

SUPREME COURT OF NEVADA

The Legislature of the State of Nevada v. Settlemeyer

Settlemeyer, 2021 NV 21 (Nev. 2021) · No. 81924 · Decided May 13, 2021

SUMMARY

The Nevada Supreme Court considered an appeal and cross-appeal involving constitutional challenges to Nevada Senate Bills 542 and 551. The en banc court issued an authored opinion on May 13, 2021, and affirmed the lower court’s judgment.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Chief Justice Hardesty; Justice Parraguirre; Justice Stiglich; Justice Cadish; Justice Silver; Justice Pickering; Justice Herndon
JURISDICTION	Nevada
DECIDED	May 13, 2021
DOCKET	81924
DISPOSITION	affirmed
PROCEDURAL POSTURE	Civil appeal and cross-appeal from the First Judicial District Court of Nevada concerning constitutional challenges to Senate Bills 542 and 551.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion
PARTIES	The Legislature of the State of Nevada, The State of Nevada Department of Motor Vehicles, The State of Nevada Department of Taxation, Nicole J. Cannizzaro, Kate Marshall, Claire J. Clift, Steve Sisolak v. James A. Settlemeyer, Ben Kieckhefer, Goodfellow Corporation, Great Basin Engineering Contractors, LLC, Heidi Seevers Gansert, Ira D. Hansen, Joe Hardy, Keith F. Pickard, Keystone Corp., Kimmie Candy Company, National Federation of Independent Business, Nevada Franchised Auto Dealers Association, Nevada Trucking Association, Inc., Pete Goicoechea, Retail Association of Nevada, Scott T. Hammond

TOPICS

- constitutional law
- appellate procedure
- statutory interpretation

PRACTICE AREAS

constitutional law

appellate procedure

statutory interpretation

FACTUAL BACKGROUND

The appeal involved a dispute concerning the constitutionality of Nevada Senate Bills 542 and 551. The Legislature, state departments, and several state officials participated as appellants or cross-respondents, while James A. Settelmeyer and other legislators, business entities, and associations participated as respondents or cross-appellants. The available source identifies the disposition as an affirmance but does not provide the opinion's substantive factual findings.

PROCEDURAL HISTORY

The Legislature of the State of Nevada and state agencies appealed from proceedings in the First Judicial District Court in Carson City, and the opposing parties filed a cross-appeal. The Nevada Supreme Court considered a jurisdictional order to show cause, reinstated merits briefing, heard oral argument before the en banc court on May 3, 2021, and filed an opinion affirming on May 13, 2021. Remittitur issued June 7, 2021, and the case was closed.

DISPOSITION

affirmed

OPINION

PER CURIAM.

81924: Case View Nevada Appellate Courts Appellate Case Management System C-Track, the browser based CMS for Appellate Courts Case Search Participant Search Cases Case Search Participant Search 21-13709: This document is currently unavailable. If you need a copy of this document, please contact Clerk's Office at (775)684-1600. Disclaimer: The information and documents available here should not be relied upon as an official record of action.Only filed documents can be viewed.

Some documents received in a case may not be available for viewing. Some documents originating from a lower court, including records and appendices, may not be available for viewing. For official records, please contact the Clerk of the Supreme Court of Nevada at (775) 684-1600. Case Information: 81924 Short Caption: LEG. OF THE STATE OF NEV. VS. SETTELMEYER Court: Supreme Court Related Case(s): 80313, 83597 Lower Court Case(s): Carson City - First Judicial District - 19OC001271B Classification: Civil Appeal - General - Other Disqualifications: Case Status: Remittitur Issued/Case Closed Replacement: Panel Assigned: En Banc To SP/Judge: SP Status: Exempt Oral Argument: 05/03/2021 at 1:30 PM Oral Argument Location: Carson City Submission Date: 05/03/2021 How Submitted: After Oral Argument + Party

Information Role	Party Name	Represented By	Appellant/Cross-Respondent
	Claire J. Clift	Kevin C. Powers (Legislative Counsel Bureau Legal Division)	Appellant/Cross-Respondent
	Kate Marshall	Aaron D. Ford (Attorney General/Carson City)	Appellant/Cross-Respondent
	Craig A. Newby (Attorney General/Carson City)	Nicole J. Cannizzaro	Appellant/Cross-Respondent
	Kevin C. Powers (Legislative Counsel Bureau Legal Division)	Steve Sisolak	Appellant/Cross-Respondent
	Aaron D. Ford (Attorney General/Carson City)	Craig A. Newby (Attorney General/Carson City)	Appellant/Cross-Respondent
	The Legislature of the State of Nevada	Kevin C. Powers (Legislative Counsel Bureau Legal Division)	Appellant/Cross-Respondent
	The State of Nevada Department of Motor Vehicles	Aaron D. Ford (Attorney General/Carson City)	Appellant/Cross-Respondent
	Craig A. Newby (Attorney General/Carson City)	The State of Nevada Department of Taxation	Appellant/Cross-Respondent
	Aaron D. Ford (Attorney General/Carson City)	Craig A. Newby (Attorney General/Carson City)	Respondent/Cross-Appellant
	Ben Kieckhefer	Karen A. Peterson (Allison MacKenzie, Ltd.)	

Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

Goodfellow Corporation

Karen A. Peterson (Allison MacKenzie, Ltd.) Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

Great Basin Engineering Contractors, LLC

Karen A. Peterson (Allison MacKenzie, Ltd.) Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

Heidi Seevers Gansert

Karen A. Peterson (Allison MacKenzie, Ltd.)

Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

Ira D. Hansen

Karen A. Peterson (Allison MacKenzie, Ltd.) Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

James A. Settelmeier

Karen A. Peterson (Allison MacKenzie, Ltd.) Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

Joe Hardy

Karen A. Peterson (Allison MacKenzie, Ltd.)

Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

Keith F. Pickard

Karen A. Peterson (Allison MacKenzie, Ltd.) Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

Keystone Corp.

Karen A. Peterson (Allison MacKenzie, Ltd.) Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

Kimmie Candy Company

Karen A. Peterson (Allison MacKenzie, Ltd.)

Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

National Federation of Independent Business

Karen A. Peterson (Allison MacKenzie, Ltd.) Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

Nevada Franchised Auto Dealers Association

Karen A. Peterson (Allison MacKenzie, Ltd.) Justin M. Townsend (Allison MacKenzie, Ltd.)

Respondent/Cross-Appellant

Nevada Trucking Association, Inc.

Karen A. Peterson (Allison MacKenzie, Ltd.) Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-Appellant

Pete Goicoechea

Karen A. Peterson (Allison MacKenzie, Ltd.) Justin M. Townsend

(Allison MacKenzie, Ltd.) Respondent/Cross-AppellantRetail Association of NevadaKaren A. Peterson (Allison MacKenzie, Ltd.)

Justin M. Townsend (Allison MacKenzie, Ltd.) Respondent/Cross-AppellantScott T. HammondKaren A. Peterson (Allison MacKenzie, Ltd.) Justin M. Townsend (Allison MacKenzie, Ltd.) Docket Entries DateTypeDescriptionPending?Document 10/13/2020Filing FeeAppeal Filing Fee Waived. State/County/Municipality. (Appellant, The Legislature) (SC) 10/13/2020Notice of Appeal DocumentsFiled Notice of Appeal.

Appeal docketed in the Supreme Court this day. (Docketing statement mailed to counsel for appellant.) (Appellant, The Legislature) (SC)20-37465 10/13/2020Filing FeeAppeal Filing Fee Waived. State/County/Municipality. (Appellants State, Dep't of Taxation and State, Dep't of Motor Vehicles) (SC) 10/13/2020Notice of Appeal DocumentsFiled Notice of Appeal. (Docketing statement mailed to counsel for appellant.)

(Appellants, State, Dep't of Taxation and State, Dep't of Motor Vehicles) (SC)20-37469 10/13/2020Notice/OutgoingIssued Notice of Referral to Settlement Program. This appeal may be assigned to the settlement program. Timelines for requesting transcripts and filing briefs are stayed. (SC)20-37473 10/14/2020Settlement NoticeIssued Notice: Exemption from Settlement Program.

It has been determined that this appeal will not be assigned to the settlement program. Appellants: 14 days transcript request form; 120 days opening brief. (SC).20-37679 10/20/2020Notice of Appeal DocumentsFiled Copy of District Court Docket Entries. (SC)20-38397 10/21/2020Notice of Appeal DocumentsFiled Copy of District Court Docket Entries. (SC)20-38544 10/28/2020Transcript RequestFiled Appellants' Joint Certificate of No Transcript Request.

(SC)20-39508 11/02/2020Filing FeeFiling Fee Paid. \$250.00 from Allison MacKenzie. Check no. 14786. (Cross-Appeal) (SC) 11/02/2020Notice of Appeal DocumentsFiled Notice of Cross-Appeal. (Docketing statement mailed to counsel for cross-appellants.) (SC)20-39870 11/03/2020Docketing StatementFiled Appellant/Cross-Respondents Joint Docketing Statement (The Legislature of the State of Nevada, State of Nevada Department of Taxation and State of Nevada Department of Motor Vehicles).

(SC)20-40113 11/09/2020Notice of Appeal DocumentsFiled Notice of Appeal/Amended/Supplemental. (Appellants/Cross-Respondents, State, Dep't of Taxation and State, Dep't of Motor Vehicles) (SC)20-40954 11/10/2020Docketing StatementFiled Respondent/Cross-Appellants' Response to Docketing Statement. (SC)20-41128 11/13/2020Notice of Appeal DocumentsFiled Copy of District Court Docket Entries.

(SC)20-41540 11/18/2020Notice of Appeal DocumentsFiled District Court Docket Entries. (SC)20-42142 11/23/2020Docketing StatementFiled Respondent-Cross-Appellants' Docketing

Statement - Civil. (SC)20-42647 11/25/2020Transcript RequestFiled Respondents'/Cross-Appellants' Certificate That No Transcript Is Being Requested. (SC).20-43064 12/01/2020Order/Clerk'sFiled Certification.

The clerk of the Nevada Supreme Court certifies to the Honorable Aaron D. Ford, Attorney General of the State of Nevada, that on November 23, 2020, respondent/cross-appellants' filed with the Supreme Court a notice that this appeal draws into question the constitutionality of SB 542 and 551. See NRAP 44. (SC)20-43404 12/07/2020Order/ProceduralFiled Order to Show Cause.

Respondents/cross-appellants shall have 30 days from the date of this order within which to show cause why this appeal should not be dismissed for lack of jurisdiction. Appellants/cross-respondents may file any reply within 14 days from the date that respondents/cross-appellants' response is served. Briefing is suspended. (SC)20-44299 01/06/2021MotionFiled Respondent/Cross-Appellants' Response to Order to Show Cause.

(SC)21-00347 01/06/2021MotionFiled Respondents'/Cross-Appellants' Motion to Amend Caption. (SC)21-00349 01/14/2021Order/Clerk'sFiled Order Granting Telephonic Extension. Appellant/cross-respondent The Legislature of the State of Nevada shall have until January 27, 2021, to file and serve a response to respondent/cross-appellant's motion to amend caption. (SC)21-01188 01/21/2021Order/Clerk'sFiled Order Granting Extension Per Telephonic Request.

Appellant/cross-respondent The Legislature of the State of Nevada's response to respondents/cross-appellants' response to order to show cause due: February 4, 2021. (SC)21-01863 01/22/2021Order/Clerk'sFiled Order Granting Extension Per Telephonic Request. Appellants/cross-respondents The State of Nevada Department of Motor Vehicles and The State of Nevada Department of Taxation's reply to respondents/cross-appellants' response to order to show cause due: February 4, 2021.

(SC)21-01893 01/27/2021MotionFiled Appellant/Cross-Respondents' Joint Response to Motion to Amend Caption. (SC)21-02600 02/03/2021MotionFiled Respondent/Cross-Appellants' Reply to Joint Response to Motion to Amend Caption. (SC)21-03276 02/04/2021MotionFiled Appellants/Cross-Respondents' Joint Reply to Respondents/Cross-Appellants' Response to Order to Show Cause.

(SC)21-03510 02/19/2021Order/ProceduralFiled Order. Respondents/cross-appellants shall have 30 days from the date of this order to respond to the joint reply filed by appellants/cross-respondents on February 4, 2021. Appellant/cross-respondents shall have 14 days from service of the response to file a surreply. At the conclusion of this briefing cycle, this court will consider the briefing in regard to the cross-appeal complete.

This court directs the attorneys for the parties to appear before Chief Justice Hardesty at 1:30 p.m. on Thursday March 4, 2021, for an appeal conference to assist in determining how this court should proceed, including the establishment of a briefing schedule on the merits of the appeal.

To facilitate this conference, the court will use the BlueJeans videoconferencing system, which requires laptop/desktop/videoconferencing computer internet access and audio and video (web camera) capability. In case technical difficulties develop at any time, the court will conduct the hearing by teleconference, which will require counsel to have immediate access to a landline phone connection.

Within 5 days of the date of this order, the parties shall submit to the Clerk of the Court a notice identifying the attorney(s) who will appear at the hearing and the phone number and email address of the attorney(s).

The notice may be emailed to the court at nvscclerk@nvcourts.nv.gov. The attorneys will be required to schedule a session with the Clerk of the Court to test capabilities of the connection and video equipment within the same time frame. (SC)21-05078 03/04/2021Order/ProceduralFiled Order Setting Briefing Schedule and Scheduling Oral Argument. Briefing on the merits of the appeal is reinstated, and the briefing schedules in the appeal and cross-appeal shall proceed as follows.

Appellants/cross-respondents shall file and serve an appendix by March 11, 2021. Appellants/cross-respondents shall have until March 22, 2021, to file and serve the opening brief on appeal. Within the same time period, respondents/cross-appellants shall file the response to the joint reply filed by appellants/cross-respondents on February 4, 2021, in relation to the cross-appeal.

Thereafter, respondents/cross-appellants shall have until April 5, 2021, to file and serve an answering brief on appeal. Respondents/cross-appellants may submit an appendix with their answering brief, if deemed necessary. Within the same time period, appellants/cross-respondents shall file a surreply in the cross-appeal.

Finally, appellants/cross-respondents shall have until April 19, 2021, to file and serve a reply brief on appeal, if deemed necessary. Within the same time period, respondents/cross-appellants shall file a final reply to the surreply in the cross-appeal. This court has determined that oral argument may be of assistance in resolving this matter.

Accordingly, this matter is scheduled for oral argument before the en banc court on May 3, 2021, at 1:30 p.m. in Carson City. The argument shall be limited to 60 minutes. (SC)21-06406 03/11/2021AppendixFiled Joint Appendix. Vol. 1. (SC)21-07180 03/11/2021AppendixFiled Joint Appendix. Vol. 2. (SC)21-07181 03/11/2021AppendixFiled Joint Appendix. Vol. 3. (SC)21-07183 03/11/2021AppendixFiled Joint Appendix.

Vol. 4. (SC)21-07184 03/11/2021AppendixFiled Joint Appendix. Vol. 5. (SC)21-07185 03/11/2021AppendixFiled Joint Appendix. Vol. 6. (SC)21-07186 03/11/2021AppendixFiled Joint Appendix. Vol. 7. (SC)21-07187 03/22/2021BriefFiled Appellant/Cross-Respondents' Opening Brief. (State of Nevada, Dept of Motor Vehicle's and Dept of Taxation). (SC)21-08194 03/22/2021AppendixFiled Appellant/Cross-Respondents' Supplemental Appendix.

(SC)21-08210 03/22/2021BriefFiled Respondent/Cross-Appellants' Response to Joint Reply to Order to Show Cause. (SC)21-08212 03/22/2021BriefFiled Appellant/Cross-Respondents' (Nevada Legislature's) Opening Brief. (SC)21-08233 03/26/2021Order/ProceduralFiled Order Regarding Oral Argument. This matter is currently scheduled for oral argument on May 3, 2021, at 1:30 p.m.

The argument will be videoconferenced. The argument shall be limited to 60 minutes. The court will use the BlueJeans videoconferencing system, which requires laptop/desktop/videoconferencing computer internet access and audio and video (web camera) capability.

In case technical difficulties develop at any time, the court will conduct the oral argument by teleconference, which will require counsel to have immediate access to a landline phone connection. Within 7 days of the date of this order, the parties shall submit to the Clerk of the Court a notice identifying the attorney(s) who will argue the case and the phone number and email address of the attorney(s).

The notice may be emailed to the court at nvscclerk@nvcourts.nv.gov. The attorneys will be required to schedule a session with the Clerk of the Court to test capabilities of the connection and video equipment approximately one week prior to argument. (SC)21-08700 04/05/2021MotionFiled Respondents/Cross-Appellants' Motion to File Answering Brief in Excess of Type-Volume Limitation.

(SC)21-09809 04/05/2021BriefFiled Respondents/Cross-Appellants' Answering Brief. (SC)21-09810 04/05/2021BriefFiled Appellants/Cross-Respondents' Joint Surreply Brief on Cross-Appeal. (SC)21-09816 04/09/2021Order/ProceduralFiled Order Granting Motion. Respondents/cross-appellants' motion for leave to file an answering brief in excess of the type-volume limitation is granted.

The answering brief was filed on April 5, 2021. (SC)21-10316 04/19/2021Notice/OutgoingIssued Oral Argument Reminder Notice. (SC)21-11166 04/19/2021BriefFiled Respondent/Cross-Appellants' Reply Brief. (SC)21-11305 04/19/2021BriefFiled Appellant/Cross-Respondents' (State of Nevada Taxation and State of Nevada of Motor Vehicle) Reply Brief. (SC)21-11310 04/19/2021BriefFiled Appellant/Cross-Appellant's (Legislature of State of Nevada) Reply Brief.

(SC)21-11345 04/20/2021Case Status UpdateBriefing Completed/To Screening. (SC) 05/03/2021Case Status UpdateOral argument held this day. Case submitted for decision. Before the En Banc court. 81924. (SC) 05/13/2021Opinion/DispositionalFiled Authored Opinion. "Affirmed."

Before the Court En Banc. Author: Hardesty, C.J. Majority: Hardesty/Parraguirre/Stiglich/Cadish/Silver/Pickering/Herndon. 137 Nev. Adv. Opn. No. 21. fn7 [We grant the Senators' January 6, 2021, motion to amend the caption of this case to add Senator Nicole Cannizzaro, Senate President Kate Marshall, Senate Secretary Claire J. Clift, and Governor Steve Sisolak in their official capacities as appellants/cross-respondents.

The clerk of the court shall therefore amend the caption on this docket to conform with the caption on this opinion.] En Banc. (SC).21-13709 06/07/2021RemittiturIssued Remittitur. (SC)21-16163 06/07/2021Case Status UpdateRemittitur Issued/Case Closed. (SC) 06/18/2021RemittiturFiled Remittitur. Received by County Clerk on June 8, 2021. (SC)21-16163 Combined Case View