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Attorneys for Plaintiffs

SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

LAWRENCE GARVEY, an individual; and
ROBERT PAYTON, an individual;

Plaintiffs,

v.

CLUB TAHOE RESORT OWNERS
ASSOCIATION, INC., a Nevada nonprofit
corporation; KEITH WILSON, an individual;
GLORIA DEALBA, an individual; DONALD
WALL, an individual; ROBERT
VERMELTOORT, an individual; CHRISTINA
BECKER, an individual; KEITH OGDEN, an
individual; MARC PEARL, an individual; DOES 1
through 10 inclusive; and ROE CORPORATIONS
I through X inclusive,

Defendants.

Case No.: CV25-02319
Dept.: 9

**PLAINTIFFS' MOTION FOR
MODIFICATION OF ORDER
APPOINTING SPECIAL MASTER**

COMES NOW Plaintiffs, LAWRENCE GARVEY and ROBERT PAYTON (hereinafter
"Plaintiffs"), by and through their counsel, the law office of Gibbs Giden Locher Turner Senet &
Wittbrodt LLP, and hereby files their Motion for Modification of the Order Appointing Special Master
(the "Motion") pursuant to Nevada Rules of Civil Procedure ("NRCP") 52(b), 53(g), and 59(e).
Plaintiffs are requesting that the Court modify and clarify its Order Appointing Special Master entered
April 3, 2026 (the "Order") as to the allocation of fees and costs incurred in the performance of the
Special Master's duties.

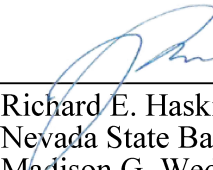
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1 This Motion is made and based upon the pleadings and papers on file in this matter, NRC
2 52(b), 53(g), and 59(e), the following Memorandum of Points and Authorities, the entire records in
3 this case, any attached exhibits, and upon such argument as the Court may entertain at the hearing on
4 the underlying Motion.

5
6 DATED: May 4, 2026

GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP

7
8 By: 

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MEMORANDUM OF POINTS AND AUTHORITIES**I. INTRODUCTION**

Plaintiffs Lawrence Garvey and Robert Payton respectfully submit this Motion pursuant to NRCP 52(b), 53(g), and 59(e) seeking modification of the Order Appointing Special Master (the “Order”) filed April 3, 2026. Plaintiffs specifically seek modification of Section 6 “Compensation” of the Order and the cost allocation provisions contained therein. Plaintiffs request that the Court modify the provisions in Section 6 regarding allocation of compensation, fees and cost, and all election-related costs incurred by the Special Master to be borne by the Club Tahoe Resort Owners Association (the “Association”) as these are common Association expenses, the Special Master is acting for the benefit of the Association and its members, and the basic fairness issue provides that Plaintiffs, as dues-paying homeowners of the Association, should not have to bear the costs benefitting the entire Association individually. Therefore, Plaintiffs seek modification of the Order to allocate the fees and costs incurred by the Special Master and new election to be borne by the Association rather than allocated to individual parties as currently provided for in the Order.

The current allocation fails to account for the fundamental nature of these expenses as common Association expenses benefiting the entire membership. The Special Master was appointed to address Association governance and election administration issues—functions the Association itself is obligated to perform. The Association would normally pay for all election related expenses, as it certainly would have done this year in a normal election cycle. When the Association requires judicial intervention to restore lawful governance, the cost of that remediation should not be shifted to individual members who sought to compel compliance with the Association’s own obligations. Moreover, the current allocation of fees and costs creates an inequitable outcome and severe burden on Plaintiffs. Plaintiffs are self-funded and requiring them to bear the costs of restoring lawful governance penalizes them, for seeking to enforce the Association’s obligations and governance compliance. Plaintiffs are dues-paying Association members. They already pay assessments that fund Association operations, elections, management, and governance administration. Requiring them to separately fund half the Special Master’s costs forces them to pay once as Association members and again as litigants for functions the Association was already obligated to perform.

NRCP 53(g)(3) explicitly authorizes the Court to modify special master compensation and cost allocation upon motion. NRCP 53(g)(2) requires that the Court allocate costs by considering the nature of the controversy, the Parties' means, and responsibility for the reference to the Special Master. All of these factors, as shown herein, weigh heavily toward Association-based payment. Nevada law establishes that associations must identify, budget for, and pay common expenses through assessments. The Special Master's compensation for performing Association governance functions constitutes precisely such a common expense. Therefore, the present motion seeks modification of the cost allocation in the Order to direct that the Special Master's compensation and any election-related costs be borne by the Association as common Association expenses. Pure litigation-related fees and costs, if any, should remain subject to the existing interim allocation between the individual Parties, subject to any later reallocation as deemed proper by the Court.

II. LEGAL ARGUMENT

A. Basis for Relief

The Court possesses authority under NRCP 52(b), 53(g) and 59(e) to modify the Order's cost allocation provisions. NRCP 52(b) provides in pertinent part that "On a party's motion filed no later than 28 days after service of written notice of entry of judgment, the court may amend its findings—or make additional findings—and may amend the judgment accordingly." The Order Appointing Special Master was entered and served on April 3, 2026.¹ Further, under NRCP 53(g): "The court may change the basis and terms of the master's compensation upon motion or by issuing an order to show cause." NRCP 53(g)(3). NRCP 53(g)(1) establishes that the basis and terms of a master's compensation must be fixed by the court in the appointing order and must be paid either by a party or parties, or from a fund or subject matter of the action within the court's control. NRCP 53(g)(1). This provision establishes that the court retains discretion in determining not only the amount of

¹ The Motion was to be filed by May 1, 2026; 28 days after service of the Order on April 3, 2026. However, when Plaintiffs went to the Washoe County Eflex electronic filing website to file on Friday May 1, 2026, the Court had a "Notice – Filing Unavailability April 30th 6:00 p.m. – May 4th 8:00 a.m." ("Notice"). See **Exhibit "1"** (true and correct copy of screenshots of Court Notice). All electronic and in-person filing was unavailable during those dates. It was noted in this Court Notice that "[f]or the purposes of deadlines only, any documents due on May 1st will be **deemed timely** if filed by May 4th." **Exhibit "1"**. Therefore, this filing on May 4th is deemed timely within the 28 day deadline under NRCP 52(b) and 59(e) under the Court's Notice.

1 compensation but also the mechanism and source of payment. NRCP 53(g)(2) addresses cost
 2 allocation directly, requiring the court to allocate payment among parties after considering the nature
 3 and amount of the controversy, the parties' means, and the extent to which any party is more
 4 responsible than other parties for the reference to a master. NRCP 53(g)(2). The rule further
 5 provides that an interim allocation may be amended to reflect a decision on the merits. *Id.* This
 6 language contemplates that cost allocation decisions are subject to reconsideration and modification
 7 as circumstances warrant.

8 Alternatively, NRCP 59(e) provides that "A motion to alter or amend a judgment must be
 9 filed no later than 28 days after service of written notice of entry of judgment." A NRCP 59(e)
 10 motion to alter or amend a judgment may be appropriate to correct "manifest errors of law or fact,"
 11 address "newly discovered or previously unavailable evidence," "prevent manifest injustice," or
 12 address a "change in controlling law." *Panorama Towers Condo. Unit Owners' Ass'n v. Hallier*,
 13 137 Nev. 660, 662, 498 P.3d 222, 224 (2021) (quoting *AA Primo Builders, LLC v. Washington*, 126
 14 Nev. 578, 582, 245 P.3d 1190, 1193 (2010)).

15 **B. NRCP 53(g) Provides Direct Authority to Modify the Order's Compensation Terms**

16 The Court possesses clear and continuing authority to modify the Order's compensation and
 17 cost allocation. NRCP 53(g)(3) explicitly provides that the Court may change the basis and terms of
 18 the Special Master's compensation upon motion or by issuing an order to show cause. This
 19 provision demonstrates that the Court's authority to address compensation matters is not limited to
 20 the initial appointment order but extends to subsequent modifications based on proper motion by a
 21 party. NRCP 53(g)(1) establishes that the court retains discretion in determining not only the
 22 amount of compensation but also the mechanism and source of payment. NRCP 53(g)(2) addresses
 23 cost allocation directly, requiring the Court to allocate payment among parties after considering the
 24 various factors. This provision contemplates that cost allocation decisions are subject to
 25 reconsideration and modification as circumstances warrant. The present Motion seeks modification
 26 of the cost allocation methodology to direct that the Special Master's compensation and election-
 27 related costs be borne by the Association as common Association expenses. This relief falls
 28 squarely within the scope of NRCP 53(g)(3).

1 ***1. The NRCP 53(g)(2) Allocation Factors Support Allocating Costs to the***
2 ***Association.***

3 NRCP 53 requires that the Court must allocate payment among the parties after considering
4 the nature and amount of the controversy, the Parties' means, and the extent to which any party is
5 more responsible than other parties for the reference to the Special Master. NRCP 53(g)(2). An
6 examination of each factor demonstrates that the Association, not individual Parties, should bear
7 these costs.

8 First, the Special Master was appointed to address Association governance and election
9 administration issues. These matters concern the integrity and proper functioning of Association-
10 wide governance structures that affect the entire membership and Association operations. The
11 controversy arises from governance and election administration issues that implicate the
12 Association's obligations to all members and the Association's core operational responsibilities.
13 When a reference to a Special Master concerns the administration of an entity's internal governance
14 and the integrity of processes affecting all members, the nature of the controversy weighs heavily
15 toward treating the resulting costs as a common expense of that entity. The Association, as the
16 governed entity and the entity whose governance is at issue, is the proper bearer of costs necessary to
17 resolve governance disputes that benefit the entire membership by ensuring lawful administration of
18 a compliant election for the new Board of Directors.

19 Second, the Association possesses distinct financial mechanisms and authority that individual
20 members do not. The Association has the authority to levy assessments, maintain budgets, and
21 allocate funds for administrative and operational expenses. Individual members, by contrast, are
22 subject to those assessments and lack comparable financial resources or authority to absorb costs
23 imposed upon them individually. Requiring individual members to subsidize Association-wide
24 governance administration through direct cost-shifting is inequitable and inconsistent with the
25 Association's financial structure and capacity. The Association's means, through its assessment
26 authority, budget mechanisms, and obligation to manage Association expenses, make it the
27 appropriate entity to bear costs arising from the administration of Association governance.

28 Finally, the need for a Special Master arises from governance issues within the Association.

1 To the extent any party bears responsibility for the reference, it is the Association as the governed
2 entity and the entity whose governance structures and election administration are at issue. Individual
3 members (Plaintiffs) seeking compliance with proper governance procedures and election
4 administration are not responsible for the circumstances that necessitated the Special Master's
5 appointment. The Association, through its governance structures, is the entity most directly
6 connected to the circumstances that led to the need for judicial oversight. Individual members like
7 Plaintiffs who seek to enforce the Association's governance obligations should not be penalized
8 through cost allocation for pursuing compliance.

9 **C. Special Master Compensation and Election-Related Costs Are Common Association**
10 **Expenses, and Equity and Fairness Principles Support Cost Allocation to the**
11 **Association.**

12 The Special Master compensation and election-related costs constitute common Association
13 expenses. The Association has statutory obligations to manage the community and conduct
14 elections, making election administration costs a proper Association expense to be funded through
15 assessments levied on all units, including Plaintiffs. When a Special Master performs functions that
16 the Association would ordinarily perform itself, the resulting costs should be borne by the
17 Association as the entity responsible for those functions. Equity and fairness principles also support
18 cost allocation through Association assessments rather than individual party payment. All
19 Association members benefit from lawful elections and governance compliance. When the entire
20 membership benefits from governance remediation, the entire membership should share the cost
21 through Association assessments rather than imposing the burden on individual parties who initiated
22 the remedial process.

23 Pursuant to the Governing Documents and statutory authority under NRS 116 and NRS
24 119A, common-interest associations and time share communities are required to identify, budget for,
25 and pay common expenses. *See* NRS 116.3115, NRS 119A.540. The Association is required to
26 adopt and amend budgets and may collect assessments for common expenses from Association
27 members. *Id.* All common expenses must be assessed against all units in accordance with
28 allocations set forth in the Association's Governing Documents. *Id.* The statutory framework

1 contemplates that associations will incur various expenses in performing their governance and
2 administrative functions, and recognizes that associations routinely incur administrative and
3 operational expenses as part of their core functions.

4 Here, when a Court Order appoints a Special Master to perform election administration and
5 governance duties that normally are conducted by an Association, the costs associated with that
6 appointment are properly characterized as common expenses because they benefit the entire
7 membership and the Association as an entity. The benefit of a valid election, lawful governance,
8 and operational stability accrues to all unit owners collectively, not to any individual party. The
9 distinction is critical: ordinary litigation expenses incurred by a party in defending itself against
10 claims are party-specific costs. By contrast, the costs of administering an election or ensuring
11 governance compliance overseen by the Special Master are Association administrative expenses that
12 would be incurred regardless of whether litigation exists. The Special Master here is performing
13 Association governance rather than adjudicating private damages claims.

14 Therefore, Plaintiffs respectfully request that the Court clarify that the Special Master
15 compensation and any election-related costs in this governance dispute constitute common expenses
16 of the Association payable from the Association's common funds and assessments. Specifically,
17 Plaintiffs request that all election administration costs including Nordis (election-voting system to be
18 used), ballot preparation, printing, mailing, return envelopes, vote tabulation, voter roster work,
19 owner notices, and candidate materials, among other election costs, should be allocated to the
20 Association. Similarly, all Association operational oversight costs incurred by the Special Master,
21 including payment approvals, management oversight, insurance renewals, financial reporting, tax
22 return coordination, maintenance oversight, and owner communications, among other operational
23 costs, should also be allocated to the Association. As referenced above, any purely litigation-related
24 costs the Special Master or the Parties incur should remain subject to the allocation in the current
25 Special Master Order. This clarification aligns with Nevada statutory authority and ensures that the
26 burden of funding the Association's core administrative functions falls on all unit owners equitably,
27 as the Governing Documents and statute contemplate.

28 ///

1 ***1. Equitable Allocation of Special Master's Costs Constitute Fairness***

2 Not only are the Special Master fees and costs and election costs Association common
3 expenses, but equity and fairness principles support clarification of the Order to reflect allocation of
4 such costs to the Association. The fundamental principle underlying cost allocation is that those
5 who benefit from a remedy should bear its costs. Here, all Association members benefit from the
6 appointment of the Special Master to address governance and election issues. When the entire
7 membership benefits from governance remediation, equity dictates that the entire membership
8 should share the cost through Association assessments rather than imposing the burden on individual
9 parties who initiated the litigation remedial process. Shifting costs to the individual Plaintiffs creates
10 an inequitable subsidy whereby members who did not initiate the litigation now resulting in Special
11 Master oversight nonetheless benefit from the resulting lawful governance election without
12 contributing to its cost.

13 Further, individual members of an association should not be deterred from seeking
14 compliance with association governance requirements by the prospect of bearing substantial special
15 master and election-related costs. By allocating these costs through the Association's assessment
16 mechanism, the Court would remove a significant financial barrier to members seeking to enforce
17 governance rights. This approach promotes the Association's ability to maintain lawful governance
18 structures without creating perverse incentives that discourage members from pursuing necessary
19 remedial action. Additionally, funding the Special Master's compensation and all election-related
20 costs through the Association promotes administrative efficiency and reduces practical
21 complications. The Association can pay vendors and the Special Master directly, avoiding disputes
22 over invoices, collection efforts, and enforcement mechanisms that may arise when the individual
23 Parties bear payment obligations. When the Association bears such costs as common expenses,
24 payment flows through established assessment and collection procedures, reducing friction and
25 administrative overhead.

26 Funding the Special Master fees and any election related costs through the Association rather
27 than individual Parties promotes neutrality and reduces the perception that one faction is paying for
28 the outcome. When costs are allocated through Association assessments, all members contribute

1 equally, and the remedial process appears neutral and fair to all Parties.

2 **D. NRCP 52(b) Authorizes Amendment of Findings Regarding Cost Allocation.**

3 NRCP 52(b) provides that upon a motion of a party made no later than 28 days after service
4 of written notice of entry of judgment, the Court may amend its findings or make additional findings
5 and may amend the judgment accordingly. The present motion is timely filed within this deadline as
6 the Order was entered April 3, 2026. This rule applies to the Special Master Order compensation
7 provisions to the extent that the Order contains or should contain findings of fact and conclusions of
8 law regarding the allocation of costs. NRCP 52(b) authorizes the court to make additional findings
9 and amend the findings to clarify the factual and legal basis for an allocation decision that the
10 Association is to bear the costs of the Special Master and election. The appointment of a Special
11 Master and the allocation of their fees and costs are within the Court's discretion under NRCP 53.
12 However, this discretion must be exercised reasonably and equitably, consistent with the statutory
13 allocation factors and the equitable principles underlying cost allocation. Therefore, amendment
14 under NRCP 52(b) is warranted.

15 **E. NRCP 59(e) Permits Alteration or Amendment of the Special Master Order.**

16 NRCP 59(e) provides an additional procedural vehicle for the requested relief. A motion to
17 alter or amend a judgment must be filed no later than 28 days after service of written notice of entry
18 of judgment. The present motion is timely filed within this deadline as the Order was entered April
19 3, 2026. NRCP 59(e) relief is appropriate where, among other reasons, amendment is needed to
20 "prevent manifest injustice." *Panorama Towers*, 137 Nev. at 662, 498 P.3d at 224. In the context of
21 the Special Master compensation and cost allocation, NRCP 59(e) provides authority to amend the
22 Order if the original allocation decision is unjust. As explained above, requiring Plaintiffs, as dues-
23 paying Association members, to pay both their dues to the Association, which is currently listed as a
24 Defendant party and required under the Order to share costs with the other Parties, and pay their
25 share of costs for the Special Master fees and elections costs is manifestly unjust. Further, it is
26 manifestly unjust to require Plaintiffs to bear the costs of Association common expenses after being
27 required to enforce the Association's governance obligation through litigation. As such, amendment
28 under NRCP 59(e) is warranted.

1 **III. CONCLUSION**

2 Based on the foregoing, Plaintiffs respectfully request that this Court enter an order
3 modifying the Order Appointing Special Master as follows:

4 1. That all Special Master compensation and fees be borne by the Association as a
5 common Association expense, rather than allocated to the individual parties to split;

6 2. That all election-related costs overseen by the Special Master be borne by the
7 Association as common Association expenses;

8 3. That the Association shall pay all invoices for Special Master services and election-
9 related costs directly, or reimburse any parties who have advanced such payments;

10 4. That all pure litigation-related fees and costs incurred by the Special Master or Parties
11 remain subject to the individual Parties allocation assignment, subject to later reallocation as deemed
12 appropriate by the Court;

13 5. Any other and further relief as the Court deems just and equitable.

14
15 DATED: May 4, 2026

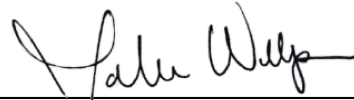
GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP

16
17 By: _____

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20 Madison G. Wedderspoon, Esq.
21 Nevada State Bar # 16648
22 7251 W. Lake Mead Blvd., Suite 450
23 Las Vegas, Nevada 89128
24 Attorneys for Plaintiffs
25
26
27
28

CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of GIBBS GIDEN LOCHER TURNER
SENET & WITTBRODT LLP, hereby certifies that on May 4, 2026, they served a copy of the
foregoing **PLAINTIFFS' MOTION FOR MODIFICATION OF ORDER APPOINTING
SPECIAL MASTER** by electronic service through the Regional Justice Center for Washoe County,
Nevada's ECF System:



An employee of
Gibbs Giden Locher Turner
Senet & Wittbrodt LLP

1
2 SECOND JUDICIAL DISTRICT COURT
3 COUNTY OF WASHOE, STATE OF NEVADA

4 AFFIRMATION
5 Pursuant to NRS 239B.030 and 603A.040

6 The undersigned does hereby affirm that the preceding document, *(title of document)*

7 PLAINTIFFS' MOTION FOR MODIFICATION OF ORDER APPOINTING SPECIAL MAST

8 file in case number: CV25-02319

9
10 (☒ mark one)

11 ☒ Document does not contain the personal information of any person.

12
13 ☐ Document contains the personal information of a person as required by: (☒ mark one)

14 ☐ A specific state or federal law, to wit: *(write the specific state or federal law)*

15 _____
16 ☐ For the administration of a public program

17 ☐ For the administration for a federal or state grant

18 ☐ Confidential Family Court Information Sheet (NRS 125.130, NRS 125.230, and
19 NRS 125B.055)

20
21
22 DATED this (day) 4th day of (month) May, 2026.

23
24 Submitted By: (Your signature) _____

25 (Print your name) Madison Wedderspoon, Esq.

26 (Attorney for) Plaintiffs
27
28

EXHIBIT “1”

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Notice - Filing Unavailability April 30th 6:00 p.m. - May 4th 8:00 a.m.

- Both electronic and in-person filing will be unavailable on May 1, 2026. For the purposes of deadlines only, any documents due on May 1st will be deemed timely if filed by May 4th. No payments will be accepted during this time.
- eFlex will be unavailable beginning April 30th at 6:00 p.m. until May 4th at 8:00 a.m. due to system maintenance.
- All draft filings must be completed and submitted prior to 6:00 p.m. on April 30th. Any draft filings not completed and submitted by the deadline will be unavailable for future use and must be restarted. Any users remaining in eFlex at 6:00 p.m. on April 30th will be removed from the system.
- Counsel shall provide a courtesy copy of any document filed on Thursday, April 30th, that relate to any hearing occurring during the week of May 4th. Courtesy copies can be dropped off at the Court Resource Center on the third floor of 1 South Sierra Street.

Notice - Unavailability of Public Case Look-Up

The District Court's case search feature will be unavailable beginning April 30th at 6:00 p.m. until May 4th at 8:00 a.m. due to system maintenance. This outage will also prevent the District Court Resource Center and Washoe County Law Library from being able to provide case-specific information.

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The District Court's Resource Center will be partially closed on Friday, May 1st. Staff will be unable to file documents, take payments, or

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