

1 **OPP**
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7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

10 ANDREA COLLIER, as trustee of the JACT
11 TRUST,

12 Plaintiff,

13 v.

14 PENNIE MOSSETT-PUHEK, individually;
15 ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, a Nevada non-profit corporation;
16 CARMEN EASSA, an individual; K.G.D.O.
HOLDING COMPANY, LLC d/b/a TERRA
17 WEST MANAGEMENT SERVICES, a Nevada
limited liability company; DOES I through X and
ROE BUSINESS ENTITIES I through X,
inclusive,

18 Defendants.

Case No.: A-22-852032-C
Dept.: 8

**PLAINTIFF’S OPPOSITION TO MOTION
FOR SUMMARY JUDGMENT FOR
CLAIMS AGAINST CARMEN EASSA
AND TERRA WEST MANAGEMENT
SERVICES AND OPPOSITION TO
MOSSETT-PUHEK’S JOINDER RE NRS
116.31183 RETALIATION CLAIM**

Date of Hearing: February 12, 2026
Time: 10:00 a.m.

THE LAW OFFICES OF TIMOTHY ELSON

19
20 COMES NOW Plaintiff ANDREA COLLIER, as trustee of the JACT TRUST (“Collier”), by
21 and through her counsel of record, Timothy Elson, Esq., of The Law Offices of Timothy Elson,
22 PLLC, and hereby files this Opposition To Motion For Summary Judgment For Claims Against
23 Carmen Eassa and Terra West Management Services (Doc ID# 179; the “Motion”) and Mossett-
24 Puhek’s Joinder Re NRS 116.31183 Retaliation Claim (the “Joinder”).

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This Opposition is made and based upon the pleadings and papers on file in this matter; the following Memorandum of Points and Authorities; the entire records in this case; and the attached exhibits and upon such argument as the Court may entertain at the hearing on the underlying Motion.

DATED: January 30, 2026

Respectfully Submitted,

THE LAW OFFICES OF TIMOTHY ELSON

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This case arises from a pattern of escalating retaliatory actions taken against Plaintiff Andrea
4 Collier (“Plaintiff” or “Collier”), a homeowner in the Anthem community, after she complained in
5 good faith about CC&R violations and requested Association records. Both acts are considered
6 protected activity under NRS 116.31183. Plaintiff alleges that Defendant Pennie Mossett-Puhek
7 (“Mossett-Puhek”), an executive board member, acting individually and through the Association’s
8 community manager and management company, initiated and escalated enforcement actions against
9 her—including recharacterizing minor issues as health-and-safety violations and imposing the largest
10 fine in the Association’s history—despite City of Henderson findings that no code violation existed at
11 the time. Plaintiff asserts that these actions were undertaken in retaliation for protected activity and as
12 part of a broader course of harassment.

13 Against that backdrop, Defendants now ask this Court to do what it has already declined to do
14 and what the rules do not permit: entertain an untimely dispositive motion, revisit jurisdictional
15 arguments already decided, and resolve fact-intensive questions of motive and causation that belong
16 to the jury. The Motion for Summary Judgment and the accompanying Joinder are procedurally
17 improper, barred by the law-of-the-case doctrine, and meritless on the record.

18 As an initial matter, the dispositive motion deadline closed on July 10, 2024. The Court
19 repeatedly warned that no dispositive motions were to be filed after that date, and it did not reopen
20 dispositive motion practice in subsequent hearings. Defendants nevertheless filed a summary
21 judgment motion more than a year after the deadline, forcing Plaintiff to respond to a motion the Court
22 expressly cautioned should not be brought. Despite meet and confer efforts, Defendants refused to
23 vacate the Motion and Joinder.

24 Even if the Motion were timely, it seeks to relitigate jurisdictional and statutory arguments
25 Defendants previously raised and lost. The Court has already ruled that Plaintiff may bring her claims
26 under NRS 116.31183 and that this Court has jurisdiction to adjudicate them. Defendants cite no
27 intervening change in law, no new evidence, and no basis under governing law to revisit those settled
28 rulings.

1 Finally, Defendants’ merits arguments fail because they rest on an improper attempt to remove
2 disputed factual questions from the jury. Not only do Defendants miscite the evidence in this case,
3 Defendants ask the Court to decide, as a matter of law, whether their conduct was retaliatory—despite
4 a record that includes protected activity, escalating enforcement actions, unprecedented fines, and
5 conflicting evidence regarding motive and causation. Under settled summary judgment principles,
6 those issues must be resolved by the trier of fact.

7 For all of these reasons, and as set forth more fully below, the Motion and Joinder should be
8 denied in their entirety. Plaintiff further requests an award of attorneys’ fees and costs incurred in
9 opposing this Motion, as Defendants proceeded in direct disregard of the Court’s express instructions.

10 **II. THIS MOTION MUST BE DENIED AS PROCEDURALLY IMPROPER.**

11 **A. The Dispositive Motion Deadline Has Closed.**

12 This Motion must be denied because it is untimely. The Court’s stipulated scheduling order set
13 July 10, 2024 as the deadline for dispositive motions. Doc. ID #59. Defendants did not file the present
14 motions until 545 days after that deadline had expired. No stipulation extending the dispositive motion
15 deadline was entered, and no order reopening dispositive motion practice was ever issued.

16 Defendants will likely attempt to justify their untimely filing by pointing to subsequent
17 proceedings and hearings. That effort fails. It is true the Court permitted limited supplemental
18 proceedings following the dispositive motion deadline—specifically related to discrete issues such as
19 the course and scope of Mossett-Puhek’s retaliatory conduct and evidentiary matters. Doc ID# 134.
20 These filings and topics were not authorized by the Court. *Id.* These issues were fully adjudicated by
21 the Court (as discussed below). *Id.*

22 At a recent hearing, the Court expressly indicated that it never authorized the filing of new or
23 renewed dispositive motions on issues already adjudicated. *See* Doc ID#, 191, January 15, 2026, Hrg’
24 Tr., at 6:10-13. On January 15, 2026, the Court made clear—repeatedly—that the expiration of the
25 dispositive motion deadline foreclosed further dispositive motion practice, expressly warning counsel
26 that untimely dispositive motions would not be entertained:

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1 **Court:** Because quite frankly, if the dispositive motion deadline has passed, you don't get to
2 file a dispositive motion if it's passed. It's untimely. The Court's not going to ultimately
3 entertain that if it has passed.

4 *Id.* 10:1-4.

5 The Court further explained that, while limited motions such as motions in limine or
6 evidentiary motions might be appropriate following supplemental discovery, dispositive motions were
7 not:

8 **Court:** Now, I understand if there was within the Court's order the additional supplemental
9 expert issue... that would be appropriate. But what exactly are the outstanding issues...
10 because if the dispositive motion deadline has passed, you don't get to file a dispositive motion.

11 *Id.* 10:5-6; 10:12; 10:2-3.

12 It would be misguided to claim that the Court authorized new dispositive motion practice at
13 prior hearings, such as the hearing on December 11, 2025. During that hearing, Plaintiff's counsel
14 specifically raised the concern that the Court might be extending or reopening the briefing schedule.
15 The Court expressly rejected that notion, stating that it was "not setting a briefing schedule as to
16 anything." *See* Doc ID# 175, December 11, 2025, Hr'g Tr., at 39:2-5. While the Court stated that
17 parties could "file whatever you want," (*see id.*), the Court held it would address the *propriety* of such
18 filings if and when they were presented. *Id.* That statement, however, was not an extension of the
19 dispositive motion deadline, nor was it an authorization of untimely dispositive motions. Rather, it
20 reflected the Court's unwillingness to preemptively bar filings, while expressly reserving judgment as
21 to whether any such filings would be proper or entertained. *Id.*

22 **Court:** Ya'll can file whatever you want. That's your prerogative. Whether or not it gets
23 addressed, you can make all these arguments later on. I'm not going to artificially limit
24 somebody's ability to represent their client.

25 *Id.* at 38:12-16.

26 The Court did not modify the scheduling order and did not reopen dispositive motion practice.

27 **B. The Court Has Already Dismissed Defendants' Arguments Before.**

28 Defendants' motions must also be denied because they seek to relitigate issues the Court has
already decided. This is not a new summary judgment theory; it is an untimely attempt to challenge
and seek a different result on the same jurisdictional and statutory arguments previously raised, fully

1 briefed, and rejected. This is procedurally barred.

2 Under *Litchfield v. Tucson Ridge Homeowners Association*, once a court resolves an issue of
3 law, that decision “should remain the law of that case throughout the litigation unless and until that
4 decision is modified or overruled by a higher court.” 140 Nev. Adv. Op. 57, 555 P.3d 267, 270 (2024).¹
5 Defendants do not cite *Litchfield*, do not acknowledge the law-of-the-case doctrine, and do not attempt
6 to satisfy any of its narrow exceptions. Defendants do not even acknowledge that essentially what
7 they are seeking is an untimely motion for reconsideration, failing to even address the standard or the
8 tardiness of their untimely motion. Because the Court has already ruled that Plaintiff may bring her
9 Chapter 116 claims—including her claim under NRS 116.31183—and that this Court has jurisdiction
10 to hear them, Defendants’ renewed summary judgment motions are barred by the law-of-the-case
11 doctrine and must be denied.

12 In their July 10, 2024 motions for summary judgment, Defendants squarely argued that
13 Plaintiff could not bring claims under NRS 116.31183 or NRS 116.31184 against the community
14 manager or management company, and that this Court lacked jurisdiction to hear those claims. *See*
15 Doc ID# 63, 2:11-12 Eassa/Terra West MSJ (presenting the same arguments - “complaints and
16 investigations regarding managerial duties of a community management company/manager *are to be*
17 *handled through the Division and not through court litigation*”) (emphasis added); Doc ID #66,
18 Mossett-Puhek MSJ, 13:1-10 (arguing this Court lacks jurisdiction and that the claims should be
19 handled by “The Division, the CIC Ombudsman, and the Commission, rather than directly through
20 the court system” and generally arguing throughout that Plaintiff’s claims were administratively
21 barred). A cursory review of these prior motions demonstrate their focus on these exact same issues.

22 The Court expressly rejected these arguments. In its March 4, 2025 Order (Doc ID# 134), the
23 Court held that:

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25 “Collier is permitted to bring statutory claims under NRS 116.31183 and NRS 116.31184
against Anthem, Mossett-Puhek, Eassa, and Terra West,”

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28 ¹ The Nevada Supreme Court held: “The doctrine is designed to ensure judicial consistency and to prevent the reconsideration, during the course of a single continuous lawsuit, of those decisions which are intended to put a particular matter to rest. [] It thus serves important policy considerations, including judicial consistency, finality, and protection of the court’s integrity.” *Id.*

1 and further ruled that

2 Collier “*has properly complied with NRS 38.310 and the mediation requirement with NRED*
3 *thereby conferring jurisdiction on this Court.*”

4 Doc ID# 134, at ¶¶ 4, 6.

5 Those rulings resolved—on the merits—the precise jurisdictional issues Defendants now ask
6 the Court to revisit. Defendants cannot satisfy the appropriate test (a standard that is not even
7 analyzed): (1) substantially new or different evidence, (2) an intervening change in controlling law, or
8 (3) a showing that the prior decision was clearly erroneous and would result in manifest injustice.
9 *Litchfield*, 555 at 269-71. This Court has already rejected these very same arguments. As such, this
10 is yet another reason the Motion and Joinder is procedurally improper.

11 **C. Defendants’ Motion Should Independently Be Denied For Failure to Comply With**
12 **EDCR 2.20(c).**

13 Defendants’ Motion suffers from another fundamental procedural defect: it fails to comply
14 with EDCR 2.20(c). That rule requires a party filing a motion to submit a memorandum of points and
15 authorities “in support of each ground thereof,” and expressly provides that the absence of such
16 authority “may be construed as an admission that the motion is not meritorious, as cause for its denial,
17 or a waiver of unsupported grounds.” EDCR 2.20(c). That is precisely the situation here.

18 Defendants’ central propositions are presented without any supporting legal authority at all,
19 including:

- 20 (i) the assertion that a civil claim under NRS 116.31183 requires a prior administrative
21 determination of a “violation”;
- 22 (ii) the contention that only the HOA, and not a community manager or management
23 company, may be liable under the statute as a matter of law; and
- 24 (iii) the argument that juries are categorically barred from determining whether retaliatory
25 conduct occurred because such questions purportedly belong to the Nevada Real
26 Estate Division or Ombudsman.

27 Defendants not only contradict prior express rulings by this Court (failing to even discuss these
28 rulings with the Court), none of these propositions are supported by Nevada Supreme Court authority,
29 statutory text, or binding precedent. Instead, Defendants rely almost entirely on policy concerns and
30 generalized statements about administrative oversight, even misstating the framework of how the

1 NRED process works. This approach is insufficient under EDCR 2.20(c).

2 Nevada appellate courts routinely decline to consider arguments that are unsupported by
 3 relevant legal authority. In *Root v. Coast Hotels & Casinos, Inc.*, the Nevada Court of Appeals rejected
 4 an argument on precisely this basis, explaining that it “need not consider” a party’s contention where
 5 the party “cites to no legal authority” in support of it and instead relies on public policy concerns. 137
 6 Nev. 958, 495 P.3d 530, *4 (Nev. App. 2021). The court emphasized that arguments lacking authority
 7 are not properly before the court and that policy-based appeals cannot substitute for legal support. *Id.*;
 8 *see also Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38
 9 (2006) (explaining that courts need not consider an argument that is not cogently argued or lacks the
 10 support of relevant authority).

11 The same principle applies here. Defendants’ Motion asks this Court to adopt statutory
 12 limitations, immunity rules, and jurisdictional barriers that do not appear in NRS 116.31183 and
 13 contradict other statutory framework such as NRS 38.310. This is yet another procedural defect.

14 **III. STATEMENT OF FACTS**

15 Collier has previously set forth detailed statement of facts. *See, e.g.*, Doc ID# 86. Collier
 16 understands this Court is generally familiar with the facts of this case. For brevity, Collier sets forth
 17 the following statement of facts for this Court’s consideration.

18 **A. The Parties and Defendants’ Claimed 2020 “Awareness” of the Oleanders**

19 1. Plaintiff Andrea Collier has lived in the Anthem community since 2015. For years,
 20 Collier had no issues with Anthem and received no violation notices, as her property was properly
 21 maintained. Appendix,² Ex. A ¶¶ 2-3.

22 2. By 2020, Collier became increasingly concerned about deterioration in the Anthem
 23 community, including increased crime, unkept landscaping, improper parking by commercial vehicles,
 24 and other CC&R violations. Collier repeatedly raised those concerns with board members and
 25 management. *Id.* ¶ 4.

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 28 ² As Collier has done in other filings, Collier refers to the prior Appendices filed with the prior dispositive motion practice. Doc. ID Nos. 78-85 and 90 (the Appendices). Those exhibits are referred to as “Appendix” followed by the Exhibit therein. Collier does attach additional exhibits to this Motion. Those are referenced in **bold** to avoid confusion.

1 3. After Defendant Pennie Mossett-Puhek was elected to Anthem’s executive board,
2 Collier reached out around June 2020 and offered support. Over the next seven to eight months, Collier
3 and Mossett-Puhek worked together on community issues and developed a friendship. *Id.* ¶¶ 5-6.

4 4. During this same period, Collier’s own property was not the subject of any enforcement
5 activity. She received no notices, no violation letters, and no fines relating to her property in 2020.
6 *See, e.g.*, Appendix Exhibit 22 (confirming the very first notice Collier ever received of a violation of
7 CC&Rs was April 12, 2021).

8 5. Defendants now contend the “oleander issue” was brought to the Association’s
9 attention in mid-2020. But even accepting that premise for purposes of Defendants’ timeline, the
10 record reflects no notice, no violation, no fine, and no municipal involvement directed at Collier in
11 2020. *See id.*

12 **B. Defendants’ Own Records Confirm Months of Community-Wide Enforcement With**
13 **No Action Against Collier.**

14 6. When Terra West assumed management in August 2020, Glengarry (Collier’s sub-
15 community) was the first community subjected to compliance investigations. Appendix, Exhibit 17,
16 141:18-143:8. Out of roughly 120-170 homes, the inspector issued approximately 480 violations—
17 about three to four per home. *Id.* Collier received none—no violations for oleanders, no paint scheme
18 violations, and no flagpole violations. *Id.*

19 7. Mossett-Puhek’s own text message dated February 26, 2021, confirms the same
20 baseline. She wrote that Terra West had been managing for roughly six months across 11 communities
21 and had issued 1,643 violations during that period. *See* Second Collier Decl., a true and correct copy
22 of which is attached hereto as **Exhibit 1**, which contains **Exhibit A** at DFT1487-1489. Yet Collier
23 still had received no violation notices at that time. *See id.*; *see also* Appendix, Exhibit 17, 141:18-
24 143:8.

25 8. Mossett-Puhek later testified that when the oleanders were raised by another
26 homeowner at a board meeting in 2020 (*before the stop sign was installed*), she did not believe they
27 presented an issue and could not identify any change to the oleanders between 2020 and 2021 that
28 would explain the subsequent escalation. *See* Appendix, Exhibit 17, 212:15-213:3. This testimony

1 directly contradicts Defendants’ assertion that enforcement activity in 2021 merely flowed from
2 concerns identified months earlier.

3 **C. February 2021: Collier’s Protected Complaint and Immediate Escalation**

4 9. On February 26, 2021, Collier sent Mossett-Puhek a direct message complaining about
5 unresolved CC&R violations and safety concerns. Collier wrote, among other things: “I thought you
6 had this handled... What is the reality here, Penny?” *See Exhibit 1, Exhibit A* at DFT1483-1489. In
7 the same exchange, Collier advised Mossett-Puhek that she had contacted the community manager at
8 Terra West, writing: “I wanted to tell you I spoke with Carmen [Eassa]...” *Id.* at DFT1487.

9 10. Mossett-Puhek responded the same day in a markedly defensive and personal manner,
10 emphasizing the time she spent on HOA matters. *Id.* at DFT1487-1489.

11 11. Within four days of that February 26 exchange, Mossett-Puhek escalated the matter
12 outside the Association’s normal enforcement processes. On March 2, 2021, Mossett-Puhek contacted
13 Henderson Code Enforcement regarding Collier’s oleanders. Jason Esau, the Code Enforcement
14 officer, testified that Mossett-Puhek made the initial complaint to the City. *See Appendix, Exhibit 2,*
15 *23:10-17.* The City’s contemporaneous records confirm the same, reflecting that Code Enforcement
16 “received a complaint over the phone from the HOA board member” reporting that Collier’s oleanders
17 were obstructing drivers’ view of traffic and creating a safety issue. *See Doc ID# 184, Exhibit 1, at*
18 *PO1118.*

19 12. Importantly, Defendants attempt to characterize this March 2 contact as a mere
20 “inquiry” by relying on City notes from December 13, 2021, in which Mossett-Puhek later sought
21 “clarification” after the oleanders had been trimmed and enforcement activity was already well
22 underway. *See Joinder at 5:9-10.* Those December notes describe a separate, later call under materially
23 different circumstances. They do not describe the March 2, 2021 call that initiated municipal
24 enforcement. The contemporaneous March 2 record reflects a reported violation—not a neutral request
25 for guidance—and marks the first involvement of City authorities in this matter.

26 13. Mr. Woo, a board member and treasurer at the time, confirmed this municipal
27 escalation was not a board action and that Mossett-Puhek acted without direction from the board. *See*
28 *Appendix, Exhibit 6, 63:21-65:9.*

1 14. Importantly, Collier’s February 26, 2021 message did not arise in isolation. **Exhibit 1**,
2 ¶ 6; *see also* Appendix, Exhibit A, ¶¶ 6-8. For months prior to February 26, 2021, Collier repeatedly
3 raised concerns with Mossett-Puhek regarding other ongoing CC&R violations in the community,
4 including improper parking and unsafe conduct by a neighboring resident operating a Southwest Gas
5 commercial vehicle. *Id.* In those communications, Collier reported that the vehicle was repeatedly
6 parked in violation of the governing documents, interfered with traffic and access, and caused property
7 damage, and she provided photographs documenting the conduct. *Id.* Collier expressed frustration
8 that these violations were not being addressed despite prior assurances. In later exchanges, Collier
9 referenced speaking directly with Terra West’s community manager, Carmen Eassa, and challenged
10 the accuracy of the information she was receiving regarding enforcement, reflecting Collier’s concern
11 that management and the board were failing to address known violations. *See, e.g., Exhibit 1, Exhibit*
12 *A*, at DFT1399, 1483–1489.

13 15. The Southwest Gas vehicle was later determined to be in violation and corrective action
14 was ultimately required. **Exhibit 1**, ¶ 6.

15 **D. April–June 2021: First HOA Notice, Then Unilateral Escalation to “Health, Safety,**
16 **Welfare” and Unprecedented Fine**

17 16. The first HOA notice to Collier concerning oleanders was not issued until April 12,
18 2021. The notice addressed failure to obtain ARC approval for planting the oleanders. *See* Appendix,
19 Exhibit 22.

20 17. On May 24, 2021—just before the June 8, 2021 executive session violation hearing
21 concerning Collier’s oleanders—Mossett-Puhek unilaterally altered the notice to a far more severe
22 allegation: a “health, safety, welfare” violation. *See* Appendix, Exhibit 16. That same day, Terra West
23 issued the “health, safety, welfare” violation notice. *See* Appendix, Exhibit 23. This recharacterization
24 allowed Mossett-Puhek to propose fines exceeding the \$100 statutory cap. *Id.*; *see also* Appendix,
25 Exhibit 16.

26 18. Prior to the June 8, 2021 executive session (to attempt to deescalate the situation),
27 Collier trimmed the oleanders to 24 inches to address line-of-sight concerns. *See* Appendix, Exhibit
28 24; Appendix, Exhibit 1; Appendix, Exhibit 25.

1 19. Mossett-Puhek later testified that prior to withdrawing the \$2,000 fine, it was the most
2 severe fine any homeowner had ever received. Appendix, Exhibit 17, 222:16-20.

3 **E. City Findings of Compliance, Continued Escalation, and “No Violation”**

4 **Determination**

5 20. At the time Anthem imposed oleander fines, Mr. Esau testified unequivocally that
6 Collier was in compliance and that no sight-visibility issue existed requiring consultation with Traffic
7 Engineering. *See* Appendix, Exhibit 2, 26:11-30:10. He also testified that after he closed the case,
8 Mossett-Puhek called him and criticized his competency and knowledge of the code. *Id.*, 30:1-14.

9 21. Mossett-Puhek nonetheless continued escalating the matter and—without board
10 consent—escalated it to Henderson Traffic Engineering. *See* Appendix, Exhibit 2, 18:6–19:14; 40:18–
11 41:11; 45:25–47:1. Henderson Traffic Engineering issued a report indicating no violation existed,
12 including because the “sight visibility guidelines” invoked did not apply as Defendants claimed at a
13 controlled intersection. *See* Appendix, Exhibit 3.

14 22. Henderson Traffic Engineering further noted that Anthem’s own landscaping, not
15 Collier’s oleanders, created an obstruction and requested trimming of HOA trees. *Id.*

16 23. Ultimately, after Collier initiated this action and in light of the evidence obtained,
17 Anthem withdrew the oleander-related fines. *See* Appendix, Exhibit 4, Response No. 9.

18 **F. Additional Enforcement After Protected Activity: Paint Scheme and Flagpole**

19 24. In addition to her other complaints, on May 5, 2021, Collier formally requested
20 Association records pursuant to NRS 116.31175(5). **Exhibit 1**, ¶ 14; *see also* Amended Complaint ¶
21 30; Appendix, Exhibit A, ¶ 10.

22 25. On May 12, 2021, Collier received the first notice regarding her paint scheme. *See*
23 Exhibit A, ¶ 31; *see also* Appendix, Exhibit 21; Appendix, Exhibit 29; Appendix, Exhibit 20.

24 26. On November 1, 2021, Collier received the first notice regarding her flagpole. *See*
25 Amended Complaint ¶ 75; *see also* Appendix, Exhibit 34; Appendix, Exhibit 17; Appendix, Exhibit
26 4.

27 27. Three days before the flagpole notice, Mossett-Puhek sent an email expressly reflecting
28 she was searching for additional violations against Collier. *See* Appendix, Exhibit 34. In search of

1 new violations for Collier, Mossett-Puhek states as follows: “I just want to cover as much as I can in
2 case we let the HSW³ go for some reason.” *Id.* Mossett-Puhek then discusses an alleged violation for
3 landscape design standards under Article V (which was never pursued) and another potential ARC
4 violation regarding plants (which was never pursued). *Id.* Making matters worse, Mossett-Puhek
5 openly states that she plans to reject the ARC from Collier before it is ever submitted:

6 I am going to start off with No ARC violation and when she submits it will be denied again
7 due to a view obstruction and that it’s not her property.

8 *Id.*

9 28. After Collier’s May 5, 2021 request for Association records and the issuance of
10 subsequent violation notices, Collier—through her counsel and agents—continued to raise concerns
11 with Anthem, Terra West, and Mossett-Puhek regarding the manner in which enforcement actions
12 were being pursued and the handling of other community issues. **Exhibit 1**, ¶ 14; *see also id.*, ¶¶ 15-
13 16. During this period, communications between Collier’s representatives and Defendants reflected
14 disputes over enforcement practices, procedural irregularities, and the propriety of Defendants’
15 conduct. *Id.* These exchanges further demonstrate that Collier continued to complain about
16 Defendants’ actions and enforcement decisions during the same timeframe in which additional
17 violations were issued. *Id.* To this day, the records produced in this case prove demonstrate Collier
18 was not treated fairly or the same as the other unit owners (records that have been produced in other
19 court filings). *Id.*

20 **G. Evidence of Targeting, Escalation, and Course of Conduct**

21 29. Ms. Breeden, an executive board member at the time of the oleander fines, testified that
22 Mossett-Puhek proposed the fine amount, that it was abnormal, and that Mossett-Puhek made remarks
23 suggesting the matter was personal. *See Appendix, Exhibit 5, 21:8-22:3.*

24 30. Mr. Woo testified that Mossett-Puhek made comments about dragging the matter out
25 to drive up Collier’s attorneys’ fees. *See Appendix, Exhibit 6, 72:22-73:15.*

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³ This refers to health, safety, welfare.

1 31. Ms. Helton, a Terra West assistant involved in the compliance process, testified that
2 she believed Collier was being harassed and retaliated against. *See* Appendix, Exhibit 5 20, 123:23-
3 124:8; 128:18-130:5.

4 32. Additional evidence reflects a broader course of targeting and retaliation. On June 9,
5 2021, following the executive session concerning the oleander violations, Collier sent a whistleblower
6 email to management and legal counsel raising concerns about Mossett-Puhek’s conduct. *See*
7 Appendix, Exhibit 14. Within approximately one hour, community manager Carmen Eassa forwarded
8 that whistleblower email directly to Mossett-Puhek, rather than to the full executive board. *Id.* Shortly
9 thereafter, Mossett-Puhek responded, “What an idiot.” *Id.*

10 33. Less than twelve hours later—at approximately 5:46 a.m. on June 10, 2021—Mossett-
11 Puhek directed that a new violation notice be issued to Collier relating to the whistleblower email
12 itself, despite no board meeting having occurred and without any board authorization. Appendix,
13 Exhibit 15; Appendix, Exhibit 13, 162:14-168:25. This rapid sequence further supports an inference
14 of a retaliatory course of conduct rather than routine enforcement.

15 **IV. LEGAL ARGUMENT**

16 **A. Legal Standard.**

17 Summary judgment serves its intended purpose *only* where the record reveals that a party
18 cannot meet its burden of proof on an essential element of its claim. Under NRCP 56(a), summary
19 judgment may be granted only if “there is no genuine dispute as to any material fact and the movant
20 is entitled to judgment as a matter of law.” A genuine issue of material fact exists where the evidence
21 is “such that a reasonable jury could return a verdict for the nonmoving party.” *Posadas v. City of*
22 *Reno*, 109 Nev. 448, 452, 851 P.2d 438, 441–42 (1993).

23 The moving party bears the initial burden of production to demonstrate the absence of a
24 genuine issue of material fact. *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602 (2007)
25 (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986)). Where, as here, the nonmoving party will
26 bear the burden of persuasion at trial, the movant may satisfy this burden either by producing evidence
27 that negates an essential element of the claim or by “pointing out...that there is an absence of evidence
28 to support the nonmoving party’s case.” *Id.* (internal quotations omitted).

1 If—and only if—the moving party meets this initial burden, the burden shifts to the nonmovant
2 to “transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that
3 show a genuine issue of material fact.” *Id.* at 603. In evaluating the motion, the Court must view the
4 evidence and draw all reasonable inferences in favor of the nonmoving party. *Wood v. Safeway, Inc.*,
5 121 Nev. 724, 732 (2005). Importantly, summary judgment “may not be used as a shortcut for the
6 resolving of disputes upon facts material to the determination of the legal rights of the parties.” *Collins*
7 *v. Union Fed. Sav. & Loan Ass’n*, 99 Nev. 284, 298 (1983).

8 **B. The Court Interprets Statutes, But the Jury Decides Whether Defendants Violated**
9 **Those Statutes.**

10 As a preliminary matter, Defendants’ Motion asks the Court to resolve Plaintiff’s retaliation
11 claim as a matter of law by removing it from the jury altogether. Specifically, Defendants argue that
12 because NRS 116.31183 does not define “retaliatory action,” and because administrative guidance
13 discusses a “but for” causation standard, the Court (or the Nevada Real Estate Division) must
14 determine not only the meaning of the statute, but whether Defendants’ conduct satisfies that standard
15 in this case. *See* Doc ID# 179, Defs.’ Mot., at 3-7. In Defendants’ view, allowing a jury to decide
16 retaliation would lead to inconsistent outcomes and improperly permit jurors to define statutory
17 violations. It would not.

18 Defendants’ argument rests on a fundamental conflation of the Court’s role with the jury’s
19 role. To be sure, the interpretation of NRS 116.31183 or NRS 116.31184—like any statute—is a
20 question of law for the Court. *See Dept. of Taxation v. Eight Jud. Dist. Ct.*, 136 Nev. 366, 369 (2020).
21 The Court determines the legal standard, including what constitutes “retaliatory action” and the
22 elements a plaintiff must prove. *Id.* But that is not the same as deciding whether a defendant’s conduct
23 met that standard.

24 It is axiomatic that once the Court articulates the governing legal standard, the application of
25 that standard to disputed facts is a question for the trier of fact. *See e.g., Worsnop v. Karam*, 136 Nev.
26 896 (noting that the application of a legal doctrine becomes a question of law only when the material
27 facts are *undisputed*). Whether Defendants acted “because of” protected activity (as defined by NRS
28 116.31183) taken by Plaintiff, whether their actions were harmful or retaliatory, and whether those

1 actions “would not have otherwise occurred” are all fact-intensive determinations that turn on
2 evidence, credibility, motive, and competing inferences. *See* Doc ID# 179, Defs.’ Mot., at 4
3 (mistakenly asserting that the Nevada Real Estate Division or the Court must not only interpret NRS
4 116.31183, but *also* make the “factual analysis” of whether Defendants’ conduct “would not have
5 otherwise occurred” absent protected activity). Those are classic jury questions.

6 Defendants attempt to collapse these two distinct inquiries into one by arguing that, because
7 “retaliatory action” is not expressly defined in the statute, the Court must decide whether retaliation
8 occurred as a matter of law. That position is incorrect. Courts routinely interpret undefined statutory
9 terms and then submit the factual application of those standards to the jury. The absence of a statutory
10 definition does not transform a factual dispute into a legal one. As the U.S. Supreme Court has
11 succinctly put it, “[c]alling the issue one of law does not make it so.” *N.L.R.B. v. International*
12 *Longshoremen’s Ass’n.*, 447 U.S. 490, 524 (1980).

13 Nor does reliance on administrative guidance change that result. Advisory opinions may
14 articulate a causation framework, but they do not displace the jury’s role in determining whether that
15 framework is satisfied on a particular record. Whether Defendants’ actions “would not have otherwise
16 occurred” absent Plaintiff’s protected activity as defined under NRS 116.31183 is inherently factual.
17 *See e.g., Underwood v. O’Reilly Auto Parts, Inc.*, 671 F.Supp. 3d 1180, 1190, n.4 (D.Nev.2023)
18 (denying a similar argument regarding causation as made here stating, “the issue of causation is
19 generally a factual issue to be determined by the trier of fact.”).

20 Most importantly, the statute itself contemplates jury adjudication. NRS 116.31183 expressly
21 authorizes a unit owner to “bring a separate action” for damages and attorney’s fees. If the Legislature
22 intended retaliation claims to be resolved exclusively by an administrative body or by judges alone, it
23 would have said so. It did not.

24 In short, the Court interprets the statute; the jury decides whether Defendants’ conduct violates
25 it. *See Martinez v. Patel*, 2015 WL 1805991, *2 (D.Nev. Apr. 17, 2015) (“Crucially, whether a
26 defendant violated a statute is generally a fact question for the jury to decide.”). Defendants’ effort to
27 remove that determination from the jury by relabeling disputed issues of motive and causation as
28 “statutory interpretation” provides no basis for summary judgment.

1 **C. Defendants Cannot Satisfy Their Rule 56 Burden Because the Record and Timeline**
 2 **Create Genuine Issues of Material Fact Regarding Retaliatory Action.**

3 To prevail on summary judgment, Defendants must demonstrate that there is no genuine issue
 4 of material fact as to at least one essential element of Plaintiff’s retaliation claim and that they are
 5 entitled to judgment as a matter of law. They cannot do so here. Plaintiff’s claim under NRS 116.31183
 6 turns on whether (1) Plaintiff engaged in protected activity, (2) Defendants took “*any* retaliatory action
 7 against” her, and (3) that action was taken because of the protected activity. NRS 116.31183 (emphasis
 8 added).⁴ Each of these elements is supported by record evidence, and the sequence of events gives rise
 9 to reasonable inferences of retaliatory motive and causation that cannot be resolved on summary
 10 judgment as a matter of law.

11 **1. Defendants Mischaracterize the NRS 116.31183 and the Nature of**
 12 **“Retaliatory Action.”**

13 Defendants’ motion rests on an unduly narrow and inaccurate reading of NRS 116.31183. First,
 14 Defendants frame the statute as though it is triggered only by a formal “complaint” made against a
 15 community manager. *See* Doc ID# 179, Defs.’ Mot., at 4-5. The statute contains no such limitation. It
 16 protects *any* good-faith complaint regarding alleged violations of Chapter 116 or the governing
 17 documents, as well as good-faith requests to review association records. NRS 116.31183(1)(a), (c). It
 18 does not prescribe a required recipient of the complaint, form of complaint, or method of delivery of
 19 said complaint.

20 Second, Defendants treat “retaliatory action” as if it were limited to a single type of formal
 21 enforcement notice. *See* Doc ID# 179, Defs.’ Mot., at 3-7. The statute does not support that reading
 22 either. By its plain terms, it prohibits an executive board member, community manager, or agent from
 23 taking—or directing or encouraging another to take— “**any** retaliatory action” because a unit owner
 24

25 _____
 26 ⁴ The full text of NRS 116.31183 is as follows: 1. An executive board, a member of an executive board, a community
 27 manager or an officer, employee or agent of an association shall not take, or direct or encourage another person to take,
 28 any retaliatory action against a unit’s owner because the unit’s owner has: (a) Complained in good faith about any alleged
 violation of any provision of this chapter or the governing documents of the association; (b) Recommended the selection
 or replacement of an attorney, community manager or vendor; or (c) Requested in good faith to review the books, records
 or other papers of the association. 2. In addition to any other remedy provided by law, upon a violation of this section, a
 unit’s owner may bring a separate action to recover: (a) Compensatory damages; and (b) Attorney’s fees and costs of
 bringing the separate action.

1 engaged in protected activity. NRS 116.31183(1) (emphasis added). The Legislature’s use of the term
2 “any” reflects an intentionally broad prohibition that encompasses more than just formal enforcement
3 decisions, including fines or notices of violation.

4 Accordingly, Defendants’ effort to limit the statute to a narrow subset of formal acts is
5 inconsistent with its plain text and purpose.

6 **2. Defendants’ Timeline Argument Fails Because the Record Shows a Clear Shift**
7 **From Inaction to Escalation After Plaintiff Engaged in Protected Activity,**
8 **Creating a Triable Issue of Retaliation.**

9 Defendants’ summary judgment motion, along with the joinder, rests on a single premise:
10 because the oleander issue was “brought to the Association’s attention” in mid-2020, anything that
11 occurred later cannot, as a matter of law, be retaliatory. *See* Doc ID# 179, Defs.’ Mot., at 3. That
12 argument is based on a false representation of the timeline. The undisputed record shows a significant
13 gap from mid-2020 until enforcement action, which actually supports Collier’s narrative of targeting
14 and harassment. *That is, it shows months of awareness followed by inaction, and then a sudden*
15 *escalation only after Plaintiff engaged in protected activity. That sequence does not defeat retaliation;*
16 *it creates a factual question for the jury.*

17 The record confirms that the Association and its agents were aware of the oleanders in 2020.
18 *See* Doc ID# 179, Defs.’ Mot., at 3. But awareness is not the point. What matters is what Defendants
19 did with that knowledge. And for months, they did nothing. Despite knowing about the oleanders since
20 at least August 2020, Defendants issued no notice, cited no violation, initiated no investigation, and
21 imposed no fine against Collier during that period. This extended inaction is not disputed.

22 Defendants’ own evidence underscores this point. In a text message dated February 26, 2021,
23 Mossett-Puhek acknowledged that Terra West had been managing the Association for approximately
24 six months and, during that time, had issued 1,643 violation notices across 11 communities—yet not
25 a single violation had been issued to Collier. *See Exhibit 1, Exhibit A*, DFT1488. That admission
26 matters because it establishes a baseline: the Association was actively enforcing CC&Rs throughout
27 the community, but Collier received no notice of violation of any kind during that period of awareness.

28 The friendly nature (which included a private evening gather and an elegant dinner) of Mossett-

1 Puhek and Collier’s relationship changed on February 26, 2021, just days before the attacks started.
2 On that date, Collier sent Mossett-Puhek a direct message complaining about the Association’s failure
3 to enforce the CC&Rs and raising safety concerns, stating in part:

4 **I thought you had this handled.** I thought you made it a practice not to put homeowners in
5 harm’s way with other known irrational and potentially violent neighbors... **What is the
6 reality here, Penny [Mossett-Puhek]?**

7 *See Exhibit 1, Exhibit A, DFT1483–1489 (emphasis added).*

8 In that same exchange, Collier expressly advised Mossett-Puhek that she had contacted the
9 community manager at Terra West regarding these unresolved issues:

10 I wanted to tell you **I spoke with Carmen [Eassa]** and she informed me [Southwest Gas] []
11 can park wherever he wants and that I have to call [Southwest Gas]. This doesn’t sound correct.

12 *See Exhibit 1, Exhibit A, DFT 1487.*

13 This communication constitutes yet another good-faith complaint regarding alleged violations
14 of the CC&Rs, and therefore qualifies as protected activity under NRS 116.31183(1)(a). After Collier
15 sent that message, Mossett-Puhek responded in a markedly defensive and personal manner. She wrote:

16 Andrea, I spend at least 30 hours a week volunteering for this community. That means free! I
17 am trying to address every issue that comes in...We have only had six months of Terra West
18 trying to address violations in 11 communities. In that six months, they sent out 1,643
19 violations...I’m exhausted and **I refuse to take time f[rom] my dad to be berated that I
20 have not done enough. Please feel free to support anyone that you think will do a better
21 job in the election because I am done being beaten up.**

22 *Exhibit 1, Exhibit A, DFT1487-1489.*

23 This response is significant for two reasons. First, it confirms Mossett-Puhek’s
24 acknowledgment that Terra West had issued 1,643 violations without issuing a single violation to
25 Collier, reinforcing the absence of any retaliatory action prior to this exchange. Second, the tone and
26 substance of the message reflect personal animus and defensiveness immediately following Collier’s
27 protected complaint and her disclosure that she had contacted the community manager, Terra West. A
28 reasonable jury could infer from this exchange that Mossett-Puhek perceived Collier’s complaint as a
challenge to her authority or performance, setting the stage for the escalation that followed.

1 What happened next is the core of the retaliation dispute. Within four days, Mossett-Puhek
2 escalated the oleander issue. On March 2, 2021, she unilaterally contacted Henderson Code
3 Enforcement in an effort to have Collier cited by the City—without board authorization and without
4 direction from the board. The City came to take photographs and inspect the oleanders the same day.
5 The Association then issued its first formal courtesy notice on April 12, 2021, again without prior
6 board approval or authorization.

7 The escalation did not stop there. After the initial notice, Mossett-Puhek intensified the matter
8 by unilaterally recharacterizing the oleander issue as a health, safety, and welfare violation, increasing
9 the severity of the alleged violation and enabling the imposition of fines far exceeding the standard
10 cap. That recharacterization resulted in a \$2,000 fine—the largest fine ever imposed by the Association
11 against any homeowner (as admitted by Mosset-Puhek herself).

12 At the time Anthem imposed the oleander fines, the Henderson City’s own enforcement
13 officer, Jason Esau, testified that Collier was in compliance and that he did not even need to consult
14 Henderson Traffic Engineering because, in his assessment, no sight-visibility issue or code violation
15 existed. Nonetheless, Mossett-Puhek refused to accept that determination. Esau further testified that
16 after he closed the case, Mossett-Puhek contacted him and became upset, telling him words to the
17 effect that “he didn’t know how to do his job” and that she knew the code better than he did. This
18 evidence is significant because it shows that the escalation did not end with issuance of a notice or
19 even with the imposition of a fine; rather, it continued even after the City’s enforcement officer
20 concluded there was no actionable visibility issue requiring further review.

21 Consistent with that escalation, Mossett-Puhek then unilaterally and without board consent
22 escalated the matter to Henderson Traffic Engineering, the very department Code Enforcement
23 consults for traffic-related line-of-sight questions. Henderson Traffic Engineering issued a report
24 confirming that no violation ever existed, including because the sight-visibility guidelines Mossett-
25 Puhek invoked did not apply the way she claimed at the relevant intersection. A reasonable jury could
26 view this sequence—City enforcement concluding compliance, Mossett-Puhek pressing the issue
27 anyway, disparaging the City’s enforcement officer, and escalating to Traffic Engineering only to
28

1 receive the same “no violation” conclusion—as further evidence of punitive escalation rather than
2 routine compliance activity.

3 This record also undermines Defendants’ characterization of the conduct as “routine” or
4 “authorized” enforcement. *See* Doc ID# 179, Defs.’ Mot., at 3, 5. Routine enforcement does not
5 involve pressing City Code Enforcement after a finding of compliance, disparaging the City’s
6 enforcement officer, and then escalating the same issue to Traffic Engineering—again without board
7 approval—after receiving an initial determination that no violation existed. A reasonable jury could
8 conclude that this pattern reflects persistence and escalation untethered from legitimate compliance
9 objectives, reinforcing that the nature and motive of Defendants’ actions are disputed factual questions
10 inappropriate for resolution on summary judgment. Determining which inference is correct requires
11 evaluating motive, causation, and intent—tasks reserved for the trier of fact. *See Alpha Energy Savers,*
12 *Inc. v. Hansen*, 381 F.3d 917, 931 (9th Cir. 2004) (holding that “question[s] of motive or intent [are]
13 best left to a jury to resolve.”).

14 Plaintiff’s complaints also were not directed solely at Mossett-Puhek. Throughout the relevant
15 period, Collier raised concerns about CC&R violations, safety issues, and enforcement failures to the
16 Association, including to Mossett-Puhek in her role as a board member and to the Association’s
17 management, including Terra West and the community manager, Eassa. Collier complained to
18 Mossett-Puhek that management was failing to address reported violations, and she also complained
19 directly to Terra West and Eassa that the Association and board were not properly handling those same
20 issues. Thus, Collier was lodging complaints in both directions—about management to the board, and
21 about the Association to management—satisfying the statutory requirement of a good-faith complaint
22 as to all Defendants.

23 Defendants’ reliance on early awareness does not foreclose retaliation. It supplies the contrast
24 from which a reasonable jury could infer it. The record reflects months of inaction despite knowledge,
25 followed by rapid escalation after protected activity. At the summary judgment stage, the Court may
26 not choose between those competing inferences. That determination must be left to the jury.

27 ///

28 ///

1 **3. Independent Retaliatory Acts After Plaintiff's Records Request Also Defeat**
2 **Summary Judgment.**

3 Even despite the oleander-related retaliatory conduct, Defendants are still not entitled to
4 summary judgment. On May 5, 2021, Collier engaged in additional protected activity by formally
5 requesting Association records pursuant to NRS 116.31183(c). During this same timeframe, there are
6 numerous correspondences by Collier (and her agents) engaging in other protected activity that caused
7 retaliatory conduct in the form of additional notices. That is, the timeframe does not start and stop
8 with the oleander issue.

9 On May 12, 2021, just one week after requesting Association records, Defendants issued the
10 first notice regarding Collier's paint scheme. And six months later (just days after Mossett-Puhek
11 admits that she is actively searching for additional violations against Collier), on November 1, 2021,
12 Defendants issued the first notice regarding Collier's flagpole. Each of these notices constitutes
13 enforcement action, and each undisputedly postdates protected activity. The jury can also view these
14 other incidents as satisfying the requirements of NRS 116.31183.

15 Accordingly, the paint scheme and flagpole notices independently satisfy the statute's
16 causation requirement and, at a minimum, create triable issues of fact regarding retaliatory action.

17 **4. Defendants' Motion Ignores Plaintiff's Independent Claim Under NRS**
18 **116.31184, Which Does Not Turn on Timing.**

19 Defendants' motion proceeds as though the timing of events is dispositive of all statutory
20 claims. It is not. In addition to her retaliation claim under NRS 116.31183, this Court expressly
21 permitted Collier to pursue a separate statutory claim under NRS 116.31184, which prohibits an
22 executive board member, community manager, or agent of the association from willfully and without
23 legal authority threatening, harassing, or otherwise engaging in a "**course of conduct**" that causes
24 harm, serious emotional distress, or creates a hostile environment. *See* NRS 116.31184 (emphasis
25 added); *see also* Doc ID# 134, ¶ 4 (the Court's order permitting this cause of action).

26 Unlike NRS 116.31183, NRS 116.31184 contains *no* requirement that the challenged conduct
27 occur after, or because of, a protected act. It imposes no temporal sequencing requirement at all. The
28

1 statute focuses instead on the nature and cumulative effect of the conduct—whether Defendants
2 engaged in a willful course of harassment or intimidation, regardless of when it began.

3 Defendants’ motion does not address this statute. It instead attempts to make timing the
4 linchpin of the case, ignoring that Collier’s harassment claim turns on a pattern of conduct that
5 includes, among other things, repeated targeting, escalation of enforcement, threats of fines,
6 disparaging communications, and continued demands even after alleged violations were resolved.
7 Those facts, taken together, are more than sufficient to create a triable issue under NRS 116.31184,
8 wholly independent of any timing analysis.

9 Viewed as a whole, the record would also permit a reasonable jury to find that Defendants
10 engaged in a willful “course of conduct” within the meaning of NRS 116.31184. That course of
11 conduct includes months of selective attention followed by rapid escalation, unilateral involvement of
12 City authorities without board approval, recharacterization of minor issues as health-and-safety
13 violations, imposition of the largest fine in the Association’s history, disparaging communications
14 directed at Plaintiff and City officials, and continued enforcement efforts even after neutral authorities
15 concluded no violation existed. A jury could reasonably infer from this pattern—taken cumulatively
16 rather than in isolation—that Defendants’ actions were not isolated or routine, but part of a sustained
17 and escalating effort that caused harm, distress, or a hostile environment. Because NRS 116.31184
18 turns on the existence and effect of a course of conduct, and not on temporal sequencing, these factual
19 inferences are for the jury to draw, not for the Court to resolve on summary judgment.

20 Because Defendants’ motion fails to address an independent statutory claim that does not
21 depend on temporal sequencing, summary judgment is improper for this additional reason alone.

22 **D. Mossett-Puhek Did Not Simply Make A “Neutral” Inquiry About Whether The**
23 **Oleanders Posed A Site-Visibility Issue.**

24 Mossett-Puhek’s Joinder is based on a false premise that she made a “neutral” inquiry about
25 whether the oleanders posed a site-visibility issue. Doc ID# 184, 9-10. When Henderson Code
26 Enforcement documented the call on March 2, 2021—*the call that Mossett-Puhek made without board*
27 *knowledge and that set the enforcement process in motion*—it did not record a request for abstract

28 ///

1 clarification. It recorded a complaint. Specifically, at 9:20 a.m. on March 2, 2021, Code Enforcement
2 noted:

3 Received a complaint over the phone from the HOA board member who states the address at
4 2822 Culloden planted oleander bushes that are obstructing drivers' view of traffic when
5 turning right at the stop sign. States they have had issues with people running the stop sign
because of this.

6 Doc ID# 184, at Exhibit 1, PO1118.

7 That description matters. It reflects a report of an existing violation, framed as an ongoing
8 traffic-safety problem allegedly causing drivers to run a stop sign.⁵ It is not phrased as a question. It
9 is not framed as uncertainty. And it is not recorded as a neutral request for guidance. Whether the
10 allegation was accurate is a merits question for trial. But the manner in which the issue was presented
11 to the City is undisputed, and it directly contradicts Defendants' attempt to sanitize the March 2 call
12 as a mere "inquiry."

13 To avoid that problem, Defendants miscite the record by relying on a different set of City
14 notes—dated December 13, 2021, *more than nine months later*. *Id.* at 9–10. Those later notes state
15 that "Penny states that this is still a line of sight issue from the bush" and that she was "wanting
16 clarification if it's a violation or not." But those December notes describe a separate call, made after
17 the oleanders had been trimmed and after extensive enforcement activity had already occurred. They
18 do not describe the March 2 call. Using a December 2021 request for "clarification" to recharacterize
19
20

21
22 ⁵ Note, there is no evidence of drivers running a stop sign. Moreover, Mossett-Puhek's mischaracterization grossly
contradicts what The City Of Henderson ultimately found as follows:

23 The sight visibility guidelines that are mentioned in your concern are used at intersections that do not have an all-way
24 stop controlled or signal. Intersections such as two-way stop controlled and or roundabouts must meet sight visibility
25 requirements since the vehicles that are stopped must be able to see oncoming traffic a specific distance down the
26 roadway to be able to gauge when it is appropriate for them to continue through the intersection. Since the intersection of
27 Culloden and Crathes is an all-way stop controlled intersection where all approaches must come to a stop, the sight
28 visibility is different. The line of sight for this type of intersection is from the drivers eye to the first car at the stop sign
at all approaches. *During our field visit we made sure that when stopped at every approach, the stop sign and vehicles at
the stop sign were visible. The bushes in question do hinder the line of sight for any approach.* It should be noted
that when sitting at the approach on Crathes, the stop sign for eastbound Culloden was blocked by trees. We respectfully
request that the HOA have their landscaping company trim the tree so the approach on Crathes can see that that leg of the
intersection does have a stop sign.

Exhibit 3 (emphasis added).

1 a March 2021 complaint reporting an active safety violation collapses the timeline and obscures the
2 escalation that actually occurred.

3 That contrast is not a minor discrepancy; it goes to the heart of Defendants' causation theory.
4 If Mossett-Puhek truly contacted the City in March merely to ask an open-ended question, the City's
5 records would reflect that. They do not. Instead, they reflect a *direct harassment* and a complaint
6 asserting that Collier's property was *already creating a traffic hazard*, of which there is no evidence
7 for support. A reasonable jury could conclude that the City was being asked to confirm and act on an
8 alleged violation—not to provide neutral advice—and that this escalation occurred within days of
9 Collier's protected complaint.

10 Defendants' causation argument thus depends on a sleight of hand the Court must reject. Rule
11 56 does not permit the Court to resolve that dispute by crediting Defendants' post-hoc narrative over
12 the contemporaneous evidence. That determination belongs to a jury.

13 **E. Collier Has Other Claims Pending Against Defendants Than Claims Pursuant To**
14 **NRS 116.31183.**

15 Defendants appear to suggest that the Motion and Joinder adjudicate all claims against them
16 or that NRS 116.31183 is the only remaining claim against them, which is simply not true. There are
17 many other causes of action that exist in this case, such as other statutory violations, conspiracy,
18 negligence, breach of fiduciary duty, etc. as set forth in the Amended Complaint. Doc ID# 42. Not a
19 single claim was dismissed against Defendants despite the seemingly endless dispositive motion
20 practice that Defendants continue to file (without procedural or substantive merit). *See, e.g.*, Doc ID#
21 134.

22 **F. Even If Revisited, Which Is Not Appropriate, The Legislative History Indicates A**
23 **Clear Intention To Allow Plaintiff To Prosecute Claims Arising Under NRS**
24 **116.31183 and NRS 116.31184.**

25 In prior briefing, Collier spent many pages discussing legislative intent and the express
26 statutory right and the implied right of action by the Legislature to allow Collier to prosecute these
27 claims. *See, generally*, Doc ID# 87, 88, and 89 (discussing in detail the right to pursue these claims,
28 including statutory right and implied right of action by the Legislature); Doc ID# 134, ¶¶ 4, 6 (the

1 Court finding in Collier’s favor on these issues). Setting aside the express rights under NRS 116.4117,
 2 it’s important to note that NRS 116.31183 and NRS 116.31184 are “*companion*” statutes. *Dezzani v.*
 3 *Kern & Associates, Ltd.*, 134 Nev. 61, 76, 412 P.3d 56, 67 (2018) (Pickering, J. dissenting on other
 4 grounds). Both statutes are designed to curtail harassment of homeowners. *Id.* The legislature’s intent
 5 to permit unit owners to have a private right of action is also readily apparent given that language
 6 within NRS 116.31183 that authorizes the same.⁶ The underlying purposes is to prevent harassment,
 7 intimidation, and retaliatory conduct toward unit owners. The legislature was well aware of the threats
 8 and intimidation that unit owners faced from associations and their agents, which was the entire point
 9 of passing these two statutes. *See, e.g., Dezzani*, 134 Nev. at 76, 412 P.3d at 67 (Pickering, J.
 10 dissenting on other grounds) (discussing the concerns expressed by S.B. 182’s sponsor and the
 11 “immensely chilling effect” of the misconduct that an association, the executive board, and its agents
 12 may have on a unit owner, as well as an FBI report supporting the same). In fact, the Legislature took
 13 it so seriously that it codified it as a criminal offense. The criminality of the conduct does not negate
 14 the private right of action but instead should be viewed as how seriously the Legislature viewed this
 15 misconduct by HOAs, the executive board, and their agents. Unit owners should have the right to
 16 pursue civil claims to protect themselves from this type of harassment.

17 **G. Even If Revisited, Which Is Not Appropriate, The Nevada Real Estate Division And**
 18 **The Ombudsman Do Not Have Exclusive Jurisdiction Over These Matters.**

19 Finally, Defendants’ renewed jurisdictional arguments fail as a matter of law for the same
 20 reasons previously briefed. *See, generally*, Doc ID# 87, 88, and 89 (discussing in detail that the
 21 Nevada Real Estate Division and the Ombudsman do not have exclusive jurisdiction); Doc ID# 134,
 22 ¶¶ 4, 6 (the Court finding in Collier’s favor on these issues). Chapter 116 does not vest exclusive
 23

24 _____
 25 ⁶ *See also Neville v. Eighth Judicial Dist. Court*, 133 Nev. 777, 781, 406 P.3d 499, 502 (2017) (finding a private right of
 26 action to enforce claims under NRS Chapter 608 even though NRS 608.016 NRS 608.018 NRS 608.020 through NRS
 27 608.050 are silent as to whether a private right of action exists and NRS 608.180 expressly states that the “Labor
 28 Commissioner or [his representative] shall cause the provisions of NRS 608.005 to NRS 608.195, inclusive, to be
 enforced.”); *Freeman Expositions, LLC v. Eighth Judicial Dist. Court*, 520 P.3d 803, 807-09, 128 Nev. Adv. Op. 77
 (Nev. 2022) (holding that the legislature intended to create a private right of action pursuant to NRS 678C.850); *Mack v.*
Williams, 522 P.3d 434, 138 Nev. Adv. Op. 86 (Nev. 2022) (finding that a private right of action existed under Nevada’s
 Constitution to create a civil remedy for monetary relief for unlawful searches and seizures). Because the Legislature did
 not express an intention to deny a private right of action, finding that such a right is implied is appropriate given the
 entire legislative scheme.

1 jurisdiction in the Nevada Real Estate Division or Ombudsman, nor does it require a unit owner to
2 obtain a prior administrative “violation” finding before pursuing a civil claim under NRS 116.31183,
3 NRS 116.31184, or any other statutory violation. To the contrary, NRS 116.31183 expressly
4 authorizes a unit owner to bring a “separate action” for damages and attorney’s fees, and nothing in
5 the statutory text conditions that right on the submission of an administrative complaint, the use of
6 Form 514, or an investigation by NRED. Nothing in NRS 38.310 requires the same as a prerequisite.
7 It only requires Collier to mediate her claims, which Collier completed. Doc ID#42 (containing
8 Collier’s sworn statement on this issue).

9 Defendants’ reliance on administrative complaint procedures conflates regulatory oversight
10 with civil adjudication. As Plaintiff previously explained, NRS 38.310 establishes the jurisdictional
11 prerequisite for civil actions arising under Chapter 116, and Plaintiff undisputedly satisfied that
12 requirement. Administrative complaint mechanisms under NRS 116.745 et seq. are cumulative, not
13 exclusive. NRS 116.755 expressly provides that the “rights, remedies and penalties” available
14 through NRED “are cumulative and do not abrogate and are in addition to any other rights, remedies
15 and penalties that may exist at law or in equity.” NRS 116.755 (emphasis added). The existence of
16 an administrative enforcement process therefore does not divest this Court of jurisdiction or preclude
17 a civil action authorized by statute.

18 Nor does Defendants’ invocation of Form 514 alter that analysis. Form 514 is an administrative
19 complaint mechanism; it is not a jurisdictional prerequisite and cannot override the Legislature’s
20 express authorization of a civil “separate action.” Agencies routinely provide forms to facilitate
21 regulatory complaints, but the availability of such forms does not eliminate statutory private rights of
22 action or require exhaustion beyond what the Legislature has specified. Nothing in Chapter 116 states
23 that a unit owner must file Form 514—or obtain a Division “violation” finding—before seeking
24 judicial relief for retaliatory conduct. Collier in detail walked this Court through the manuals and the
25 forms in her prior filings, even setting forth excerpts of those forms that directly contradict Defendants’
26 current claims. *See, generally*, Doc ID# 87, 88, and 89.

27 Making matters worse, Defendants cite not a single case for support. On the other hand,
28 numerous cases exist that directly contradict Defendants’ position, which Defendants do not cite to

1 this Court. For example, on September 23, 2021, the Nevada Supreme Court issued *Saticoy Bay, LLC,*
2 *Series 9720 Hitching Rail v. Peccole Ranch Community Association*, 137 Nev. 516, 495 P.3d 492
3 (2021) abrogating *Hamm v. Arrowcreek Homeowners' Association*, 124 Nev. 290, 183 P.3d 895
4 (2008) and *McKnight Family, LLP v. Adept Management Services, Inc.*, 129 Nev. 610, 310 P.3d 555
5 (2013). Not a single time in this line of cases did the Nevada Supreme Court analyze or otherwise
6 hold that any additional requirement exists to submit claims with the Ombudsman. *Saticoy Bay, LLC,*
7 *Series 9720 Hitching Rail*, 137 Nev. at 521-22, 495 P.3d at 497-98. The parties even briefed these
8 issues prior to the dispositive motion practice when the parties briefed issues related to NRS 38.310
9 in 2023. Doc ID# 45; *see also* Doc ID# 30. Defendants knew or should have known that binding
10 authority within Nevada directly contradicted their jurisdictional argument when they presented back
11 in 2024, let alone when they presented it again earlier this year.

12 Defendants' position would effectively rewrite the statute to impose jurisdictional hurdles the
13 Legislature did not enact, converting a civil cause of action into an administratively gated claim.
14 Nevada law does not support that result. Because Plaintiff complied with NRS 38.310 and because
15 Chapter 116 expressly authorizes civil enforcement of NRS 116.31183, jurisdiction properly lies with
16 this Court.

17 **H. Defendants Must Be Ordered To Pay Plaintiff's Attorney's Fees And Costs Incurred**
18 **In Opposing This Motion.**

19 Defendants' Motion and its corresponding Joinder should not have been filed. At the most
20 recent hearing, the Court expressly warned the parties that no dispositive motions were to be brought.
21 Despite that unambiguous directive and even after meet and confers, Defendants moved forward with
22 the instant Motion for Summary Judgment and Joinder, forcing Plaintiff to incur unnecessary
23 attorneys' fees and costs responding to a motion the Court had already cautioned should not exist. The
24 Court's warning was not vague. At the January 15, 2026 hearing, the Court stated:

25 Because quite frankly, if the dispositive motion deadline has passed, you don't get to file a
26 dispositive motion if it's passed. It's untimely. The Court's not going to ultimately entertain
that if it has passed.

27 Doc ID# 191, Jan. 15, 2026, Hr'g Tr. at 10:1-4.
28

1 The Court further clarified that, while limited motions such as motions in limine or evidentiary
2 motions might be appropriate following supplemental discovery, dispositive motions were not:

3 Now, I understand if there was within the Court’s order the additional supplemental expert
4 issue... that would be appropriate. But what exactly are the outstanding issues... because if
the dispositive motion deadline has passed, you don’t get to file a dispositive motion.

5 *Id.* at 10:2-3, 10:5-6, 10:12.

6 Defendants decision to move forward, Despite these express warnings, squarely implicates
7 multiple procedural mechanisms authorizing sanctions, including an award of attorneys’ fees.

8 First, EDCR 7.60(b) authorizes sanctions, including attorneys’ fees, when a party “fails or
9 refuses to comply with any order of a judge of the court.” The Court’s instruction that no dispositive
10 motions be filed was an order governing the conduct of this litigation. Defendants’ filing of this Motion
11 directly contravenes that instruction.

12 Second, NRCPC 16(f) independently authorizes sanctions when a party “fails to obey a
13 scheduling or other pretrial order,” including the full range of sanctions available under NRCPC
14 37(b)(1). The purpose of Rule 16 is to promote efficient case management and prevent exactly what
15 occurred here—motion practice that disregards the Court’s expressed limitations and imposes
16 unnecessary costs on the opposing party.

17 Third, and independently sufficient, Nevada courts possess inherent authority to sanction
18 conduct that undermines the Court’s orders and the orderly administration of justice. The Nevada
19 Supreme Court has made clear that courts retain inherent power “to protect the dignity and decency of
20 [their] proceedings and to enforce [their] decrees,” including by issuing sanctions. *Halverson v.*
21 *Hardcastle*, 123 Nev. 245, 261, 163 P.3d 428, 440 (2007). That authority exists irrespective of whether
22 a specific rule applies and is properly exercised where, as here, a party proceeds in direct disregard of
23 the Court’s prior instruction.

24 Defendants cannot plausibly claim confusion. The Court’s warning was explicit,
25 contemporaneous, and directed at this Motion and Joinder. The fees and costs incurred in opposing
26 this Motion were therefore unnecessary, avoidable, and the direct result of Defendants’ disregard of
27 the Court’s directive. Defendants continue to drive up Collier’s fees and costs, just as Mossett-Puhek
28

1 threatened to do years ago.

2 **V. CONCLUSION**

3 For all of these reasons, Defendants’ Motion for Summary Judgment and the accompanying
4 Joinder should be denied in their entirety, as they are procedurally improper, barred by the law-of-the-
5 case doctrine, and fail to eliminate the genuine issues of material fact that must be resolved by a jury.

6

7 DATED: January 30, 2026

Respectfully Submitted,

8

THE LAW OFFICES OF TIMOTHY ELSON

9

10

By: /s/ Timothy Elson
Timothy Elson, Esq.
Nevada State Bar # 11559
8965 S. Eastern Ave., Suite 382
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(702) 874-8600
Attorneys for Plaintiffs ANDREA COLLIER, as trustee of
the JACT TRUST

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CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of The Law Offices of Timothy Elson, hereby certifies that on January 30, 2026, he served a copy of the foregoing **PLAINTIFF’S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT FOR CLAIMS AGAINST CARMEN EASSA AND TERRA WEST MANAGEMENT SERVICES AND OPPOSITION TO MOSSETT-PUHEK’S JOINDER RE NRS 116.31183 RETALIATION CLAIM** by electronic service through the Regional Justice Center for Clark County, Nevada’s electronic filing and service System:

/s/ Timothy Elson
An employee of
The Law Offices of Timothy Elson

EXHIBIT 1

EXHIBIT 1

1 Timothy P. Elson, Esq.
Nevada State Bar # 11559
2 **THE LAW OFFICES OF TIMOTHY ELSON**
8965 S. Eastern Ave., Suite 382
3 Las Vegas, Nevada 89123
Tim@ElsonLawOffices.com
4 (702) 874-8600

5 Attorneys for Plaintiff ANDREA COLLIER, as
trustee of the JACT TRUST

6 **DISTRICT COURT**
7
8 **CLARK COUNTY, NEVADA**

9
10 ANDREA COLLIER, as trustee of the JACT
TRUST,

11 Plaintiff,

12 v.

13 PENNIE MOSSETT-PUHEK, individually;
14 ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, a Nevada Non-Profit Corporation;
DOES I through X and ROE BUSINESS
ENTITIES I through X, inclusive,

15 Defendants.
16

Case No.: A-22-852032-C
Dept.: 8

DECLARATION OF ANDREA COLLIER

17 I, Andrea Collier, do declare, affirm, and state as follows:

18 1. I am the named plaintiff in this action. I have personal knowledge of the facts set
19 forth in this declaration and could competently testify to them if called as a witness.

20 2. I have lived in the Anthem community since 2015 and own the residence in a trust
21 located at 2822 Culloden. For many years, I had no issues with the Association and did not receive
22 any violation notices relating to my property.

23 3. By 2020, I became increasingly concerned about conditions in the Anthem
24 community, including crime, unkept landscaping, improperly parked commercial vehicles, and other
25 violations of the governing documents. I raised those concerns with members of the executive board
26 and with management.

27 4. After Pennie Mossett-Puhek was elected to the executive board, I reached out to her
28 around June 2020 to offer support. Over the following months, we worked together on community

1 issues and developed a friendly relationship.

2 5. During 2020, my own property was not the subject of any enforcement activity. I
3 received no violation notices, no fines, and no communications from the Association or the City
4 regarding my property during that period.

5 6. For months, I raised concerns with Ms. Mossett-Puhek regarding other ongoing
6 CC&R violations in the community, including improper parking and unsafe conduct by a
7 neighboring resident operating a Southwest Gas commercial vehicle. For example, I produced
8 written communication in this action detailing an email to Mossett-Puhek in June 2020 (P003585)
9 wherein I made various complaints. I also made complaints regarding the Southwest Gas vehicle. I
10 reported that the vehicle was repeatedly parked in violation of the governing documents, interfered
11 with access and traffic, and caused property damage, and I provided photographs documenting those
12 issues. I understand that Anthem took corrective action against the Southwest Gas truck, which Ms.
13 Mossett-Puhek told me. She also told me that the Southwest Gas vehicle was later determined to be
14 in violation and corrective action was ultimately required.

15 7. In February 2021, I received informal text messages from Ms. Mossett-Puhek
16 regarding oleander bushes on my property. At that time, no HOA notice was issued and there was no
17 involvement by Code Enforcement.

18 8. On February 26, 2021, I sent Ms. Mossett-Puhek a message expressing concern about
19 unresolved violations in the community and safety issues, and I advised her that I had contacted the
20 community manager at Terra West to discuss those concerns. In that communication, I questioned
21 the accuracy of the information I was receiving about enforcement and expressed frustration that
22 known violations were not being addressed.

23 9. Shortly after that communication, Ms. Mossett-Puhek contacted Henderson Code
24 Enforcement regarding my property. This occurred without my request and without any prior notice
25 to me from the Association.

26 10. The first formal HOA notice I received concerning the oleanders was dated April 12,
27 2021. Prior to receiving that notice, I had not been cited by the Association or the City for any
28 violation relating to the oleanders.

EXHIBIT A

EXHIBIT A



Andrea >

3/7 s the street to
access equipment.

Last week, he backed
up into my trash can
and moved it East with
the SW Gas Truck so he
could park where you
asked him

4/7 not to....

So now.... he is not only
continuing to break the
CC and Rs with the POS
SW Gas Truck, NOW he
is using it to destroy
property ie trash cans

5/7 that belong to
Republic.



Text Message





Andrea >

Sorry...yes...the 12th....
Ginna send some pics
of our recent visit....
You are going to LOVE
IT!!!

Tap to
Download

Resized_202012...
560KB

Tap to
Download

Resized_202012...
613KB

Also , I'll call you a little
later today. City of
Henderson called
management and asked
them to reach out to you



Text Message





Andrea >

management and asked them to reach out to you about the oleanders in the front yard. Their cameras show that people have to pull past the stop sign mark on the street to get a view. They are asking that you replace them with a low growing plant. We are waiting to see what they are going to do about people blowing the stop sign. They said they would let us know in a few weeks.

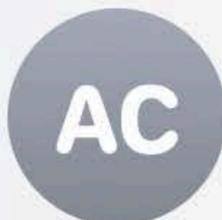
Looks awesome !!!
looking forward to it.

Tap to



Text Message





Andrea >

Yo....For your records.

Feb 22, 2021, 5:55 PM

Is there any way you can walk across the street and take a picture from the park to get perspective of where it is. I don't want to use pictures coming from your camera for obvious reasons. Also, COH called management again about the oleanders and asked if this us being addressed. I guess school starts next week and now it's a safety issue for not being able



Text Message





Andrea >

OMG....
What are we doing
about SW Gas 🧑?
We need community
patrol

/help.

Feb 26, 2021, 6:57 PM

So...he can park
wherever he wants after
all of the BS?

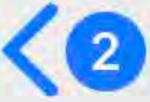
Feb 26, 2021, 7:59 PM

1/2 Ok. Thanks.
I thought you had this
handled.
And I thought you made
it a practice NOT to put



Text Message





Andrea >

it a practice NOT to put homeowners in harms way with other, known irrational and pot

2/2 entially violent neighbors.
Not cool Pennie.

Tap to Download

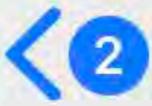
Resized_Screen...
618KB

Thought this SW gas truck was a safety issue and that industrial trucks cannot he parked on thr street.
Why is it that every other home owner with an industrial truck has



Text Message





Andrea >

an industrial truck has
their parked in their
driveways EXCEPT SW
gas boy....

Recognize the old man
in the picture with SW
Gas Boy?

Stated that SW gas boy
can park wherever he
wants....

Hmmmm.

I have his plates....

Maybe we should run
him and find out who he
is....

Thoughts?

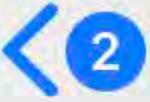
My driveway is blocked
again.

Can't exit my house
safely due to on coming
traffic.



Text Message





Andrea >

Can't exit my house safely due to on coming traffic.

Cars entering have to SWERVE FAR LEFT, AS YOU STATED to avoid the SW gas truck....

What is the reality here Pennie?

Tap to Download

Resized_Screen...
494KB

I thought he was told to pull up in front of his driveway....

Does this look like what you, the HIA and Attorneys stated he MUST do?



Text Message





Andrea >

Download

Resized_Screen...
530KB

**Palm trees are my property line.
HmMMM.
So...like you stated, where do I place my trash cans.....
List goes on and on.
Right?**

Andrea, I spend at least 30 hours a week volunteering for this community. That means free! I am trying to address every issue that comes in. I can only go so far without having the HOA sued for



Text Message





Andrea >

go so far without having the HOA sued for harassment. We have only had 6 months of Terra West trying to address violations in 11 communities. In that 6 months they sent out 1643 violations. First Service sent 341 in 6 months. I'm exhausted and I refuse to take time from my dad to be berated that I have not done enough. Please feel free to support anyone that you think will do a better job in the election, because I am done being beaten up!



Text Message

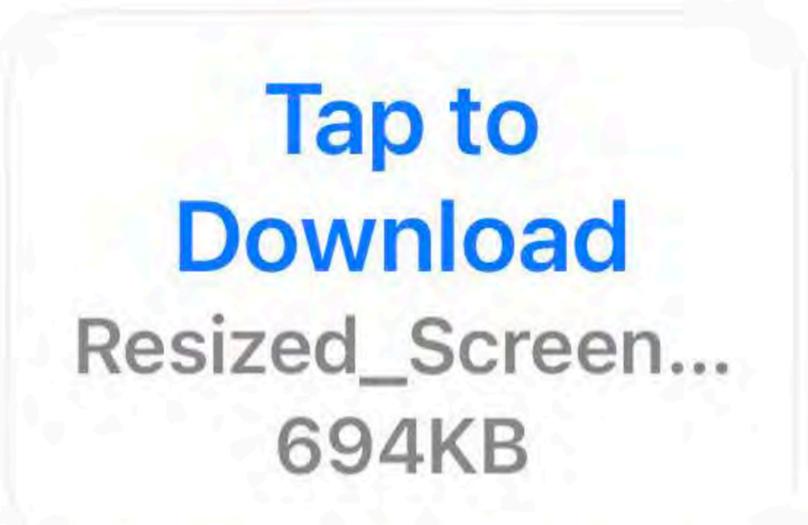




Andrea >

I have to make choices and my weekends are for my family. I will not do HOA stuff during that time anymore.

Mar 15, 2021, 3:23 PM



Hello...
Long time....
Is this something I need to report to HOA.
SW GAS BOY MOVING OUR TRASH CANS SO HE CAN PARK IN FRONT OF MY HOUSE AND BLOCK MY



Text Message

