

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

SCENIC NEVADA, INC.,
Appellant,
vs.
CITY OF RENO, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,
Respondent.

No. 65364

DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

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

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

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

1. Judicial District Second Department 7
County Washoe Judge Hon. Patrick Flanagan
District Ct. Case No. CV12-02863

2. Attorney filing this docketing statement:

Attorney Mark Wray Telephone 775-348-8877

Firm Law Offices of Mark Wray

Address 608 Lander Street
Reno, Nevada 89509

Client(s) Scenic Nevada, Inc.

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

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

Attorney Jonathan Shipman Telephone 775-334-2050

Firm Reno City Attorney's Office

Address One E. First Street, 3rd Floor
Reno, Nevada 89505

Client(s) City of Reno

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

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

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

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

- Child Custody
- Venue
- Termination of parental rights

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

None

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

None

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

Complaint by Scenic Nevada, Inc. for declaratory relief to invalidate the City of Reno's digital billboard ordinance. Judgment entered for City of Reno.

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

Please see attached.

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

None

QUESTION 9. ISSUES ON APPEAL

1. If the voters adopt a municipal ballot initiative, can it be immediately repealed by the city council?
 2. Do the initiative powers reserved to the voters of each municipality under Article 19, §4 of the Nevada Constitution include the power to adopt an ordinance that cannot be amended, annulled, repealed, set aside or suspended by the city council for at least three years?
 3. As to a ballot initiative adopted by the citizens of Reno that states: "The construction of new off-premises advertising displays/billboards is prohibited, and the City of Reno may not issue permits for their construction," did the district court err in interpreting the initiative to be merely a cap on the total number of billboards, such that the City of Reno can allow construction of billboards and issue permits for their construction, so long as the total number of billboards in the city limits does not exceed the number of billboards in existence at the time the initiative was adopted?
 4. Did the district court err in holding that the digital billboard ordinance adopted by the Reno city council did not violate the Highway Beautification Act, 23 U.S.C. §131, and the implementing Federal State Agreement, statutes, and regulations?
 5. Did the district court err in holding that the digital billboard ordinance does not violate provisions of the Reno sign code prohibiting construction of billboards and prohibiting intermittent lighting?
-

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

N/A

Yes

No

If not, explain:

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

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

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

A substantial issue of first impression

An issue of public policy

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

A ballot question

If so, explain: The case concerns a ballot initiative passed by Reno voters in 2000 banning billboards. The constitutional issue and policy issue of first impression is whether the Nevada Constitution allows a city council to repeal or annul a municipal initiative immediately after it is adopted by the voters.

13. Trial. If this action proceeded to trial, how many days did the trial last? 1

Was it a bench or jury trial? Bench

14. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of written judgment or order appealed from Mar 27, 2014

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

16. Date written notice of entry of judgment or order was served Mar 28, 2014

Was service by:

Delivery

Mail/electronic/fax

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

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

NRCP 50(b) Date of filing _____

NRCP 52(b) Date of filing _____

NRCP 59 Date of filing _____

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

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

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

Was service by:

Delivery

Mail

18. Date notice of appeal filed Mar 28, 2014

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

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

NRAP 4(a)(1)

SUBSTANTIVE APPEALABILITY

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

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:
NRAP 3A(b)(1): This appeal arises out of a final judgment entered in an action or proceeding commenced in the court in which the judgment is entered. Specifically, a judgment arising from a bench trial.

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

(a) Parties:

Scenic Nevada, Inc.
Saunders Outdoor Advertising, Inc.
City of Reno

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

Saunders Outdoor Advertising, Inc. did not appeal from the judgment against it.

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

Scenic Nevada, Inc.: declaratory relief
Saunders Outdoor Advertising, Inc.: declaratory relief

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

Yes

No

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

Yes

No

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

Yes

No

25. If you answered "No" to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

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

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

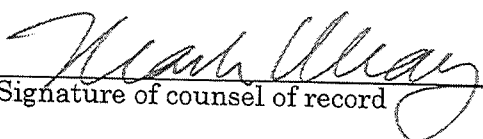
VERIFICATION

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

Scenic Nevada, Inc.
Name of appellant

Mark Wray
Name of counsel of record

April 18, 2014
Date


Signature of counsel of record

Nevada, Washoe
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 18th day of April, 2014, I served a copy of this completed docketing statement upon all counsel of record:

- By personally serving it upon him/her; or
- By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Jonathan Shipman
Reno City Attorney's Office
One E. First Street, 3rd Floor
P.O. Box 1900
Reno, Nevada 89505

Janet Chubb
Supreme Court Settlement Judge
Armstrong Teasdale LLP
50 W. Liberty Street, #950
Reno, Nevada 89501

Dated this 18th day of April, 2014


Signature