), defended the underlying action.

REEVES’ Opening Brief and subsequent Supplement to Appellant’s Previously Filed 3/14/13 Proper Person Appeal Statement advances an argument that there are substantive factual errors and conclusions of law made by Appeals Officer Lindsey’s Decision and Order under Nevada Supreme Court Case No. 62981. However, these alleged errors are not before this Court under the instant appeal, Case No. 62468. The only issue before the Court under this appeal is whether the Appeals Officer had substantial evidence in regards to her Order affirming Respondent, Nevada Division of Industrial Relations’ (hereinafter referred to as “DIR”) findings that there were no violations of NRS 616D.120 benefit penalty provision as it relates to TTD.

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1 In the instant appeal, the majority of the Appellant's Opening brief and
2 supplemental brief basically re-argues alleged errors raised in her other appeal,
3 Nevada Supreme Court Case No. 62981 as noted above. The Appellant's Opening
4 Brief is simply a plea for this honorable Supreme Court to re-weigh the specific
5 factual evidence in a different case number to use in the instant appeal, which has
6 already been construed by the original trier of fact, Appeals Officer Lindsey, that
7 supports Respondent CCMSI's position that a benefit penalty was unwarranted.
8

9
10 Here, the findings, conclusions of law, and decision of the Appeals Officer
11 were neither arbitrary nor capricious and were not in abuse of her discretion. As
12 explained more fully below, the Appeals Officer made a determination which was
13 consistent with the controlling statutory law and factual evidence in the underlying
14 administrative pleadings. Because the Appeals Officer's determination is consistent
15 with Nevada law and the facts of the underlying appeal, REEVES' Petition for
16 Judicial Review was properly denied by the District Court, and this Honorable Court
17 must affirm the District Court and Appeals Officer Decisions and Orders dated
18 December 24, 2012 and June 15, 2011, respectively.
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VII.
STATEMENT OF FACTS

On or about 09/25/88, REEVES, a restroom clerk for BALLY'S, suffered an occupational injury or disease during the course and scope of her employment. *See* Trial Court Record ("TCR"), Volume 2, at pg. 345. According to the C-4, REEVES was involved in a motor vehicle accident while in BALLY'S parking lot. *See id.* BALLY'S subsequently completed a C-3 which similarly described the incident. *See id* at pg. 346. A C-1 was also completed. *See id* at pg. 347. REEVES apparently suffered head and neck pain as a result of this incident. *See id* at pp. 346-347.

The claim was eventually accepted after lengthy litigation. *See id* at pp. 395-396. This case has progressed through many appeals, most of which are irrelevant to the current issue on appeal. The current appeal is regarding two of REEVES' underlying consolidated administrative appeals, the facts of which will now be outlined separately below. *See id*, Volume 1, at pp. 183-184.

Appeal No. 78016-SL

On or about 06/01/10, REEVES filed a complaint with the Nevada Division of Industrial Relations (hereinafter referred to as "DIR"). *See id*, Volume 2, at pp. 420-421. In the complaint, REEVES alleged that (1) she was not timely paid TTD benefits, (2) she was not given proper medical care, and (3) she requested that she be awarded a benefit penalty. *See id.*

...

1 After carefully reviewing REEVES' file and completing a thorough
2 investigation into the matter, DIR determined that there were no violations of NRS
3 616D.120, and thus, REEVES was not entitled to a benefit penalty. *See id* at pg. 413.
4 REEVES subsequently filed an appeal of that determination on 08/10/10. *See id* at
5 pp. 415-422.
6

7
8 **Appeal No. 80334-SL**

9 On or about 09/11/10, the REEVES filed another complaint with DIR, in which
10 she alleged that her claim was not properly closed. *See id*, Volume 1, at pp. 203-204.
11 On 09/20/10, in response to the REEVES' allegations of possible violations, the
12 Respondent CCMSI wrote correspondence to DIR and supplied a brief chronology
13 regarding the closing of REEVES' claim. *See id* at pp. 207 and 216.
14
15

16 After carefully reviewing the Claimant's file, DIR responded to REEVES in
17 correspondence dated 10/01/10. *See id* at pp. 217-218. In said correspondence, DIR
18 noted that the issue regarding claim closure had previously been before the Hearing
19 Officer and the Appeals Officer and was, at that time, pending before the Nevada
20 District Court. *See id*. As such, DIR informed REEVES that it did not have the
21 authority to modify or negate a determination by a Hearing Officer, Appeals Officer,
22 or court of competent jurisdiction. *See id*. Although the 10/01/10 DIR letter
23 contained no appeal rights as it was purely informational, REEVES nevertheless filed
24 an appeal of that determination on 10/19/10. *See id* at pg. 218.
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1 The parties subsequently agreed to consolidate the matters. *See id* at pp. 171-
2 172. The hearing concerning the consolidated matters was held before Appeals
3 Officer Shirley Lindsey on 04/13/11. *See id* at pp. 15-85. Testimonial evidence was
4 not obtained at the hearing as the majority of the two hour hearing was spent
5 discussing and identifying what were the specific issues of the appeal. *See id*.
6

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8 Following the hearing with the Appeals Officer, the parties were asked to file
9 any appropriate motions prior to the next hearing. *See id* at pg. 78, lines 7-11.
10 Accordingly, DIR filed its dispositive motion, a Motion to Dismiss, or in the
11 Alternative for Summary Judgment, and Respondent, CCMSI, joined in said filing.
12 *See id* at pp. 159-170. The Claimant opposed said Motion. *See id* at pp. 124-128.
13

14 Subsequently, in an Order dated 06/15/11, the Appeals Officer granted the
15 Motion for Summary Judgment and affirmed DIR's determination letters dated
16 07/22/10 and 10/01/10. *See id* at pp. 110-112. The Appeals Officer found when
17 "[v]iewing the evidence in a light most favorable to [REEVES], there is no factual
18 basis to support a finding that the administrator delayed in paying [REEVES] the TTD
19 in this claim." *See id*. REEVES subsequently filed a Petition for Judicial Review on
20 07/12/11. *See id* at pp. 1-3. On 01/04/12, REEVES filed her Opening Brief in
21 support of judicial review. *See id*, Volume 5, at pp. 1120-1142.
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1 On 01/30/12, the Respondent, CCMSI, filed its Reply to REEVES' Opening
2 Brief, following which the Respondent, DIR subsequently joined and filed its Notice
3 of Joinder to Respondent CCMSI's "Reply" to REEVES' Opening Brief. *See id* at pp.
4 1143-1168. The District Court denied REEVES' request for petition for judicial
5 review. *See id* at pp. 1177-1181. Subsequently, REEVES filed her appeal to the
6 Nevada Supreme Court. The Respondent, CCMSI, now submits this Answering
7 Brief.
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11 **VIII.**
SUMMARY OF THE ARGUMENT

12 There was no error of law or abuse of discretion on the part of the Appeals
13 Officer with respect to the granting an order for summary judgment as there were no
14 dispute as to the facts of the case. DIR investigated REEVES' administrative
15 complaint and found no violation because no TTD was owed; hence, no benefit
16 penalty to be levied. Subsequently, REEVES appealed to Appeals Office. The
17 Appeals Officer weighed the evidence before her and affirmed DIR's determination.
18
19

20 Although both this Honorable Court and the District Court may decide pure
21 legal questions without deference to an agency determination, an agency's conclusions
22 of law which are closely related to the agency's view of the facts are entitled to
23 deference and should not be disturbed if they are supported by substantial evidence.
24 This case and the Appeals Officer's decision turned on her determination regarding
25 factual conclusions, and as such, those determinations must be given deference.
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Despite REEVES' arguments as presented in her Opening Brief, the findings and decision of the Appeals Officer were supported by substantial evidence which could never be properly characterized as an abuse of the Appeals Officer's discretion. The Appeals Officer's conclusions were consistent with the evidence presented and the applicable law governing the case. Accordingly, this Court should not disturb the Appeals Officer's determination, and must affirm the District Court's denial of REEVES' Petition for Judicial Review.

IX. STANDARD OF REVIEW

This court's role in reviewing an administrative decision is identical to that of the district court. *See Titanium Metals Corp. v. Clark County*, 99 Nev. 397, 399, 663 P.2d 355, 357 (1983). A reviewing court shall not substitute its judgment for that of the agency in regard to questions of fact. *See* NRS 233B.135(3). The standard of review is whether the agency's decision was clearly erroneous or an arbitrary abuse of discretion. *See* NRS 233B.135(3)(e) and (f); *Collett Electric v. Dubovik*, 112 Nev. 193, 196, 911 P.2d 1192, 1195 (1996). The decision of the agency will be affirmed if substantial evidence exists to support it. *See SIIS v. Swinney*, 103 Nev. 17, 20, 731 P.2d 359, 361 (1987). The Nevada Administrative Procedure Act, as contained in NRS 233B, outlines the standard for review to be used when conducting a judicial review of a final decision of an agency. NRS 233B.135 states, in relevant part, the following:

1 1. Judicial review of a final decision of an agency must be:

2 (a) Conducted by the court without a jury; and

3 (b) Confined to the record.

4
5 In cases concerning alleged irregularities in procedure before an agency that are
6 not shown in the record, the court may receive evidence concerning the irregularities.

7
8 2. The final decision of the agency shall be deemed reasonable and lawful until
9 reversed or set aside in whole or in part by the court. The burden of proof is on the
10 party attacking or resisting the decision to show that the final decision is invalid
11 pursuant to subsection 3.

12
13 3. The court shall not substitute its judgment for that of the agency as to the
14 weight of evidence on a question of fact. The court may remand or affirm the final
15 decision or set it aside in whole or in part if substantial rights of the petitioner have
16 been prejudiced because the final decision of the agency is:

17 (a) In violation of constitutional or statutory provisions;

18 (b) In excess of the statutory authority of the agency;

19 (c) Made upon unlawful procedure;

20 (d) Affected by other error of law;

21 (e) Clearly erroneous in view of the reliable, probative and substantial evidence
22 on the whole record; or

23 (f) Arbitrary or capricious or characterized by abuse of discretion.

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28 *See* NRS 233B.135.

1 In reviewing of a petition for relief from an administrative decision, the District
2 Court may not disturb the decision of an Appeals Officer unless the decision was
3 clearly erroneous or constituted an abuse of discretion. *See Nevada Indus. Comm'n v.*
4 *Reese*, 93 Nev. 115, 560 P.2d 1352 (1977). With specific regard to factual
5 determinations, the decision of the Appeals Officer, as the initial trier of fact, are
6 conclusive so long as they are supported by evidence which a reasonable mind would
7 consider to be sufficient to support the Appeal Officer's conclusion. *See Nevada*
8 *Indus. Comm'n v. Williams*, 91 Nev. 686, 541 P.2d 905 (1975). The court may not
9 substitute its own judgment as to the weight of evidence, but rather is limited to
10 determining whether the Appeals Officer's determination was arbitrary or capricious.
11 *See McCracken v. Fancy*, 98 Nev. 30, 639 P.2d 255 (1982).

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X.
ARGUMENT

The District Court correctly denied the Appellant's Petition for Judicial Review after finding the Appeals Officer's Decision was without error of law or abuse of discretion.

First, REEVES cites to inapplicable law regarding the standard for deciding administrative appeals under Nevada workers' compensation law. *See REEVES' Supplemental Brief at pg. 18, Southwest Gas Corp. v. Woods*, 108 Nev. 11, 14-15, 823 P.2d 288, 290 (Nev. 1992). REEVES avers that the Nevada workers' compensation statutes must be construed broadly and liberally in favor of the injured worker. *See id.*

...

1 However, the Nevada Legislature removed this common law interpretation in
2 1993. *See* NRS 616A.010 (2013) (emphasis added). Further, despite REEVES'
3 assertions to the contrary, NRS 616A.010 provides that the workers compensation
4 statute must not be interpreted "broadly or liberally in favor of an injured or disabled
5 employee." *See* NRS 616A.010(4) (2013). Indeed, NRS 616A.010(2) provides in
6 relevant part that:
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9 **NRS 616A.010 Legislative declarations: Statutory construction; repudiation of**
10 **common law; basis of provisions; balanced interpretation required.** The
11 Legislature hereby determines and declares that:

12 1. The provisions of chapters 616A to 617, inclusive, of NRS must
13 be interpreted and construed to ensure the quick and efficient payment of
14 compensation to employees who are injured or disabled at a reasonable
15 cost to the employers who are subject to the provisions of those chapters;

16 2. A claim for compensation filed pursuant to the provisions of chapters
17 616A to 616D, inclusive, or chapter 617 of NRS **must be decided on its**
18 **merit and not according to the principle of common law that**
requires statutes governing workers' compensation to be liberally
construed because they are remedial in nature;

19 3. The provisions of chapters 616A to 617, inclusive, of NRS are
20 based on a **renunciation of the rights and defenses of employers and**
21 **employees recognized at common law; and**

22 4. For the accomplishment of these purposes, the provisions of
23 chapters 616A to 617, inclusive, of NRS **must not be interpreted or**
24 **construed broadly or liberally in favor of an employee who is injured**
25 **or disabled or the dependents of the employee, or in such a manner**
26 **as to favor the rights and interests of an employer over the rights and**
interests of an employee who is injured or disabled or his or her
dependents.

27 (Added to NRS by 1993, 660)—(Substituted in revision for NRS
28 616.012)

See NRS 616A.010 (emphasis added).

1 The findings and decision of the Appeals Officer in this matter were not
2 arbitrary or capricious and were not in abuse of the Appeals Officer's discretion. As
3 explained more fully below, the Appeals Officer made a determination which was
4 consistent with the controlling statutory law, as well as the overwhelming evidence
5 presented. As such, the case law cited by REEVES, *supra*, should be disregarded.
6

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8 Also, despite REEVES' assertion regarding the jurisdiction of the department of
9 administration, the Appeals Officer was well within her jurisdiction under NRS 616
10 and 617 to review the merits of REEVES' complaints to DIR because REEVES had
11 appealed a DIR determination to the Appeals Officer. Moreover, the consolidation of
12 the REEVES' appeals had no negative affect on the outcome of her appeal, and as
13 such, her objection to the consolidation is rendered moot. Because the Appeals
14 Officer's determination is consistent with Nevada law, the denial of REEVES'
15
16 Petition for Judicial Review must be denied.
17

18 **A. The Appeals Officer's Granting of the Motion for Summary Judgment**
19 **Was Not in Error or An Abuse of Discretion**

20 The Appeals Officer did not act outside of her discretion by affirming DIR's
21 determinations of 07/22/10 and 10/01/10. Summary judgment is appropriate where
22 there is no genuine issue of material fact which could potentially resolve the matter in
23 the non-moving party's favor. *See Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121
24 P.3d 1026, 1029 (2005).
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1 In accordance with *Wood*, summary judgment is not precluded on the basis that
2 there is the “slightest doubt as to the operative facts.” *See id.* Rather, the non-moving
3 party “must, by affidavit or otherwise, set forth specific facts demonstrating the
4 existence of a genuine factual issue.” *See id.* The non-moving party is not permitted
5 to rely upon general allegations and conclusions, nor to rely “on the gossamer threads
6 of whimsy, speculation and conjecture.” *See id.* citing *Pegasus v. Reno Newspapers,*
7 *Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002).

10 In this case, the Appeals Officer appropriately granted DIR’s Motion for Summary
11 Judgment because there was no genuine issue of material fact presented. In other
12 words, there was “no factual basis to support a finding that the administrator delayed
13 in paying the REEVES TTD.” *See* TCR, Volume 1, at pp. 110-111. Therefore, there
14 was no violation of NRS 616D.120, no benefit penalty, and no abuse of discretion.

17 **B. There Was No Violation of NRS 616D.120 Because The Administrator Had**
18 **Not Delayed In Paying REEVES TTD Benefits, and Therefore, No Benefit**
19 **Penalty Was Warranted.**

20 Under the facts of this case, REEVES’ complaint regarding unpaid TTD benefits
21 under the underlying administrative Appeal No. 78016-SL did not justify a benefit
22 penalty. Under NRS 616D.120, a benefit penalty is awarded to a claimant in cases
23 where an insurer, third party administrator, etc. has engaged in conduct as described in
24 NRS 616D.120(1)(a-e)(h-i). However, despite REEVES’ assertions to the contrary,
25 this type of conduct did not occur in this case. Thus, a benefit penalty was not
26 warranted.
27
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1 In her complaint to DIR, REEVES alleged that Respondent CCMSI, the third party
2 administrator for Bally's at the time of the REEVESs injury, violated NRS 616D.120
3 by failing to pay her TTD benefits in accordance with the Appeals Officer's 12/01/03
4 Decision and Order. *See id*, Volume 1 at pp. 197-201. However, the Appeals
5 Officer's 12/01/03 Decision and Order simply reversed claim closure. *See id*, Volume
6 2 at pp. 375-378. Importantly, said Decision and Order did not order TTD benefits.
7
8 *See id*.

10 After the 12/01/03 Decision and Order, REEVES' attorney requested TTD benefits
11 in correspondence dated 01/21/04. *See id* at pp. 393-394. In response to her request,
12 pursuant to NRS 616C.475, the Respondent CCMSI requested REEVES provide a
13 certification of disability from her physician for the time period in which she had
14 requested TTD benefits. *See id* at pg. 406, and NRS 616C.475. Because REEVES
15 never provided said certificates, the Respondent CCMSI correctly did not pay the
16 requested TTD benefits. The Respondent CCMSI's determination not to pay TTD
17 benefits was thereafter appealed by REEVES, and was affirmed by the Hearing
18 Officer, the Appeals Officer, the District Court, and is now pending before the Nevada
19 Supreme Court under Case No. 62981. *See id* at pp. 379-383.

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1 Despite this procedural status, upon receipt of REEVES' complaint, DIR
2 undertook the investigation of the REEVES' complaint. *See id* at pp. 441-442. In
3 completing its investigation, DIR sent a letter to CCMSI requesting its response to the
4 alleged NRS 616D.120 violation. *See id*. Respondent CCMSI provided the requested
5 response on 06/29/10. *See id* at pg. 444. After DIR completed its investigation, it
6 issued a determination letter dated 07/22/10 to REEVES outlining its findings of fact,
7 and concluding that there had been no violation of NRS 616D.120. *See id* at pp. 445-
8 448. Specifically, DIR indicated, as stated above, that the issue of TTD benefits had
9 been affirmed by the Hearing Officer and Appeals Officer, and at that time, was
10 before the District Court. *See id*. Thus, DIR informed the REEVES that no benefit
11 penalty was warranted.

12 In regards to this issue, REEVES' claims regarding collaboration or collusion
13 between the Respondent CCMSI and DIR are completely without merit. To assert
14 that DIR's request for a response to the alleged violation from the Respondent CCMSI
15 illustrates collaboration or collusion is absurd. As part of its investigation into
16 complaints, DIR obtains statements from the complainant and the accused party, as
17 well as reviewing the evidence, in order to come to a determination. This is proper
18 investigation procedure.

19 ...

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1 Based on the facts of this case and DIR's investigation, it is clear that there was no
2 misconduct supporting the imposition of a benefit penalty. Hence, the Appeals
3 Officer appropriately granted DIR's Motion for Summary Judgment because there
4 was "no factual basis to support a finding that the administrator delayed in paying the
5 REEVES TTD." *See id*, Volume 1 at pp. 110-111.
6

7
8 **C. REEVES' Appeal of DIR's 10/01/10 Letter Was Improper Because Said**
9 **Letter Contained No Appeal Rights and Was Purely Informative**

10 DIR's 10/01/10 letter to REEVES was for information purposes only, and did not
11 carry with it any appeal rights. Therefore, summary judgment regarding this appeal
12 was appropriate. On 02/28/10, REEVES wrote a letter to DIR requesting assistance in
13 gathering certain communications from her insurer. *See id*, Volume 2 at pg. 248.
14

15 In letters dated 04/26/10 and 10/01/10, DIR explained to REEVES that it had
16 investigated her 02/28/10 request and had determined that Respondent CCMSI had
17 provided REEVES with all the requested information. *See id* at pp. 246-247; 249-
18 250. The 10/01/10 correspondence, like the 04/26/10 letter, merely restated the
19 various complaints that REEVES had made regarding the handling of her claim and
20 explained that these issues had previously been dealt with under administrative
21 Appeal 78016-SL by the Appeals Officer. *See id*.
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1 Because this letter was purely information only, there was no appeal rights
2 afforded thereto. Thus, REEVES' complaint and appeal regarding this 10/01/10
3 information letter was improper and was appropriately dismissed pursuant to the
4 Motion for Summary Judgment. *See id*, Volume 1 at pp. 110-111.
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7 **XI.**
8 **CONCLUSION**

9 The Appellant has failed to demonstrate, in any substantive way, that the
10 Appeals Officer's determination was clearly erroneous or an abuse of discretion. As
11 there were no dispute as to the material facts of this matter related TTD, DIR's
12 investigation into REEVES' complaint was appropriately and properly completed, and
13 its conclusion that no violations had occurred was, therefore, proper. Further, DIR's
14 10/01/10 letter to REEVES was for information purposes only, and did not carry with
15 it any appeal rights. Therefore, summary judgment regarding the REEVES' appeals
16 was appropriate. Hence, the Appeals Officer's Order Granting Motion for Summary
17 Judgment is in no way either capricious or inequitable, and in fact, represented an
18 appropriate exercise of her statutory duty.
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Wherefore, Respondents, CCMSI, respectfully requests that the Supreme Court of Nevada provide the following relief:

1. That the Nevada Supreme Court AFFIRM the District Court's denial of REEVES' Petition for Judicial Review dated 12/24/12, and AFFIRM the Appeals Officer's Order Granting Summary Judgment dated 06/15/11.
2. That the Nevada Supreme Court deny REEVES' request for a stay of this Decision.

Dated this 21st day of July, 2014.

FLOYD, SKEREN & KELLY LLP

[Signature]
#8030

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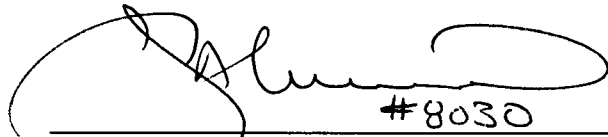
XII.
CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(1)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief been prepared in a proportionally spaced typeface using Microsoft Word in Time New Roman 14 point font. I further certify that this brief complies with the type-volume limitations of NRAP 32(a)(7) because, excluding parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionally spaced, has a typeface of 14 points, and contains 4,776 words.

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 N.R.A.P. 28(e), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page 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.

1 Dated this 21st day of July, 2014.

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XII.
CERTIFICATE OF SERVICE

The undersigned, an employee of Floyd, Skeren & Kelly, LLP hereby certifies that on the 21st day of July, 2014, a true and correct copy of **RESPONDENTS' ANSWERING BRIEF** was served on the party set forth below by Notice of Electronic Filing via the CM/ECF system as maintained by the Court Clerk's Office as follows:

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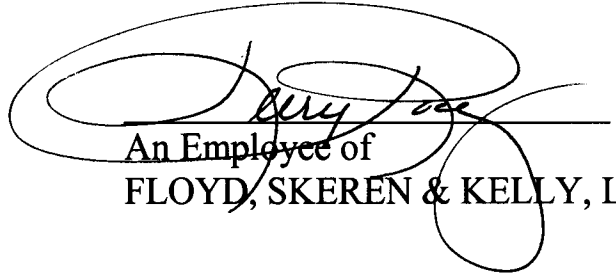
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