NO. 73675

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE EIGHTH JUDICIAL DISTRICT COURT of the State of Nevada, in and for the County of Clark, and THE HONORABLE MATHEW HARTER, District Judge (*in his elected capacity*),	No.
Petitioner,	District Court No.: D-12-469416-C
vs.	
THE EIGHTH JUDICIAL DISTRICT COURT of the State of Nevada, in and for the County of Clark, and THE HONORABLE LISA BROWN, District Judge, and THE EIGHTH JUDICIAL DISTRICT COURT of the State of Nevada, in and for the County of Clark, and THE HONORABLE ELIZABETH GONZALEZ, Chief District Judge,	
Respondents,	
And	
MARY JOHANNA RASMUSSEN, JULIE L. HAMMER and GONZALO GALINDO,	
Real Parties in Interest.	

PETITION FOR WRIT OF MANDAMUS AND/OR PROHIBITION

JUDGE MATHEW HARTER
601 N. Pecos Road
Las Vegas, Nevada 89155
Telephone: (702) 455-1330
Petitioner *pro se*

17-26232

NRAP 26.1 DISCLOSURE

The undersigned Petitioner *pro se* certifies that there are no persons and entities as described in NRAP 26.1(a) that must be disclosed because the undersigned Petitioner has no parent corporation and no shareholders. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

DATED this 3rd day of August, 2017.

JUDGE MATHEW HARTER
601 N. Pecos Road
Las Vegas, Nevada 89155
Telephone: (702) 455-1330
Petitioner *pro se*

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I. ROUTING STATEMENT

Pursuant to NRAP17(a)(1), NRAP 17(a)(8), and NRAP 21(a)(1), this matter is presumptively retained by the Supreme Court because it invokes the original jurisdiction of this Court seeking a writ of mandamus or prohibition for matters not presumptively assigned to the Court of Appeals, and this matter involves a dispute within a branch of government.

II. THE ISSUES PRESENTED

1) Whether Judge Brown's self-disqualification was proper?

2) Whether Chief Judge Gonzalez's upholding of Judge Brown's disqualification was proper?

III. THE FACTS NECESSARY TO UNDERSTAND THE ISSUES PRESENTED

Petitioner[1] would like to begin by indicating that he has nothing but the utmost respect for both Respondent judges involved in this case. Petitioner has no personal animus toward either judge and genuinely respects both personally and as colleagues. As Petitioner stated to them directly before initiating this petition, hopefully the judiciary (especially in areas without consensus, such as this) can respectfully agree

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[1] "A Judge may act *pro se* in all legal matters, including matters involving litigation and matters involving appearance before or other dealings with governmental bodies." Cod. Jud. Cond. 3.10, *Commentary [1]*.

to disagree on the interpretation of this Honorable Court's decisions without animus or fear of repercussion. Although no judge wants to see his or her name in the caption of *any* legal pleading, this petition is *not* personal. Petitioner simply believes that this issue begs for guidance and pleads for direction from this Honorable Court. ***This exact issue was recently discussed and debated ad nauseam*** at the annual conference of Family Court judges in Bishop, California this past March. In sum, many judges continue to believe that this area is vague and that there is no bright-line answer. To say that the attendees of the conference were fractured on this issue would be an understatement. Despite this Honorable Court's past holdings, the resultant effect of "***judicial pinball***" referenced in *City of Las Vegas Downtown Redevelopment Agency v. Eighth Judicial Dist. Court ex rel. Cty. of Clark*, 116 Nev. 640, 5 P.3d 1059 (2000) (*hereinafter* "*CLVDRA*") unfortunately continues to date; especially with cases that are *extremely litigious, complex in nature, and/or have a potential for negative publicity.* Each judge receives his or her own fair share of these type of cases as *all* cases are randomly assigned. However, when judges are allowed to self-disqualify[2] from these particular types of cases without meeting the appropriate legal standard (an *objective* showing of *extreme bias*), the resultant effect

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[2] *Disqualification* by oneself (*self-disqualification*) and "voluntary recusal" are synonymous terms, used interchangeably in the rules and by this Honorable Court in decisions.

is that their judicial colleagues end up with a disproportionate, *unfair* share of these exhausting cases. Therefore, it is hoped this petition will influence beyond this case at hand; this matter just happens to fall within the parameters and scope needing guidance from this Honorable Court as this is *"an important issue of law which needs clarification and public policy is served."*[3]

This Honorable Court may recall this particular case since it was just recently remanded to Judge Brown on June 27, 2017, and the issue on remand is unique: "to determine whether a child can have three legal parents under Nevada law." (AP[4] 0003). It is noted that this matter involving the Real Parties at Interest has had 2 other appellate cases before this Honorable Court (case numbers: 66890 and 70647), 7 other internally linked cases in Clark County dating back to 2001 (*e.g.*, Temporary Restraining Order cases, a child support case, *etc.*) and at least 1 case filed in Nye County (case # CV-0035024). The entire past history of all these cases is unnecessary for the *limited* purposes of this petition. The simple reason for noting all of the other cases is that Petitioner believes that this case matter falls within the

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[3] *Paley v. Second Jud. Dist. Ct.*, 129 Nev. ___, ___, 310 P.3d 590, 592 (2013).

[4] "*Petitioner's Appendix.*" In the following statement of facts and argument, references to the relevant parts of the record will be in the form PA XX, where "PA" represents Petitioner's Appendix and "XX" represents the page number(s) within Petitioner's Appendix upon which the relied matter may be found.

category of the cases noted above (extremely litigious, complex in nature and/or has a potential of negative publicity). The *extremely litigious* factor in this case is *further* epitomized by the fact that, as of the date of filing of this petition, there have been *at least* 3 subsequent pending motions filed since the case was re-assigned to Petitioner.

As far as the recent history at issue, as directed by this Honorable Court, Judge Brown set the matter for the evidentiary hearing on July 11, 2017. After the lunch recess, Judge Brown went on the record and stated her basis for self-disqualification. (AP 0005-0015). The matter was then randomly reassigned to Petitioner on July 12, 2017. (AP 0019). On this same date, Petitioner then entered an Order *in the alternative* that either Judge Brown reassume the case for the reasons stated in the Order, or that the issue of her self-disqualification be submitted to Chief Judge Gonzalez for consideration. (AP 0021-0023). On July 13, 2017 Chief Judge Gonzalez entered a Minute Order that upheld Judge Brown's self-disqualification and the case(s)[5] were sent back to Petitioner. (AP 0024-0026).

Petitioner is admittedly a novice in the area of filing petitions for writs. In fact, Petitioner originally believed that a signed, written Order was necessary to proceed. A proposed Order based on Chief Judge Gonzalez's aforementioned Minute Order

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[5] Pursuant to local rule EDCR 5.103 (often referred to the *"One Family One Judge Rule"*), Petitioner will also receive *all* of the aforementioned cases linked to this one.

at issue was drafted and submitted for signature, but it was declined (likely because she is a far more seasoned judge and *knew* that it was unnecessary). *See CLVDRA* at 645 (Judge Denton's "minute order" of self-disqualification was the subject of the writ). On July 17, 2017 Chief Judge Gonzalez then issued a brief, signed Order citing the local rules regarding case assignments and noted that Petitioner did not hold the position of either Chief or Presiding Judge. (AP 0027). This petition was then filed.

IV. THE REASONS WHY THE WRIT SHOULD ISSUE

A. Extraordinary Relief is Needed Because Petitioner Is Without An Adequate Remedy At Law

> A writ of mandamus is available to compel the performance of an act that the law requires as a duty resulting from an office, trust, or station or to control an arbitrary or capricious exercise of discretion. But the writ generally will not issue if the petitioner has a plain, speedy, and adequate remedy in the ordinary course of law.. . . This court may exercise that discretion where an important issue of law needs clarification and public policy is served by this court's invocation of its original jurisdiction.

Paley, 310 P.3d at 592 (*internal citations omitted*).

In *CLVDRA*, when this Honorable Court was determining whether Judge Denton's self-disqualification was appropriate, it noted that "a writ of mandamus is more appropriate because the petitioner seeks to control a district court's actions after an alleged manifest abuse of discretion." *CLVDRA* at FN1. Petitioner will defer to

this Honorable Court if another type of writ (*e.g.*, prohibition[6], quo warranto[7], *etc.*) is a more applicable method as all 3 types of these writs have been discussed within the line of cases discussing a judge's self-disqualification. "A party is not bound by the label he puts on his papers." *NC DSH, Inc. v. Garner*, 125 Nev. 647, 651, 218 P.3d 853 (2009); *see also CLVDRA* at FN1 (noting that Petitioners in that case also petitioned for a writ of prohibition, but this Honorable Court believed that a writ of mandamus "was more appropriate").

B. The *Appropriate* Legal Standard

As noted above, the district court judiciary seems to be split on the requisite standard for self-disqualification from a case. Petitioner opines that the unfortunate source of the confusion by the judiciary is this Honorable Court's holdings in *Millen v. Eighth Judicial Dist. ex rel. Cnty. of Clark*, 122 Nev. 1245, 1253, 148 P.3d 694

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[6] *Ham v. Eighth Judicial Dist. Court*, 93 Nev. 409, 412, 566 P.2d 420 (1977) (held that a writ of prohibition is an appropriate avenue ***to challenge a district court's self-disqualification*** from a case) (*emphasis added*).

[7] "Quo warranto is appropriate to remedy an act by which a person usurps, intrudes into, or unlawfully holds or exercises, a public office." *Halverson v. Hardcastle*, 123 Nev. 245, 257, 163 P.3d 428 (2007) (noting that FN27 contains the following propositions of law: "*Nevada courts possess inherent powers of equity and of control over the exercise of their jurisdiction*; ***control necessarily vested in courts 'to police' themselves and administer the judicial process in an orderly and effective manner***.") (*internal citations omitted*) (*emphasis added*).

(2006). As it is one of the later substantive decisions by this Honorable Court in this area, the generally stated view amongst colleagues is that *it* is the controlling law. Admittedly, *Millen* provides 2 seemingly juxtaposed holdings. First, "a judge has a general ***duty to sit***, unless a judicial canon, statute, or rule requires the judge's disqualification." *Millen* at 1253. Second, *Millen* later states that the "['Disqualification' Canon][8] provides a ***subjective basis for disqualification*** in that only the judge can determine whether he or she has a personal bias or prejudice toward litigants or their counsel or possesses personal knowledge about the case." *Millen* at 1254. Being a *subjective* test, no one can truly know a person's inner most feelings. It is this *second* basis upon which many in the judiciary erroneously believe *they themselves* can simply self-disqualify from a case at anytime they begin to *feel* biased or *become* prejudiced. Petitioner's colleagues who take this position initially overlook that the *Millen* case was factually about effectuating and maintaining an adequate recusal list of attorneys; a prophylactic process whereby a

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[8] The "NCJC Canon 3E(1)(a)" noted in *Millen* was repealed on January 19, 2010 and replaced by the *Revised Nevada Code of Judicial Conduct* Rule 2.11(A)(1) ("A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including [when 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."); *compare* NRS 1.230(3) ("A judge, upon the judge's own motion, may disqualify himself or herself from acting in any matter upon the ground of actual or implied bias.")

conflict is avoided far before a case is even filed, ***not*** subsequently when new grounds arise during a particular case.[9] Admittedly, a judge is not telepathic and cannot know he or she was assigned a case wherein he or she personally knows "a party" (*e.g.* a best friend, neighbor, *etc.*) or "facts that are in dispute" (*e.g.*, could be a witness in the case) until they receive the case assignment. Accordingly, the *party/facts known beforehand exception* should be recognizable shortly after receiving the case assignment. Petitioner submits that the *subjective* standard selectively plucked from *Millen* was meant to be *limited* to when a judge is preemptively deciding whether to place a particular attorney on his or her recusal list or the *party/facts known beforehand exception* arises. It does ***not*** apply to *any* of the other areas of self-disqualification which may derive from this Honorable Court's holdings.

In fact, Footnote 14 in *Millen* cites to *CLVDRA* along with a line of other cases, including one that states: "[T]he judge has an obligation, part of his sworn duty as a judge, to hear and decide cases properly brought before him. **He is not at liberty, nor does he have the right, to take himself out of a case and burden another judge with his responsibility without good and legal cause**." (*emphasis added*).

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[9] For those in the judiciary that believe this prejudice or bias can miraculously arise amidst proceedings, Appellant invites them to review again the facts in the decision in *Ainsworth v. Combined Ins. Co. of Am.*, 105 Nev. 237, 774 P.2d 1003 (1989) to remind themselves of the shocking behavior contained therein and that this Honorable Court held it still did *not* warrant disqualification.

CLVDRA stated: "Further, a judge is presumed to be impartial[10], and the party asserting a challenge [*including* a judge themself] carries the burden of establishing sufficient factual and legal grounds warranting disqualification." *CLVDRA* at 643. Judge Denton in his self-disqualification in *CLVDRA* attempted to assert the same 2 *tired* grounds that so many judges continue to utilize: "(1) the proceeding was one in which the judge's ***impartiality might reasonably be questioned*** under [Rule 2.11(A)(1)]; and (2) his participation ***might create an appearance of impropriety*** under NCJC Canon 2." *Id.*

This Honorable Court in *CLVDRA* (in addressing the second ground first, *"might create an appearance of impropriety"*) cited to *"Hecht I"* (*City of Las Vegas Downtown Redevelopment Agency v. Hecht*, 113 Nev. 632, 940 P.2d 127 (1997)) and noted that it had previously held "'that NCJC Canon 2 in and of itself ***does <u>not</u> serve as grounds for disqualification*** . . . [but instead] the specific disqualification provisions of [Rule 2.11(A)(1)], and subsequent case law applying these provisions, should control over the broader statement of Canon 2.'" *CLVDRA* at 644 (*quoting Hecht I* at 650). On this particular issue, *The Standing Committee on Judicial Ethics* continues to follow this Honorable Court's direction: "While the Committee

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[10] "Impartial" and *unbiased* (*biased* or *prejudiced* is used in negative contexts) are also synonymous terms, used interchangeably by this Honorable Court in its decisions.

recognizes that other jurisdictions have interpreted ***impartiality provisions more broadly***, the Nevada Supreme Court has consistently upheld the ***rule of necessity*** and ***duty to sit*** absent a showing of ***[extreme] bias***."[11]

Regarding the first ground noted above in *CLVDRA* (*impartiality might reasonably be questioned*), this Honorable Court held: "***[W]hether a judge's impartiality can reasonably be questioned is an objective question*** that this court reviews as a question of law ***using its independent judgment of the undisputed facts***." *CLVDRA* at 644. Ultimately, this Honorable Court in *CLVDRA* found that Judge Denton's basis for recusal was inadequate, the petitioner's writ of mandamus was granted, and the case was ordered back to him. *CLVDRA* at 645.

Therefore, the standard applied in self-disqualification is an *objective* standard, *not subjective,* as many in the judiciary misapply *Millen*. This objective test is *not* new. "The standard for assessing judicial bias is ***whether a reasonable person, knowing all the facts, would harbor reasonable doubts about [a judge's]***

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[11] NV Std. Comm. Jud. Eth., JE16-004, p. 2. It was further noted that "a judge must always be vigilant in monitoring whether he or she can remain impartial under *Hecht [1]*, but unless disqualification is **required** under Rule 2.11 or statute, a judge should fulfill his or her duty to preside over matters duly assigned." *Id.* at 3 (*emphasis added*) (noting further that *Millen*, which was issued 10 years prior, was notably not cited anywhere within the opinion). Petitioner is keenly aware that decisions by *The Standing Committee on Judicial Ethics* are non-binding on this Honorable Court.

impartiality [via extreme bias]." *In re Varain*, 114 Nev. 1271, 1278, 969 P.2d 305 (1998); *see also People for Ethical Treatment of Animals v. Bobby Berosini, Ltd., 111 Nev. 431, 437–38, 894 P.2d 337 (1995).*

Judge Brown also alleged a third scenario to argue for her self-disqualification. She claimed that she had ***become biased*** during the trial as to one of the party's credibility since Mr. Galindo had changed his mind on an issue (regarding whether he wanted to proceed in the case, which is discussed more in depth, *infra*). This Court in *Matter of Dunleavy*, 104 Nev. 784, 789–90, 769 P.2d 1271 (1988) held that:

> Moreover, rulings and actions of a judge during the course of official judicial proceedings ***do not*** establish legally cognizable grounds for disqualification. **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*.'** To permit an allegation of bias, partially founded upon **a justice's performance of his constitutionally mandated responsibilities, *to disqualify that justice from discharging those duties would nullify the court's authority and permit manipulation of justice, as well as the court.*** (*emphasis added*) (*internal citations omitted*).

C. Judge Brown's Voluntary Recusal Was Improper

This Court will do as this Honorable Court did in *CLVDRA* and start with the final basis first. Judge Brown used the fact "specifically, that [Mr. Galindo] did not want to be involved in this case anymore" as a ground for disqualification. (AP 0010, lines 21-22). This was also apparently stated to Judge Brown by Mr. Galindo's

attorney at the sidebar (discussed *infra*). However, Ms. Rasmussen's attorney noted that this fact was previously testified to by Mr. Galindo under oath on the record and acknowledged by Judge Brown:

> MR. JONES: But Mr. Galindo verified under oath that he had said to his attorney that he was having doubts about going forward.
>
> THE COURT: Mm-hm. [Video record confirms that this is clearly a positive/confirming response by Judge Brown.][12]
>
> MR. JONES: SO we know that what the attorney represented to the Court was true, even though Mr. Galindo then changed his mind. So there isn't an unringing of the bell because he acknowledged the conversation took place.

(AP 0011, lines 6-13). As cited in *Dunleavy* (*supra*), Judge Brown cannot use information that she was apprised of by a party/witness during his testimony on the record during the trial to then later use it as a basis to disqualify herself. The fact that Mr. Galindo's co-party "had no idea" . . . "that [***their***] attorney said those things" (AP 0010, lines 19-21), which was simply reiterated information previously testified to later at a sidebar, is *completely irrelevant* just as Ms. Rasmussen's attorney advocated. A party's credibility is *always at issue* during a trial.[13]

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[12] A computer file of the video (*Jefferson Audio Visual System* ("*JAVS*")) can be emailed to this Honorable Court's staff within minutes of being requested.

[13] *Ainsworth,* 105 Nev. at 258 ("[I]t is a **judge's job** to make credibility determinations, and when he does so, he does *not* thereby become subject, legitimately, to charges of bias.) (*emphasis added*).

As to Judge's Brown's second basis, *transparency/fairness*, Petitioner is unsure exactly what this basis is in reference to and what legal/ethical basis it is founded upon. Judge Brown stated "I need to be transparent." (AP 0009, line 18). Later, "I have to make sure that I'm *fair*[14] and transparent with the – all the parties." (AP 0012, lines 17-18). "[A] judge is *presumed* to be impartial and the party asserting a challenge[15] ***carries the burden of establishing sufficient factual and legal grounds warranting disqualification.***" *CLVDRA* at 643 (*emphasis added*). The term *transparency* itself is simply a "hot-button," term-of-art when referencing governmental entities, but is *not* specifically found within the *Code of Judicial Conduct*. Regardless, Judge Brown met with both attorneys (so there was no *ex parte* conversation) and disclosed all of her knowledge, basis, and reasoning on the record. (AP 0005-0015).

As far as the notation of "the conflict issue," (AP 0010, line 22), all that Ms. Hammer *ever* requested of Judge Brown was simply a continuance "so that we can go seek out counsel that's gonna represent both of us" (meaning her and Mr. Galindo)." (AP 0007, lines 12-14). Under NCJC 2.11(C) Judge Brown on this

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[14] Which is synonymous with *impartial*. Judge Brown simply uses *fair* more frequently than *impartial* when setting forth her basis for recusal.

[15] Which in this case is *the judge* (Judge Brown), just like Judge Denton in *CLVDRA*.

particular issue could have asked "the parties and their lawyers to consider . . . whether to waive disqualification." This was not offered. Regardless, the transparency/fairness and "conflict issue" were submitted and used *without* sufficient facts to back them up. *See CLVDRA* at 643 (sufficient *factual* **and** *legal* grounds are needed for proper disqualification).

Finally, as for the *main* issue (the legal bases were set forth in detail, *supra*), Judge Brown in her disqualification uttered the magical phrase: "I wanna avoid any appearance of impropriety." (AP 0012, line 9). As discussed at length an *objective* standard must be applied, so the query then becomes ***whether a reasonable person, knowing all the facts, would harbor reasonable doubts about*** **[Judge Brown's]** ***impartiality*** **[*due to her extreme bias*]**. *See Varain* at 1278. Petitioner submits that the answer is *clearly* "no" given the underlying record. How can a judge after hearing facts which were testified to during trial, then claim she needs to *avoid the appearance of impropriety* because they happen to be uttered again by her counsel at a sidebar with or without Ms. Hammer's knowledge?

Finally, although Judge Brown stated that she agreed to the sidebar because "I didn't want to have anything off the record." (AP 0009, lines 1-2), the sidebar was off the record. This was clearly a misstatement. This particular colleague applauds Judge Brown's honesty despite the misstatement. At the end of the record, Judge

Brown states "hopefully I've done the right thing." (AP 0014, line 23-24). However, this *does* clearly speak to her uncertainty whether her disqualification was proper.

Just as Judge Denton unsuccessfully attempted to prove in *CLVDRA*, it was Judge Brown's burden of proof to show that her disqualification was *necessary*. It is submitted that the record is unfortunately *clear* that she failed to meet the legal burden.

D. Chief Judge Gonzalez's Review and Remand Was Improper

As previously noted, Chief Judge Gonzalez issued a Minute Order (AP 0024-26) *and* a subsequent non-substantive Order (AP 0027). As for the non-substantive Order, Petitioner acknowledges that he is not a Presiding or Chief Judge. Petitioner is of the impression that Chief Judge Gonzalez believed that Petitioner was attempting to usurp her powers. This was *never* the case nor intent. Petitioner will readily admit its Order (AP 0021-0023) was done in haste, but it was *meant* to be drafted *in the alternative*. The purpose of this Order was to give Judge Brown a chance of resuming the case after setting forth brief legal reasoning, and if not, *then* the matter was to be set before Chief Judge Gonzalez. (AP 0023, lines 17-19). Obviously, Judge Brown did not resume the case and Chief Judge Gonzalez then reviewed the matter.

As far as Chief Judge Gonzalez's Minute Order (AP 0024-0026), Petitioner

appreciates the initial praise that the Order was "well-written." (AP 0024). Chief Judge Gonzalez in her Minute Order clearly quotes Judge Brown's court minutes[16] (AP 0016-0018), quoting the portion that states: "To avoid the appearance of impropriety and implied bias, this Court hereby DISQUALIFIES ITSELF and ORDERS the matter REASSIGNED at random." (AP 0024-0025).

As for Chief Judge Gonzalez's substantive input on this issue, she states that "the recusing judge believes she can remain on the case is one that is left to the judgment of that judge especially in a case where the matter is raised *sua sponte* by the judge as opposed to a party." (AP 0025). Thus, this quantifies the dilemma amongst the judiciary discussed at the outset. Chief Judge Gonzalez is unambiguously of the school of thought that if/whenever a judge ever *subjectively* proclaims that her or she needs to *avoid the appearance of impropriety* and/or *implied bias,* the matter is then automatically reassigned. Given this belief, Chief Judge Gonzalez would have issue with this Honorable Court's remand of the *CLVDRA* case back to Judge Denton.

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[16] Although it is a common practice to designate court minutes specifically as a "minute order," Judge Brown did *not* do this as Chief Judge Gonzalez did. *Compare and contrast* (AP 0016-0018) to (AP 0024-0026).

V. THE RELIEF SOUGHT

In summation, momentarily disregard the *rule of necessity,* the *duty to sit* and the *required* showing of *extreme bias* which if discarded create the *"judicial pinball"* effect that results in delay to both parties and their counsel. *Equally effected* are colleagues that *unfairly* receive and quietly retain such cases simply because *they* take their *duty to sit* seriously. *See* FN11, *supra.* Petitioner re-submits that self-disqualifications by nature become further *suspect* if they occur when a case happens to fall within the aforementioned categories of *extremely litigious, complex in nature, and/or has a potential of negative publicity.* Petitioner will close with comments made by Ms. Rassmussen's attorney: "I'm not suggesting, Judge, that this was done intentionally, although the history of this case would indicate that argument of . . . such nature would be absolutely appropriate on my part." (AP 0010, lines 6-9).

Petitioner respectfully requests that this Honorable Court find that the reassignment of this case to Petitioner via Judge Brown's self-disqualification was in error. If possible, Petitioner respectfully requests this Honorable Court further clarify its position in this area of law and/or set forth an *independent objective process* whereby the ongoing "*judicial pinball*" effect is eliminated once and for all.

Finally, Petitioner *respectfully* reminds this Honorable Court that pursuant to NRAP 21(b)(3), it can "invite an *amicus curiae* to address the petition."

VERIFICATION / NRAP 28.2 CERTIFICATE

STATE OF NEVADA)
) : SS
COUNTY OF CLARK)

Petitioner, JUDGE MATHEW HARTER, being duly sworn, deposes and states:

1. That I am the Petitioner in this action, I am over the age of 18 years, and I am competent to testify to the matters contained herein.

2. I hereby certify/verify that this Petition 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 Petition has been prepared in a proportionally spaced typeface using *WordPerfect X8* in Times New Roman 14 point font.

3. I further certify/verify that this Petition complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the Petition exempted by NRAP 32(a)(7)(C), it is proportionally spaced, has a typeface of 14 points or more, and does not exceed 30 pages.

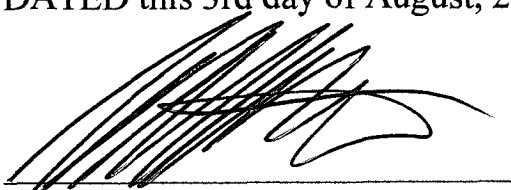
4. Finally, I hereby certify/verify that I have read this Petition and, to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this Petition complies with all applicable

Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the Petition 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 if the accompanying Petition is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

5. I am submitting this Certificate/Verification pursuant to NRS 34.170, NRS 34.330 and NRAP 21(a)(5).

6. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

DATED this 3rd day of August, 2017.



JUDGE MATHEW HARTER
601 N. Pecos Road
Las Vegas, Nevada 89155
Telephone: (702) 455-1330
Petitioner *pro se*

CERTIFICATE OF SERVICE

The undersigned, an employee of Petitioner JUDGE MATHEW HARTER (*in his elected capacity*), hereby certifies that on the 3rd day of August, 2017, caused the foregoing PETITION FOR WRIT OF MANDAMUS AND/OR PROHIBITION, to be served by depositing in the United States mail, with first class postage affixed thereto, and addressed to the following:

Chief Judge Elizabeth Gonzalez
District Court Judge, Department 11
200 Lewis Avenue
Las Vegas, Nevada 89101

Judge Lisa Brown
District Court Judge, Department T
601 N. Pecos Road
Las Vegas, Nevada 89155

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Lynn Conant, Esq.
3320 E. Sunrise #111
Las Vegas, Nevada 89101

DATED this 3rd day of August, 2017.

Mark Fernandez,
An employee of Petitioner,
JUDGE MATHEW HARTER
(*in his elected capacity*)

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
FAMILY COURTS & SERVICES CENTER
601 NORTH PECOS ROAD
LAS VEGAS, NEVADA 89101-2408

August 03, 2017

MATHEW HARTER
DISTRICT JUDGE

DEPARTMENT N
(702) 455-1330
FAX: (702) 455-1888

Nevada Supreme Court
Clerk's Office
201 S. Carson Street
Carson City, Nevada 89701

To Whom It May Concern,

Enclosed is a Petition for Writ of Mandamus and/or Prohibition, as well as the Appendix, which the Honorable Mathew P. Harter requests be filed with the Nevada Supreme Court. I was informed by Elizabeth Brown that Judge Harter's filing fees would be waived since he is acting in his official capacity. Please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Mark Fernandez
Judicial Executive Assistant
Honorable Mathew P. Harter