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Pedro Martinez*

FILED

2014 AUG 11 PM 12:47

JOEY ORDONAL CASTINGS  
CLERK OF THE COURT

BY M. E. [Signature]  
DEPUTY

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE**

PEDRO MARTINEZ, an individual and  
Superintendent of the Washoe County School  
District,

Plaintiff,

vs.

WASHOE COUNTY SCHOOL DISTRICT;  
WASHOE COUNTY SCHOOL DISTRICT  
BOARD OF TRUSTEES;

Defendants.

Case No.: CV14-01617

Dept. No.: 9

**POINTS AND AUTHORITIES IN OPPOSITION TO  
DEFENDANTS' MOTION FOR EXTENSION OF TIME**

Plaintiff, Pedro Martinez ("Martinez"), opposes the motion of defendants, Washoe County School District and Washoe County School District Board of Trustees (collectively "the Board") for additional time ("the Motion For More Time") on the grounds that the 45 days provided by statute are more than sufficient for the preparation of a responsive pleading in this case. Martinez has alleged claims for violation/enforcement of the Open Meeting Law and for breach of his Employment Contract. *See Amended And Supplemental Verified Complaint For Declaratory And Injunctive Relief And Damages ("the Complaint")*. No response is required to the Open Meeting Law claims inasmuch as defendants (1) have admitted the Open Meeting Law violation that occurred on July 22, 2014, (2) have abandoned any effort at "corrective" action, and (3) have

1 taken the challenged Item 3.01 off the agenda. Plaintiff's breach of contract claims arise from the  
2 Board's July 22, 2014 termination which violated both the contract's express termination  
3 provisions and its prohibition on assignment of the plaintiff's duties and responsibilities. There is  
4 no conceivable reason that defendants need until **the middle of October** to respond to those  
5 claims. The Motion For More Time seeks to obfuscate the issues before the Court and to delay  
6 discovery and resolution of this case. That Motion must be denied.

7 **I. STATEMENT OF FACTS**

8 **A. The Martinez Employment Contract and Evaluations.**

9 On August 1, 2012, Martinez became the Superintendent of the Washoe County  
10 School District pursuant to a written contract ("the Employment Contract") with the Washoe  
11 County School District Board of Trustees. **Complaint, Exh. 1.** Martinez' employment as  
12 Superintendent was governed solely by the Contract, as confirmed by the Board in 2013 when it  
13 adopted revised Board Policy 9007 and deleted prior policies 2110.1 and 2110.3. **Complaint,**  
14 **Exh. 3.** Under the Contract, the Board may terminate Martinez' employment for cause only on  
15 certain stated grounds and under the following terms and conditions:

16 For purposes of this Agreement, termination for cause shall mean  
17 termination of the employment of the Superintendent by the Board  
18 as the result of: (1) commission or omission of any act of fraud,  
19 embezzlement, theft or misappropriation by the Superintendent in  
20 connection with the Superintendent's employment with the Board;  
21 (2) any conviction, guilty plea, or plea of nolo contendere by the  
22 Superintendent for any felony, or (3) material breach of this  
23 Agreement; and (4) termination for such other causes and reasons  
24 provided by applicable federal or state law. The parties agree that  
25 in the event of the Board's proposed termination of the  
26 Superintendent for cause, the Superintendent shall have the right to  
27 written charges, a hearing before the Board as described in this  
28 paragraph[,] ten (10) days advance written notice of said charges  
and hearing and a written final decision. **Complaint, Exh. 1,**  
**Section 14(D).**

24 The Contract also provides for an annual performance evaluation on mutually determined  
25 goals and objectives. **Complaint, Exh. 1, Section 11.** That evaluation is reviewed in an open  
26 public meeting. In 2014, the Board arranged for an extensive second year evaluation of  
27 Superintendent Martinez' performance, including a survey of all District principals, a random  
28 sample of 497 teachers, the District leadership team, 45 community, governmental, educational,

1 and parent leaders identified by the Board and the Superintendent's Office, and the Board itself.  
2 **Complaint, Exh. 4.** On June 12, by unanimous vote, the Board approved the 2014 evaluation.  
3 **Complaint, Exh. 5.** In that evaluation, the Board gave Martinez a consensus rating as  
4 "proficient." **Complaint, Exh. 4, p. 7.** According to the evaluation report,

5 Among the much strength cited by the Trustees in support of  
6 Superintendent Martinez' performance this past year, are the  
7 following:

- 8 • His passion, sincerity and caring for all students
- 9 • His determined focus on improving student achievement and  
10 graduation rates
- 11 • His strong commitment to the success of every student in the  
12 District.
- 13 • His financial and budgetary acumen
- 14 • His grasp of educational policy
- 15 • His energy and creativity in developing initiatives to advance the  
16 goals of college and career ready graduates
- 17 • His bilingual capability which is invaluable in the outreach to  
18 Latino students and their families
- 19 • His collaborative efforts with TMCC and UNR which have  
20 resulted in several positive proposals to better prepare students for  
21 post-secondary academic success
- 22 • His energetic and positive outreach to external constituencies,  
23 including parents and community leaders, by whom he has been  
24 well received. **Complaint, Exh. 4, pp. 8-9.**

25 **B. The Events of July 22**

26 Public agencies including the Board are subject to Nevada's Open Meeting Law.  
27 *NRS 241.010 et seq.* The Open Meeting Law generally provides that public bodies must make  
28 their decisions in meetings that are noticed publicly and open to the public. Although the Open  
Meeting Law provides for closed meetings to consider personnel issues with respect to most  
employees, a closed meeting to discuss the "character, alleged misconduct or competence" of a  
School District Superintendent is expressly prohibited. *NRS 241.031(1)(b).*

On July 22, 2014, the Board noticed and held a public "work session" meeting. The  
agenda for that public work session meeting contained nothing about the conduct, character or

1 performance of the Superintendent. **Complaint, Exh. 6.** All members of the Board except for  
2 Estela Gutierrez attended the public work session meeting as did Superintendent Martinez.  
3 **Complaint, para. 12.**

4 During a recess, Board President Barbara Clark told Martinez that the District had  
5 received a report from an anonymous source that he had held himself out to be, or was holding  
6 himself out to be, a certified public accountant, that the Board had investigated the matter, and  
7 that the Board had concluded that he was not a licensed certified public accountant. **Complaint,**  
8 **para. 13.** Martinez responded that he had never held himself out either as a licensed certified  
9 public accountant or a practicing certified public accountant. He also told Mrs. Clark that he had  
10 passed the certified public accountant exam in Illinois and had been issued a certificate to that  
11 effect which he continued to hold. **Complaint, paras. 14, 15 .** Martinez also pointed out to Mrs.  
12 Clark that a certified public accountant "license" had not been a qualification for the  
13 Superintendent's job. **Id.**

14 Mrs. Clark ended their discussion and advised Martinez that the Board was going to have  
15 a closed legal meeting with its counsel. Under the Open Meeting Law, a public body may meet  
16 privately "[t]o receive information from the attorney employed or retained by the public body  
17 regarding potential or existing litigation involving a matter over which the public body has  
18 supervision, control, jurisdiction or advisory power and to deliberate toward a decision on the  
19 matter." *NRS 241.015(3)(b)(2); In re Board of Mineral County Commissioners*, OML Opinion  
20 2005-04, at p. 4 (March 2005). Even in such a "legal" meeting, however, no decision could be  
21 made. Members of the public agency can deliberate regarding litigation strategy but no decision  
22 can be made even on that matter except in an open meeting. *NRS 241.015(3)(b)(2); In re Board*  
23 *of Mineral County Commissioners*, OML Opinion 2005-04, at p. 4 (March 2005).

24 On July 22, 2014, however, there was no existing litigation between Martinez and the  
25 Board and no "potential" for such litigation absent a wrongful action by the Board. There was  
26 nothing to discuss in a meeting with the lawyer. The Board could not properly use "meeting with  
27 its lawyer" as a cover to contravene the express statutory requirement that discussions of the  
28

1 Superintendent's character, alleged misconduct or competence be held only in open meetings.  
2 *NRS 241.031(1)(b)*.

3 During the brief period that he attended the Board's closed meeting with counsel, Martinez  
4 reiterated to the Board what he had just previously told Board President Clark, that he held a  
5 certificate as a certified public accountant from Illinois. He also produced from his office a copy  
6 of that certificate. *See Complaint, Exh. 7*. Martinez explained that the Illinois system  
7 differentiated between certified public accountants and **licensed** certified public accountants.  
8 Martinez again pointed out, and it was confirmed by a Board member, that he had not claimed to  
9 be a licensed CPA in his job application or resume or in the interview process with the Board  
10 when he was hired. **Complaint, paras. 19, 20**.

11 After Martinez provided evidence of his Certificate and attempted to explain the different  
12 Illinois system, Board President Barbara Clark informed him that the Board had "completed its  
13 fact finding" on the matter. **Declaration of Pedro Martinez ("Martinez"), Para. 3, attached**  
14 **hereto as Exhibit 1**. Clark then excused Martinez from the meeting and he left. Amazingly,  
15 notwithstanding Martinez' explanation, not a single Board member apparently suggested that  
16 further investigation regarding the Illinois system might be appropriate. Instead, like sheep over a  
17 cliff, the Board decided unanimously to terminate the Superintendent's employment. President  
18 Clark placed a call to the non-present Board Member, Estela Gutierrez, to convey that decision.  
19 Ms. Gutierrez was placed on the speaker phone with the other Board Members present and  
20 advised that Martinez was being terminated from his position for fraud. **Martinez, para. 2**. Ms.  
21 Gutierrez stated her disagreement with the decision and the call ended. **Id.** No mention  
22 whatsoever was made of putting Martinez on "paid leave." **Id.**

23 Board Members Clark and Ruggerio and Board counsel Randy Drake then informed  
24 Martinez that the Board had decided to terminate him for cause, effective immediately. The  
25 Board offered to pay Martinez if he would resign, but he rejected all such offers and insisted on  
26 the rights under his Contract. **Complaint, paras. 21, 22**. Martinez was escorted from District  
27 premises, his District email was terminated, and he was required to relinquish the vehicle which  
28 was a benefit under the Employment Contract. **Complaint, paras. 23, 24**. The Board told at

1 least one employee in the District Office that Martinez had been terminated and told one  
2 employee that he was a "liar and had committed fraud." This employee confirmed that the only  
3 issue was his CPA status. **Martinez, para. 5.** The Board also sent out a tweet on its twitter  
4 account and an email to parents of District students, issued a press release and held a press  
5 conference, all to announce that Martinez had been "relieved of his duties as Superintendent."  
6 **Complaint, paras. 25, 26, 27 and Exhibit 9.**

7 **C. The Claim That Superintendent Martinez Was Placed On "Paid Leave."**

8 When the Board was accused of violating both the Open Meeting Law and the  
9 Employment Contract in terminating Martinez, the story changed. On July 23, Board President  
10 Clark and Member Aiazzi both claimed that Martinez had not been terminated but only placed on  
11 "paid leave." **Complaint, para. 29.** According to Clark and Aiazzi, Martinez, the media, District  
12 employees and other members of the public had apparently "misunderstood" what they had been  
13 told. **Id.** In addition to the contradiction with what the Board expressly told Member Gutierrez  
14 and District Office employees, the "paid leave" claim lacks credibility for several reasons:

15 (1) The Board had no legal basis to place Martinez on "paid administrative  
16 leave." Martinez was not subject either to the "administrative leave" provisions of the collective  
17 bargaining agreements or to the statutory provisions for suspension of licensed employees in NRS  
18 Chapter 391. There are no WCSD administrative provisions for administrative leave. Martinez'  
19 employment was governed solely by his contract with the Board. That contract not only fails to  
20 authorize "paid leave," it effectively bars "paid leave" by prohibiting any "assignment" of  
21 Martinez' duties to others. **Complaint, Exh. 1, Section 3(E).**

22 (2) The absence of any documentation of the imposition of paid leave status,  
23 the terms and conditions of that purported leave or even a reason for the leave or why it was  
24 purportedly imposed in a closed meeting. **Complaint, para. 32,** The District has forms for  
25 administrative leave – both paid and unpaid – for both classified and certified employees. *See,*  
26 *e.g., [http://www.washoecountyschools.net/csi/pdf\\_files/HR-F611A%20Notice%20of%20Admin%20Leave%20with%20pay%20Rev.A.pdf](http://www.washoecountyschools.net/csi/pdf_files/HR-F611A%20Notice%20of%20Admin%20Leave%20with%20pay%20Rev.A.pdf)* There was no follow-up with the Human Resources  
27 Department here whatsoever, not on July 22 when the action was taken or on July 23, either  
28

1 before or after the assertion that Martinez had only been placed on "paid administrative leave."  
2 Mr. Martinez received no personal notification from the Board purporting to place him on  
3 administrative leave. He learned of this version of the events of July 22 through the media.

4 **Martinez, para. 4.**

5 (3) The requirement that Martinez relinquish his car is inconsistent with "paid"  
6 leave. The car was part of the compensation provided to him under the Employment Contract.

7 (4) Notes left by the six Board members on a white board in the  
8 superintendent's office reflect a discussion of "successorship" but no reference to "leave" – paid  
9 or otherwise. **Martinez, para. 6, Exh. A-1.**

10 **D. The Motion For More Time**

11 On July 23, the Board also issued another press release to the effect that the  
12 "future" of the Superintendent's Contract **would** be placed on the agenda for discussion,  
13 consideration and "possible action" at the upcoming July 29 Board meeting. **Complaint, para.**  
14 **34.** That item was first placed on the July 29 agenda and then, when challenged as an Open  
15 Meeting Law violation, pulled from that agenda. **Complaint, Exhs. 11 and 13.** Instead, on July  
16 29, the Board/District filed a Motion for Extension of Time to File Answer or Responsive  
17 Pleading to Verified Complaint ("the Motion for More Time") asking for a total of three months  
18 to make their response.

19 By July 29, the "CPA misrepresentation" issue had been extensively vetted by the media  
20 and had become effectively a non-issue. Martinez had obtained a CPA certificate in the Illinois  
21 two-tier system and had never held himself out to be a licensed CPA in any state. **Declaration of**  
22 **William Peterson ("Peterson"), paras. 2, 3 and Exhs. B-1 and B-2, attached hereto as**  
23 **Exhibit 2.** The Nevada State Board of Accountancy had no problem with the inclusion of his  
24 CPA certificate in a biography, which was the only use of that information by Martinez in his job  
25 as District Superintendent. **Peterson, Exh. B-1.** No one has questioned either Martinez' financial  
26 experience or his expertise. In the 2014 evaluation, four Board members characterized his fiscal  
27 management of the District as "exemplary" with the remaining three describing it as "proficient."  
28 **Complaint, Exh. 4, p. 7.**

1 With Martinez' CPA status reduced to a non-issue, the Board attempted to change the  
2 narrative with its Motion For More Time, asserting, unsupported by either documentation or  
3 declaration, a "kitchen sink" of performance "deficiencies" in Martinez' job performance over the  
4 entirety of his two years as Superintendent. There was no suggestion that these alleged  
5 performance "deficiencies" were part of any meeting or decision on July 22. No such  
6 "deficiencies" could be the basis for the termination for cause of Martinez' Employment Contract.  
7 The "for cause" provisions were expressly limited to fraud, embezzlement, theft, a felony  
8 conviction or plea and the unspecified "breach" of the Employment Contract. Performance issues  
9 were dealt with in the evaluation process under the Contract. **Complaint, Exh. 1, Sections 11,**  
10 **14.** Nonetheless, by including them in the Motion, the Board could attempt to deflect the public  
11 focus from their lack of judgment and apparent disdain for both the law and their own contract  
12 obligations.<sup>1</sup>

13 Substantively, with one exception, these "deficiency" allegations were already addressed  
14 in either the 2013 or 2014 evaluations of Superintendent Martinez, as set forth more fully in the  
15 attached Declaration of Superintendent Martinez. **Martinez, paras. 7-16.** The exception is the  
16 allegation that, despite repeated requests, Superintendent Martinez "willfully and intentionally  
17 refused to move forward" on hiring of additional counselors as provided in the 2014/2015 budget.  
18 **Motion For More Time, p. 4, ln. 25 – p. 5, ln. 4.** The 2014/2015 budget year began on July 1,  
19 2014. Superintendent Martinez can hardly be seriously faulted for waiting a few weeks to see  
20 where school populations were concentrated and where new counselors would be both most  
21 needed and most useful. **Martinez, para. 13.**

22 Procedurally, the claim that Martinez' performance as Superintendent had been and was  
23 "deficient" in these various alleged respects creates new Open Meeting Law and breach of  
24 contract concerns. On June 12, 2014, in a properly noticed, open public meeting, the Board found

25 \_\_\_\_\_  
26 <sup>1</sup> Copies of the Board's Motion for Extension of Time to File Answer or Responsive Pleading to Verified  
27 Complaint were provided to the public at the July 29, 2014 Board meeting. Board President Barbara Clark  
28 stated at the beginning of the meeting that outside counsel had been retained and the Board had filed a  
Motion for Extension of Time, which she referenced as being in the Welcome Center. She indicated that  
she hoped the media would publish or print the document in its entirety. **Declaration of Carrie L.  
Parker, para. 2-3, attached hereto as Exhibit 3.**



1 Martinez' job performance was not just "satisfactory" but at the higher level of "proficient."  
2 **Complaint, Exh. 4.** A reverse finding on the same facts a mere six weeks or so later, that his  
3 performance was "deficient" could only have been made in an illegal, non-public, non-noticed  
4 meeting. Even if the Board was again attempting to use a meeting with counsel as cover, a closed  
5 meeting to discuss the Superintendent's job performance is expressly prohibited by NRS 241.031,  
6 and even a matter discussed in a private meeting with counsel can only be decided under NRS  
7 241.015(3)(b)(2) in an open, noticed, public meeting. These apparent additional violations of the  
8 Open Meeting Law were referred to the Attorney General by both Martinez and the Reno  
9 Gazette-Journal. **Peterson, Exhs. B-3, B-4.**

10 A new job performance "evaluation" coming about six weeks after the annual evaluation  
11 is also another breach by the Board of its Employment Contract with Martinez. That Contract  
12 contains detailed provisions for evaluation of the Superintendent's job performance. **Complaint,**  
13 **Exh. 1, Section 11.** Those provisions include carefully planned and thorough annual evaluations.  
14 Those provisions do not include interim evaluations. Those provisions do not include termination  
15 based on an unsatisfactory evaluation. In the event of an unsatisfactory annual evaluation, the  
16 Board must, within 30 days of the date of the evaluation,

17 identify in writing specific areas where improvement is required,  
18 provide written recommendations for improvement, and notify the  
19 Superintendent that another evaluation will be conducted within six  
(6) months. **Id., Section 11(E).**

20 Any attempt to go forward with a new hearing on the alleged "deficiencies" would breach both  
21 the evaluation and termination provisions of Martinez' Employment Contract.

22 **E. Admission Of The Open Meeting Law Violation  
23 And Request That Martinez Return To Work**

24 Two days after the Motion For More Time was filed, the Board, through President  
25 Barbara Clark, admitted that its July 22 action, without specifying the nature of that action, was  
26 void under the Open Meeting Law and asked Martinez to return to his duties and responsibilities  
27 as District Superintendent. **Peterson, Exh. B-5.** Martinez returned to work the following day.  
28 When it asked Martinez to return to work, the Board announced that it was planning a hearing on  
his employment on August 15, 2014. **Id.** On August 5, 2014, however, again acting through its

1 President, the Board announced that no further hearing would be held on Martinez' employment  
2 and that no "Corrective Action" under the Open Meeting Law was necessary now that the action  
3 had been acknowledged as void and Martinez had returned to his position. **Peterson, Exh. B-6.**

4 Although it has admitted that its action was illegal, the Board has neither admitted that it  
5 was wrong about the CPA licensure issue nor apologized to Martinez for its actions. No such  
6 admission or apology has come from any individual Member of the Board either. Since (1) the  
7 Board has continued to evidence contempt for the Open Meeting Law and (2) he has not been  
8 made whole, Martinez has continued his lawsuit.

9 **II. THE MOTION FOR MORE TIME MUST BE DENIED.**

10 Under NRS 41.0341, both the District and the Board have 45 days to file an answer or  
11 other responsive pleading. The District and Board have asked for twice that amount of time,  
12 more than 4 times as many days as an ordinary defendant has to respond under NRCP 4(d). The  
13 stated reason for the additional time is to allow the Board to take Corrective Action under NRS  
14 241.0365 for its alleged Open Meeting Law violation. The Board has now acknowledged that no  
15 Corrective Action is necessary. **Peterson, Exh. B-6.** In the absence of any articulated reason for  
16 the additional time, the motion must be denied.

17 Furthermore, since the Motion for More Time was filed, the defendants have both  
18 admitted the Open Meeting Law violation on July 22 and have withdrawn Item 3.01 from  
19 consideration at the July 29 Board meeting. Under the circumstances, all that remains of the  
20 Open Meeting Law claim is a motion for attorneys' fees. Defendants will only need to respond to  
21 the breach of contract claims. That response should not be delayed.

22 Delay itself appears to be one of the purposes of the Motion For More Time.<sup>2</sup> Discovery  
23 cannot begin until the Board has filed an answer. The Board suggests, however, that, even after  
24 the three months it is requesting, it will not be filing an answer but instead a frivolous motion to  
25 dismiss for failure to exhaust administrative remedies. By administrative "remedy," the Board  
26

---

27 <sup>2</sup> The Board has similarly refused to produce even easily available documents in response  
28 to plaintiff's public records request until September 30, notwithstanding a 5-day requirement  
under the law. NRS 239.0107. *See, Peterson, Exhs. B-7-B-10.*

1 refers to the process established in the Contract for a termination for cause. The exhaustion  
2 requirement, however, applies only to **available** administrative remedies. The Contract's  
3 provision for ten days' notice, written charges and a hearing are requirements imposed on the  
4 **Board** when it seeks a termination for cause. Those provisions are not imposed on Martinez but  
5 rather exist to protect Martinez from the kind of wrongful termination that took place in this case.  
6 They provide no "remedy" for that wrongful termination. The claims in breach of contract here  
7 cannot fairly be dismissed because Martinez did not initiate his own termination under the  
8 Contract, give himself ten days' notice, and write his own notice of the reasons for termination.  
9 When Martinez insisted on his Contract rights, the Board ignored those rights. Under the  
10 circumstances, the Board waived any resort to those Contract termination procedures.

11 Plaintiff, Pedro Martinez, respectfully submits that the Motion For More Time has no  
12 "good cause" basis and that the 45 days provided by statute is more than sufficient for the  
13 responsive pleading to be prepared, filed and served. Accordingly, this Court must deny the  
14 defendants' Motion and direct defendants to file a timely answer without further delaying tactics.


15 **AFFIRMATION**

16 The undersigned does hereby affirm that this document does not contain the social  
17 security number of any person.

18 Dated: August 11, 2014

19 SNELL & WILMER L.L.P.

20 By:

  
21 William E. Peterson, Bar No. 1528  
22 50 W. Liberty Street, Suite 510  
23 Reno, NV 89501

*Attorneys for Plaintiff, Pedro Martinez*

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**CERTIFICATE OF SERVICE**

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I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANTS' MOTION FOR EXTENSION OF TIME** by the method indicated:

- \_\_\_\_\_ by Court's CM/ECF Program
- XXXXXXXX by U. S. Mail
- \_\_\_\_\_ by Facsimile Transmission
- \_\_\_\_\_ by Overnight Mail
- \_\_\_\_\_ by Federal Express
- \_\_\_\_\_ by Electronic Service
- \_\_\_\_\_ by Hand Delivery

and addressed to the following:  
Kent R. Robison  
Robison, Belaustegui, Sharp & Low  
71 Washington Street  
Reno, Nevada 89503

Dated this 11th day of August, 2014.

By *Holly W. Longe*  
An employee of Snell & Wilmer L.L.P.

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<u>Exhibit No.</u>	<u>Title of Exhibit</u>	<u>No. of Pages</u>
1.	Declaration of Pedro Martinez	8
2.	Declaration of William E. Peterson	36
3.	Declaration of Carrie L. Parker	2

EXHIBIT 1

EXHIBIT 1

1 **1520**  
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9  
10 *Attorneys for Plaintiff*  
11 *Pedro Martinez*

12  
13 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
14  
15 **IN AND FOR THE COUNTY OF WASHOE**

16 PEDRO MARTINEZ,

17 Plaintiff,

18 vs.

19 WASHOE COUNTY SCHOOL  
20 DISTRICT; WASHOE COUNTY  
21 SCHOOL DISTRICT BOARD OF  
22 TRUSTEES,

23 Defendants.

Case No.: CV14-01617

Dept. No.: 9

24  
25 **DECLARATION OF PEDRO MARTINEZ**

26 I, Pedro Martinez, under penalty of perjury, state as follows:

27 1. I am the plaintiff in the matter entitled "Pedro Martinez, Plaintiff, vs. Washoe  
28 County School District; Washoe County School District Board of Trustees, Defendants," Case  
No. CV14-01617, in the Second Judicial District Court for Washoe County, Nevada.

1           2.       After I was terminated as Superintendent by the Board of Trustees, I was contacted  
2 by Board Member Estela Gutierrez who was not present at the closed termination meeting. Ms.  
3 Gutierrez told me that she had been called at the end of the meeting, put on the speaker phone and  
4 advised that I had been terminated for fraud. Although she told the Board members that she  
5 disagreed with the decision, there was nothing she could do. The Board made no mention of  
6 "paid leave" in its discussion with Ms. Gutierrez.

7           3.       The report from Estela Gutierrez confirmed the action the Board communicated to me  
8 in terminating my employment for allegations of fraud. During the unnoticed and non-agendized  
9 closed meeting of the Board to consider alleged misconduct on my part, the Board queried me  
10 regarding my Certified Public Accountant ("CPA") status, and stated that the both the Board and  
11 its counsel had conducted an investigation into allegations that I had or was representing myself  
12 as a CPA, when I was not. At my request I went to my office and retrieved my CPA certificate  
13 which I produced for the Board when I returned to the closed meeting. I received that Certificate  
14 as a Certified Public Accountant from the University of Illinois in 1992. After I provided the  
15 evidence of my Certificate, Barbara Clark informed me that the Board had "completed its fact  
16 finding" on the matter and I was excused from the meeting.

17           4.       Shortly thereafter, I was told that my employment and contract were being  
18 terminated. A series of proposals followed seeking my voluntary resignation in lieu of  
19 termination for fraud. I rejected all of those proposals. I was escorted out of the building and told  
20 not to speak to any employees. I received no personal notification from the Board purporting to  
21 place me on administrative leave. I learned of this version of the events of July 22 through the  
22 media.

23           5.       I was later told by a District Office employee that, on July 22, 2014, the Board said  
24 that I had been terminated. One employee specifically asked why and was told that I was a "liar  
25 and had committed fraud." This employee verified that the only issue was my CPA status.

26           6.       Attached as Exhibit A-1 is a photograph of the white board left in the office after  
27 the Board's July 22 closed meeting. I believe the printing is by Board Member Aiazzi.  
28



1           7.       In the Motion For More Time, the Board makes a series of allegations regarding  
2 my job performance as Superintendent that have already been addressed in previous job  
3 evaluations.

4           8.       The events of July 22, 2014 as known to me are set forth in the Amended and  
5 Supplemental Verified Complaint for Declarative and Injunctive Relief and Damages. The only  
6 "defiant" behavior I exhibited was in refusing to resign and accept false charges even after  
7 multiple offers of compensation and threats of the consequences to my family.

8           9.       It is alleged that I "intentionally and willfully disobeyed a Board directive in May  
9 of 2014." The allegation is untrue. I was asked by the Board President (not by the Board) not to  
10 issue a statement to the media regarding a special education matter that was being covered in the  
11 media. In consultation with Board counsel, I determined that the media statement should issue.  
12 The issuance of the media statement fell under my scope of authority in my position as  
13 Superintendent and under my Contract. This item was covered in my evaluation on June 10th,  
14 2014.

15           10.      It is alleged that I "mishandled various personnel issues in a manner contrary to the  
16 terms of [my] Employment Agreement" and that I have "intentionally and purposefully excluded  
17 the Board from various considerations on substantial and important personnel decisions." This  
18 allegation is also false. My Contract provides as follows:

19                   Superintendent shall have the additional duties and responsibilities  
20 of organizing, reorganizing, and managing the administrative and  
21 supervisory staff, including, without implied limitation, staff in  
22 Instructional services and business affairs, that in his judgment  
would best serve the District; and **determining all personnel  
matters**, including, without implied limitation, selection,  
assignment, and transfer of employees.

23           There is no obligation to consult with the Board on personnel decisions other than a  
24 reorganization of the administrative and supervisory staff, which did not occur. It has been  
25 reiterated to me on more than one occasion by Board Members that personnel matters are under  
26 the complete discretion of the Superintendent. The handling of personnel issues has been  
27 discussed in both my annual performance evaluations.

1           11.     It is alleged that I "purposefully and intentionally refused to consult with the Board  
2 when [I] made substantial increases to the executive leadership staff in 2013." The allegation is  
3 also untrue. The executive leadership changes made in the spring of 2013 were communicated to  
4 the Board. Those changes resulted in a budget savings and flattened a level of management from  
5 4 Area Superintendents and 4 Performance Directors to a total of 7 Area Superintendents making  
6 the management of our Principals more efficient. The only concern brought up by the Board was  
7 to ensure that the community knew that these changes were budget neutral or created a budget  
8 savings. This item was also covered in my evaluation of June 2013.

9           12.     It is alleged that I "unilaterally transferred approximately 12 principals in 2013  
10 without providing the Board with the courtesy of notification and opportunity to consult." This  
11 item was covered in my first annual evaluation of June 2013 as a positive action. The changes  
12 were made as part of our reform efforts to help improve low performing schools. The transfer of  
13 Principals is expressly under my purview as District Superintendent. Appointing and choosing  
14 Principals is one of the most basic and important functions for the Superintendent and his/her  
15 leadership team (Area Superintendents).

16           13.     It is alleged that I have "willfully and intentionally refused to move forward" on  
17 the additional counselor positions provided for under the 2014/2015 budget. The allegation is  
18 untrue. The addition of more counselors is being implemented next week as the school year is  
19 beginning (August 11th is the official first day of school). This information was provided to  
20 Board Member John Mayer when he brought up this issue in July of 2014.

21           14.     It is alleged that I have "been chronically nonresponsive" to parents particularly in  
22 the Special Education programs. This allegation is again simply not true. Under Board Policy  
23 9002.1, all parent concerns are forwarded to the appropriate staff. In compliance with this policy,  
24 my staff first encourages parents to attempt to resolve issues at the school level. Any concerns  
25 that cannot be resolved at the school level are managed by the Area Superintendent supervising  
26 that school or the Principal involved. The Special Education issue referred to is a case which has  
27 been covered by the media and which was fully covered in my 2014 evaluation. On July 3rd,  
28

1 2014, Board Counsel Drake and I met with the parent and agreed to work collaboratively on  
2 issues involving his child. This was communicated to the Board President who praised me and  
3 was positively covered by the media.

4 15. It is alleged that I "made material misrepresentations to the Board regarding recent  
5 high profile personnel decisions." No alleged misrepresentations are specifically identified and  
6 no misrepresentations whatsoever were made. If this allegation is intended to refer to the  
7 termination of the former District police chief, the Board was well informed of that decision. In  
8 fact, Board Members Clark, Ruggerio, and Aiazzi supported and encouraged that termination.  
9 Furthermore, in her press conference after my termination, Clark emphatically denied that it had  
10 anything to do with the termination of the District police chief.

11 16. In summary, these allegations are both meritless and have already been addressed  
12 in the annual evaluations in June 2013 and June 2014, both which were found my job  
13 performance to be satisfactory, even "proficient."

14 //

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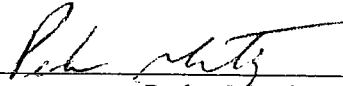
**Snell & Wilmer**

LLP

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(775) 785-5440

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Executed in Reno, Nevada, this 11 day of August, 2014.



Pedro Martinez

EXHIBIT A-1

EXHIBIT A-1

# DOCUMENT NEGOTIATION

① MESSAGING

② MESSAGING

LEADERSHIP 4:30

PUBLIC

ALL EMPLOYEES 4:45

NEWS CONFERENCE

CONNECT ED

EMAIL - INTERNAL POINTS

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# ① DOCUMENT NEGOTIATIONS

EXHIBIT 2

EXHIBIT 2

1 **1520**  
2 William E. Peterson, Bar No. 1528  
3 SNELL & WILMER L.L.P.  
4 50 W. Liberty Street, Suite 510  
5 Reno, NV 89501  
6 Telephone (775) 785-5440  
7 Facsimile (775) 785-5441  
8 Email: [wpeterson@swlaw.com](mailto:wpeterson@swlaw.com)

9 *Attorneys for Plaintiff*  
10 *Pedro Martinez*

11  
12 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
13 **IN AND FOR THE COUNTY OF WASHOE**

14 PEDRO MARTINEZ,

15 Plaintiff,

16 vs.

17 WASHOE COUNTY SCHOOL  
18 DISTRICT; WASHOE COUNTY  
19 SCHOOL DISTRICT BOARD OF  
20 TRUSTEES,

21 Defendants.

Case No.: CV14-01617.

Dept. No.: 9

22 **DECLARATION OF WILLIAM E. PETERSON**

23 William Peterson, under penalty of perjury, states as follows:

24 1. I am counsel for the plaintiff, Pedro Martinez, in the matter of "Pedro Martinez,  
25 Plaintiff, vs. Washoe County School District; Washoe County School District Board of Trustees,  
26 Defendants," Case No. CV14-01617, in the Second Judicial District Court for Washoe County,  
27 Nevada.

28 2. Attached as Exhibit B-1 is a true and correct copy of an article published in the  
Reno Gazette-Journal as part of its Fact Checker column on July 30, 2014 with an update on July  
31, 2014.



1           3.       Attached as Exhibit B-2 is a true and correct copy of a print-out from the Illinois  
2 Board of Examiners indicating that Pedro Martinez holds a Certificate of Public Accountant.

3           4.       Attached as Exhibit B-3 is a true and correct copy of my July 31, 2014 letter to the  
4 Attorney General lodging an Open Meeting Law complaint over the activities of the Board  
5 reflected in the Motion For More Time.

6           5.       Attached as Exhibit B-4 is a true and correct copy of the August 4, 2014 letter  
7 from the attorney for the Reno Gazette-Journal to the Attorney General supplementing the paper's  
8 initial Open Meeting Law complaint to include events after July 22, 2014.

9           6.       Attached as Exhibit B-5 is a true and correct copy of the July 31, 2014 signed and  
10 published statement of Board President Barbara Clark acknowledging that the Board's action of  
11 July 22, 2014 was void under the Open Meeting Law and requesting Mr. Martinez to return to his  
12 work as District Superintendent.

13           7.       Attached as Exhibit B-6 is a true and correct copy of the August 5, 2014 signed  
14 and published statement of Board President Barbara Clark stating that no hearing would be held  
15 on Martinez' employment on August 15, 2014 and that no "Corrective Action" under the Open  
16 Meeting Law was necessary now that the July 22 action had been acknowledged as void and  
17 Martinez had returned to his position.

18           8.       Attached as Exhibits B-7 through B-10 are true and correct copies of  
19 correspondence between my office and the office of counsel for the Washoe County School  
20 District and its Board of Trustees regarding our request for public records. The District/Board  
21 have provided no public records of any kind in response to our request.

22           Executed in Reno, Nevada, this 11th day of August, 2014.

23  
24 

25           William E. Peterson  
26  
27  
28

EXHIBIT B-1

EXHIBIT B-1

# Fact Checker: Is Pedro Martinez a CPA?

Mark Robison, RGJ 12:44 p.m. PDT August 5, 2014



(Photo: Marilyn Newton/RGJ)

Is Pedro Martinez a certified public accountant?

That is the crucial question after the Washoe County School District superintendent was relieved of his duties last week.

In a lawsuit filed by Martinez against the district's board of trustees, which ousted him, the situation is described this way:

"During a recess in the July 22 public work session meeting, Board President (Barbara) Clark told the plaintiff Martinez that she wanted to speak with him in his office. In that meeting, Mrs. Clark informed the plaintiff

Martinez that the District had received a report from an anonymous source that the plaintiff Martinez had held himself out to be, or was holding himself out to be, a certified public accountant, that the Board had investigated the matter, and that the Board had concluded that he was not a licensed certified public accountant."

## CPA vs. licensed CPA

Careful readers will note an important word inserted in that last part: "licensed." The sentence starts with Martinez supposedly claiming to be a CPA and ends with the board finding that he was not a licensed CPA. Those are two different things.

## MORE

[RGJ asks for Open Meeting Law investigation to continue \(/story/news/2014/07/30/rgj-asks-open-meeting-law-investigation-continue/13389099/\)](/story/news/2014/07/30/rgj-asks-open-meeting-law-investigation-continue/13389099/)

[Washoe school board takes beating over Martinez turmoil \(/story/news/education/2014/07/30/washoe-school-board-takes-public-beating/13348903/\)](/story/news/education/2014/07/30/washoe-school-board-takes-public-beating/13348903/)

[Read Washoe schools' response to Martinez lawsuits \(/story/news/education/2014/07/30/read-washoe-schools-response-to-martinez-lawsuits/13369145/\)](/story/news/education/2014/07/30/read-washoe-schools-response-to-martinez-lawsuits/13369145/)

A licensed CPA has a higher standard of requirements to meet that allow him or her to attest to the reliability of financial statements. Non-licensed CPAs can engage in public accounting but cannot provide attestation services, at least in Illinois, where Martinez got his CPA certificate.

In a legal response to Martinez's suit filed on behalf of the board, it says, "Plaintiff (Martinez) repeatedly represented himself in print on the District website and verbally confirmed in public settings that he is a CPA. The Board of Trustees, District staff and the public were led to believe that Plaintiff was a CPA in good standing. ... The representation, suggestion or innuendo that Plaintiff is or has been a registered or licensed CPA is inaccurate and untrue."

Note that here, too, the word "licensed" is slipped in at the end after discussion of Martinez reportedly claiming to be a CPA without any words qualifying that designation.

Fact Checker could find no references to Martinez ever calling himself, or being called by others, a licensed CPA. Because the simple designation of "certified public accountant" is accepted by both sides as something Martinez claimed to be — and because one side finds it problematic — this story will focus on that angle.

The board's legal filings mention three pieces of evidence that Martinez misrepresented himself. They mention Martinez's 2009 interview with the board when he was applying for the superintendent's job, which eventually went to Heath Morrison. (Martinez got the job when Morrison left.)

They say, "Plaintiff expressly represented to the Board that he was a CPA. To qualify as a CPA in the State of Illinois, one must be registered or licensed by the State of Illinois, regardless of what credentials the applicant possesses."

## Not listed

If you do a "license look-up" at the Department of Finance and Professional Regulation's website — it's the Illinois agency that governs licensed CPAs — Martinez is not listed.

Susan Hofer, the department's spokesperson, said that at one time, Martinez could've called himself a CPA in Illinois, but the law changed in the past few years — the exact date is ambiguous because of a lengthy transition period — and "as far as the state of Illinois is concerned, he cannot call himself a certified public accountant anymore."

A central repository of data about licensed CPAs and public accounting firms maintained by the National Association of State Boards of Accountancy at [CPAverify.org \(http://www.cpaverify.org/\)](http://www.cpaverify.org) does not list Martinez.

These two things would seem to mean Martinez should not call himself a certified public accountant, but there's a problem with that conclusion: Both of those sources are concerned only with licensed CPAs. Martinez — as mentioned in the board's filings — represented himself in the 2009 interview merely as a CPA, not a licensed CPA.

#### Good forever

The two other pieces of evidence cited in the board's filings on this topic involve a biography of Martinez that was posted in two places on the school district's website. The postings say, "He is a certified public accountant and holds a bachelor's degree in accounting from the University of Illinois at Urbana-Champaign and a master's degree with highest honors in business administration from DePaul University."

Hofer suggested that Fact Checker contact the previous licensing board in Illinois to see if Martinez's original certificate to be a CPA "was good forever."

The certificate she is referring to is one he received in 1992. It says, "By authority of the Board of Trustees of the University of Illinois and on recommendation of the Board of Examiners, Pedro Martinez, having passed the examination and fulfilled all requirements prescribed by the Illinois public accounting act in the state of Illinois, is registered by the university as a certified public accountant."

Fact Checker asked the university if the certificates were good forever.

Robin Kaler, the university's associate chancellor for public affairs, responded by email: "Yes, when certificates were issued in 1992, recipients would have reason to assume that they were receiving a lifetime designation, and they should also have understood that the certificate was not a license to perform public accounting."

The government agency that approved the 1992 certificate and that still is in charge of testing CPAs in Illinois — but no longer oversees them once licensed — is the Illinois Board of Examiners.

If you go to its website right now at [ilboa.org \(https://vo.ilboa.org/datamart/mainMenu.do\)](https://vo.ilboa.org/datamart/mainMenu.do) and do a "public certification search" for Pedro Martinez, he comes up. Under the heading of certificate type, it says "Certified Public Accountant." And under the heading of "status," it says "Certified."

The Board of Examiners' executive director, Russ Friedewald, said this search result just means that Martinez got his CPA certificate in Illinois.

But does it also mean he can call himself a CPA as far as the state of Illinois is concerned?

"Yes, he can call himself a certified public accountant," Friedewald said.

#### A two-tiered system

Illinois was unique in this way, having a two-tiered system where people who were not licensed could call themselves certified public accountants. Other states gave different names to CPAs like Martinez, such as "registered public accountant" or "accounting practitioner." Illinois has phased out the two tiers but things are still confusing there.

In fact, the data Illinois supplies to [CPAverify.org](http://CPAverify.org) was specifically discussed this week at the Accountancy Licensing Committee meeting in Nashville.

Viki Windfeldt — a member of the national committee and executive director of the Nevada State Board of Accountancy, which licenses CPAs in Nevada — attended. She said the committee is reviewing the information being provided from Illinois.

More importantly for the purposes of this story, Windfeldt was asked about Martinez.

Windfeldt said the Board of Accountancy has received no information to indicate any violation has occurred in Nevada regarding Martinez referring to himself as a certified public accountant.

"The CPA designation is a credential that Mr. Martinez received from Illinois and he is allowed to use it in his bio," she said, but added he shouldn't refer to himself as a CPA in correspondence or use "comma CPA" after his name.

The verdict

One government agency in Illinois does not recognize Martinez as a certified public accountant. This is because, for the purposes of its authority, it only "sees" CPAs who have been licensed. Martinez was never a licensed CPA so it cannot recognize him.

Another government agency in Illinois — the one that actually certifies CPAs — does recognize Martinez as a CPA, just not one who is licensed. And it says he can call himself a certified public accountant.

The university that issued Martinez a certificate calling him a "certified public accountant" says this designation was intended to last a lifetime.

And the Nevada agency in charge of CPAs says Martinez can call himself a "certified public accountant" in a job biography or resume but that in any other context, he should be careful using it to avoid giving the impression he is licensed.


Pedro Martinez is a certified public accountant who is not licensed — and was never licensed — in any state.



First Lady Kathleen Sandoval addresses the Washoe County School District Board of Trustees following board action to remove Superintendent Pedro Martinez. Video taken from the school district YouTube channel. Washoe County School District

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Aug. 10, 2014, 9:05 p.m.

[outage-in-northwest-reno/13881665/](#)



**Video: Passengers stranded on Maryland roller coaster**

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Aug. 10, 2014, 8:52 p.m.



**McAndrew: Washoe School board, back to school and more**

[\(/story/news/education/2014/08/10/mcandrew-](#)

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Aug. 10, 2014, 8:05 p.m.



**Sheriff: Abduction of Michigan teen didn't happen**

[\(/story/news/nation/2014/08/10/abduction-michigan-teen-](#)

[didnt-happen/13876973/](#)

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Aug. 10, 2014, 5:57 p.m.

# Fact Checker update: Martinez CPA label misused in Illinois

Mark Robison, RGJ 9:14 a.m. PDT August 1, 2014



(Photo: RGJ file)

The use of "certified public accountant" to describe Pedro Martinez in a 2008 Chicago Public Schools financial report has come under renewed scrutiny.

Martinez was relieved of his duties as Washoe County School District superintendent last week after accusations that he'd improperly represented himself as a CPA. The Washoe County School Board of Trustees, meanwhile, [asked him on Thursday to return to work \(/story/news/education/2014/07/31/trustees-to-pedro-martinez-come-back-to-work/13434649/\)](#) — Martinez has yet to formally reply to the request.

A Fact Checker story in yesterday's Reno Gazette-Journal quoted Russ Friedewald, executive director of the Illinois Board of Examiners, as saying of Martinez, "Yes, he can call himself a certified public accountant."

**FACT CHECKER: Is Pedro Martinez a CPA? (/story/news/education/2014/07/30/fact-checker-martinez-cpa/13389613/)**

Friedewald has clarified that statement.

In a Thursday email, he wrote, "Mr. Martinez could call himself a CPA in 1992, but the law changed sometime in the early 2000s. I believe it was 2004. CPAs at that time (who) did not hold a public accounting license had to register in order to continue calling themselves CPAs."

His agency's website currently lists Martinez as a certified public accountant, with a status of "certified." That agency tests and approves CPAs.

The Department of Financial and Professional Regulation now oversees CPAs in Illinois. It said via email Thursday from spokesperson Susan Hofer:

"Under the Illinois Public Accounting Act, effective October 1, 2006, individuals must hold either a license or registration with the Department of Financial and Professional Regulation to use the title 'CPA.' Between 2006 and 2012 individuals that held a certificate from the Illinois Board of Examiners could apply for a registration. A review of department records has failed to locate a registration or license issued to a person with the name 'Pedro Martinez'."

Illinois had a two-tier system where people who were not licensed CPAs but merely registered CPAs — this was Martinez's situation — could call themselves a "certified public accountant."

The University of Illinois, which issued the certificate to Martinez in 1992 along with the Illinois Board of Examiners, has said that the intention at the time was the CPA designation could be used for a lifetime.

Martinez said in an interview that he fulfilled the requirements of getting licensed — education, exam and one year of real-world accounting experience (he had four) — but did not get licensed as his career moved away from accounting and toward education.

"The mistake I made then was not going through the grandfathering process (to switch from being a registered CPA to a licensed CPA in Illinois), but there still wasn't with any intention to exhibit myself as a licensed CPA — there was never that purpose," he said.

The resumé he submitted when applying for the Washoe superintendent's job in 2012 says he was director of finance and technology from 1995 to 2003 for the Archdiocese of Chicago — one of the largest Catholic school systems in the nation — with a budget of \$300 million.

It also says he held the positions of budget director and chief financial officer during the years 2003 to 2009 for Chicago Public Schools, with a \$5.2 billion operating budget serving 409,000 students.

This is where CPA talk gets troublesome because of the Illinois law change. In an annual financial report for the Chicago district dated Dec. 10, 2008, biographies were given for the statutory officers, who included CEO Arne Duncan, now U.S. secretary of education.

Martinez's bio in that document says, "He is a Certified Public Accountant, and was also an Audit Manger (sic) at Deloitte & Touche and Price Waterhouse Coopers."

According to the Illinois Board of Examiners and the Illinois Department of Financial and Professional Regulation, he should've stopped using the CPA  
<http://www.rgj.com/story/news/education/2014/07/31/fact-checker-update-martinez-cpa-label-misused/13389613/> 8/11/2014

fact-checker update: Martinez CPA label misused in Illinois

designation 26 months earlier.

Martinez said that bio likely was carried over from when he started with the Chicago district in 2003.

The bio was updated between the 2007 and 2008 financial reports to include that Martinez had received a master's degree in business administration from DePaul University in 2006.

Martinez said, "I guess I wasn't paying attention to it. It would've been a normal process: 'Hey, we're putting out our financial statements and we're updating our officer bios.' "

This transition was big news in the Illinois accounting world because it clarified who could call themselves a CPA so there would be less confusion among the public about who was licensed to attest to the accuracy of financial statements and who wasn't.

"During this period in Chicago, I guess for me, I didn't really prioritize or pay attention (to changes in CPA licensing) because I frankly wasn't in the profession anymore," Martinez said.

"It wasn't like there was any intentional thing of 'Let me misrepresent myself.' I don't remember that (law change). I was more concerned with the operations of the school. It was a \$5 billion operation going through a lot of reforms. For me, (the CPA change) wasn't a high priority. Nobody was calling me saying 'Hey, you need to pay attention because they're changing the law.' "

Martinez referred to himself as a certified public accountant in an interview when he applied for the Washoe superintendent's job in 2009.

Heath Morrison was hired instead. When Martinez applied again in 2012 after Morrison's departure, he said he did not refer to himself as a CPA in interviews and did not mention being a CPA in his resumé. He added that he does not refer to himself as a CPA on business cards, letterhead or in correspondence — and that he has been careful to never refer to himself as a licensed CPA.

In two places on the Washoe County School District's website where a biography is given of Martinez, it says, "He is a certified public accountant and holds a bachelor's degree in accounting from the University of Illinois at Urbana-Champaign and a master's degree with highest honors in business administration from DePaul University."

Nevada Revised Statute 628.450 addresses the unlawful use of the designation "certified public accountant" or "CPA." It says a person shall not use those designations unless he or she has received a CPA certificate and holds a "live permit" in this state.

Martinez has neither of those.

Viki Windfeldt — executive director of the Nevada Board of Accountancy, which oversees CPA licensing in the state — confirmed that Martinez saying "he is a certified public accountant" in a resumé or bio does not run afoul of Nevada law, as she understands it, because he's merely referring to a credential he received.

She added, though, that if he'd been from any other state than Illinois, it would've been bad form to refer to himself as a certified public accountant but that Illinois had very confusing policies over its use.

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**McAndrew: Washoe School board, back to school and more**

**(/story/news/education/2014/08/10/mcandrew-washoe-school-board-back-school/13880717/)**  
Aug. 10, 2014, 8:05 p.m.



**Sheriff: Abduction of Michigan teen didn't happen**

**(/story/news/nation/2014/08/10/abduction-michigan-teen-didnt-happen/13876973/)**  
Aug. 10, 2014, 5:57 p.m.





EXHIBIT B-2

EXHIBIT B-2



[Logon](#)

**Search Results List**

Click on "Name" to see details.

Press "Previous" to return to the previous screen.

Press "New Search" to start new search.

Search Criteria		Search By Name		
Last Name:	<b>Martinez</b>			
First Name:	<b>Pedro</b>			
<b>Name</b>	<b>Certificate Number</b>	<b>Certificate Type</b>	<b>Status</b>	<b>-----</b>
<a href="#">Martinez, Pedro</a>	<b>58051</b>	<b>Certified Public Accountant</b>	<b>Certified</b>	

[Back](#) [New Search](#)



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**Certificate Details**

Press "Search Results" to return to the Search Results list.

Press "New Search Criteria" to do another search of this type.

Press "New Search" to start a new search.

**Certificate Number: 58051**

**Current Date: 08/09/2014 01:01 PM**

Name: **Martinez, Pedro**  
 Certificate Type: **Certified Public Accountant**  
 Certificate Status: **Certified**

Effective Certification Date: **08/14/1992**

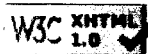
**Addresses**

Main Address	Address
	CHICAGO , IL 60608 US

**Disciplinary Actions**

**There are NO disciplinary actions against the license.**

Disciplinary Actions	Date of Action:	Action(s):
<a href="#">Search Results</a> <a href="#">New Search Criteria</a> <a href="#">New Search</a> <a href="#">Print</a>		



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EXHIBIT B-3

EXHIBIT B-3

# Snell & Wilmer

L.L.P.  
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LOS CABOS  
ORANGE COUNTY  
PHOENIX  
RENO  
SALT LAKE CITY  
TUCSON

William E. Peterson  
(775) 785-5407  
wpeterson@swlaw.com

July 31, 2014

*Via e-mail transmission and U.S. Mail*

George Taylor  
Senior Deputy Attorney General  
Attorney General's Office  
100 N. Carson Street  
Carson City, NV 89701

Re: Open Meeting Law Complaint Against WCSD Board of Trustees

Dear Mr. Taylor:

As you know, Snell & Wilmer represents Washoe County School District ("the District") Superintendent Pedro Martinez. We were advised by Board counsel late this afternoon that the Board agrees that it has violated the Open Meeting Law in the actions taken on July 22, 2014 and requests that Mr. Martinez resume his duties and responsibilities as Superintendent immediately. Copies of the letter from Board counsel and the statement issued to the press by Board President Clark are attached. The purpose of this letter is to advise you that the Board has repeated its Open Meeting Law violations in a meeting on or before July 29, 2014, as reflected in a Court filing on that date including a new "bill of particulars" outlining supposed past performance "deficiencies." A copy of the Board's Court filing is also attached.

An extensive and public performance evaluation was completed just six weeks ago in compliance with the Open Meeting Law, in which the Board itself concluded that Mr. Martinez' job performance was "proficient." A copy of that evaluation is also enclosed with this letter. According to its Court filing, however, notwithstanding its characterization just weeks ago in an open meeting that Mr. Martinez' job performance was proficient, the Board has now "made a finding" that Mr. Martinez' job performance "has been deficient and is deficient" with a list of purported "deficiencies" and has determined to hold a hearing on these purported "deficiencies."

In order for Board counsel to make these representations to the Court, the Board must have met to deliberate and make new findings regarding Mr. Martinez' job performance. The Open Meeting Law requires not only that any such meeting be properly noticed to the public and personally to Mr. Martinez but also that any such meeting be held in public. NRS 241.033; NRS

George Taylor  
July 31, 2014  
Page 2

241.031. No such meeting was either noticed or held in the public. Under the Open Meeting Law, any discussion of a Superintendent's performance must be done in an open meeting. That discussion, let alone any findings in that regard cannot be shrouded in secrecy under the "rubric" of a legal meeting, and then "uncloaked" in the guise of legal filing.

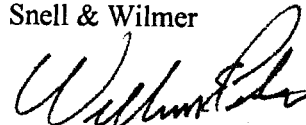
The Board's July 29 decision violated Open Meeting Law provisions contained at NRS §§241.020, 241.031, 241.033, 241.034, and 241.035, in that:

- (1) No discussion of Mr. Martinez or his contract or possible action regarding either had been placed on any public meeting agenda,
- (2) No public or personal notice was given of the Board's intent to discuss and/or possibly take action on Mr. Martinez or his contract,
- (3) The Board decision regarding Mr. Martinez and his contract was not made in an open public meeting,
- (4) A discussion of Mr. Martinez' character, conduct, or performance was held in a closed meeting,
- (5) The meeting was not recorded.

On behalf of Mr. Martinez, we ask that the investigation into the Board's Open Meeting Law violations be expanded to include the additional violations that are reflected in the Board's recent Court filing and as well as other violations that reflect a pattern and course of conduct in circumventing the spirit and letter of the Open Meeting Law by hiding discussions and actions that must be taken in public under the cloak of a "legal discussion," as for example, hiring counsel, authorized the filing of papers reporting "findings" that are required to be made in an open meeting, and even publicly acknowledging violation of the Open Meeting Law. Notwithstanding the Board's acknowledgment of Open Meeting Law violations, we also oppose the Board's request to stay the current investigation.

Very truly yours,

Snell & Wilmer



William Peterson

WEP:hwl

cc: Randy Drake, Counsel to the Board  
Kent R. Robison

Attachments



EXHIBIT B-4

EXHIBIT B-4

**BURTON, BARTLETT & GLOGOVAC**

ATTORNEYS AT LAW

427 WEST PLUMB LANE  
RENO, NEVADA 89509-3766

PHILLIP W. BARTLETT (1948-2004)

C. THOMAS BURTON, JR.  
SCOTT A. GLOGOVAC  
MICHAEL A. PINTAR  
DAVID S. McELROY  
ROBERT R. HOWEY

AREA CODE 775  
TELEPHONE 333-0400  
FACSIMILE 333-0412  
EMAIL info@bbg.net

August 4, 2014

**Via U.S. Mail and Fax: 775-684-1103**

George H. Taylor, Esq.  
Deputy Attorney General  
Nevada Attorney General's Office  
100 N. Carson Street  
Carson City, Nevada 89701

Re: **Open Meeting Law Complaints against the Board of Trustees of the Washoe County School District**  
**A.G. File Nos. 14-020 and 14-021**

Dear Mr. Taylor:

This letter supplements the Open Meeting Law complaint that my firm, on behalf of the Reno Gazette Journal ("RGJ"), initiated with the Nevada Attorney General's office through my letter to you dated July 24, 2014.

As you know, my July 24 letter addressed Open Meeting Law violations committed by the Board of Trustees of the Washoe County School District ("the Board") and six of its seven members in connection with the July 22, 2014 dismissal of Washoe County School District Superintendent Pedro Martinez. Apparently in response to ensuing Open Meeting Law complaints (including the RGJ's July 24 complaint), litigation filed by Mr. Martinez, and a very substantial public backlash, the Board, on or before July 31, 2014, reconvened in private on one or more occasions and made decisions to declare its actions on July 22 "void" and to request Mr. Martinez to return to work and to resume his full responsibilities as Superintendent.

While the actions of the Board on July 22, as they related to the dismissal of Mr. Martinez, are in fact void under the Open Meeting Law (see NRS 241.036), it appears that the Board, by meeting in private on one or more subsequent occasions prior to July 31, 2014 to acknowledge that fact and to decide that Mr. Martinez would be asked to return to work, committed further violations of the Open Meeting Law. In particular, it appears that the Board, once again, violated NRS 241.031(1)(b), which expressly prohibits the Board from holding closed meetings to consider the job performance of the Superintendent. And this is true even though the ultimate result of the closed meetings was a request that Mr. Martinez return to work.

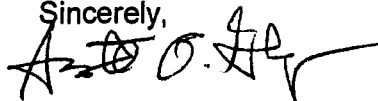
Through this letter, then, the RGJ respectfully requests that the Attorney General's Office broaden its investigation of the Board's Open Meeting Law violations to

George H. Taylor, Esq.  
Deputy Attorney General  
Nevada Attorney General's Office  
August 4, 2014  
Page 2

include the activities of the Board subsequent to July 22, 2014 and leading up to the Board's public acknowledgement on July 31, 2014 that its actions on July 22 were void and that Mr. Martinez was being asked to return to work as Superintendent.

Thank you.

Sincerely,



SCOTT A. GLOGOVAC

SAG:me

EXHIBIT B-5

EXHIBIT B-5

**STATEMENT**

**JULY 31, 2014**

The events and circumstances surrounding last week's discussions had more to do with attitude, demeanor and lack of cooperation than it did with certifications and diplomas.

On advice from outside counsel, and because of the position taken by the media and Superintendent Martinez, the Board understands that last week's actions may be void under Nevada law. Rather than debate this complicated issue, we have agreed that last week's events are void. Superintendent Martinez was never terminated or fired as Superintendent of the Washoe County School District, and we expect him to return to work and fulfill his responsibilities and duties immediately. We are hopeful that Superintendent Martinez's future communications and interactions with the Board be more cordial and civility can be restored.

We are trying to schedule a Public Board of Trustees Meeting for August 15, 2014, at which time Superintendent Martinez's contract and performance thereunder will be addressed publicly.

*Barbara Clark*

EXHIBIT B-6

EXHIBIT B-6

## **STATEMENT**

The Board of Trustees will continue to work in good faith cooperation under the present circumstances to educate our children and to ensure effective administration of the School District. Along with the students, staff and families, we look forward to a successful school year ahead.

Therefore, upon the advice of outside counsel, and as President of the Board of Trustees, I have decided not to proceed with the previously contemplated Board of Trustees' meeting on August 15, 2014. Given that my July 22, 2014 announcement is void according to statute, there is no need for any "corrective action".

*Barbara Clark*

EXHIBIT B-7

EXHIBIT B-7



# Snell & Wilmer

LLP

LAW OFFICES

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RENO  
SALT LAKE CITY  
TUCSON

July 23, 2014

**VIA E-MAIL TO: RDRAKE@WASHOESCHOOLS.NET  
AND U.S. MAIL**

Randy Drake  
Chief General Counsel  
Washoe County School District  
Office of the General Counsel  
425 E. Ninth Street  
Reno, Nevada 89512

Re: Public Records Request per NRS Chapter 239

Dear Mr. Drake:

Pursuant to NRS Chapter 239.010, attached is a Request for Public Records, Information, and/or Documents. I hereby request the following public records related to Pedro Martinez, his position as superintendent, his certified public accountant ("CPA") credentials, allegations that he is not a CPA, his job performance, the termination of his employment, any investigation of him, any placing of him on leave, any relieving him of his duties, and/or any other employment or administrative action in relation to his employment as Superintendent, dated May 1, 2014 to and including the present (July 23, 2014):

1. Any and all emails sent to or received by members of the Washoe County School Board of Trustees (the "Board") and/or staff of Washoe County School District ("WCSD") or the Board, whether transmitted or received over WCSD server or personally;
2. Any and all telephone call records, including records of all calls sent by or received from Board members or staff of the Board or WCSD;
3. Any and all text messages sent by or received from Board members or staff of the Board or WCSD;
4. Any and all voice messages sent by or received from Board members or staff of the Board or WCSD;
5. Any and all voice mails sent by or received from Board members or staff of the Board or WCSD;

# Snell & Wilmer

L.L.P.

Randy Drake

July 23, 2014

Page 2

6. Any and all notes made by or received from Board members or staff of the Board or WCSD;
7. Any and all text messages left by or received from Board members or staff of the Board or WCSD;
8. Any and all agendas, proposed agendas, and/or draft agendas for meetings (whether open or closed) of the Board and/or subcommittees;
9. Any and all audio recordings related to the above public records including but not limited to recordings of meetings (whether open or closed);
10. Any and all reports or other documents;
11. Any and all correspondence sent by or received from Board members or staff of the Board or WCSD; and
12. Any and all other records of any kind or nature, electronic or otherwise, relating to these matters.

Very truly yours,

Snell & Wilmer



Carrie L. Parker

CLP



REQUEST FOR PUBLIC RECORDS, INFORMATION, AND/OR DOCUMENTS

Date July 23, 2014

Name of Requesting Party Carrie Parker
Department/or Company Name Snell & Wilmer LLP
Mailing Address 50 West Liberty Street, Suite 510
Reno, Nevada 89501
Email Address cparker@swlaw.com
Telephone (775) 785-5440 Fax (775) 785-5441

Specific Records/Information/Documents Requested
Please see attachment.

Purpose of Request
NRS 239.010 does not require a requestor to provide a purpose.

I understand that records/information provided pursuant to my request may not be used for commercial purposes. I agree not to use any such documents for commercial purposes and further agree not to give, sell, or provide access to these documents to any other person who intends to use or uses the list for commercial purposes.

Signature of Requesting Party (Handwritten signature)

DECISION OF SCHOOL DISTRICT CUSTODIAN OF RECORDS OR DESIGNEE

- Approved as requested.
Approved as long as no information is released on students whose parents chose military opt out.
Approved as long as no directory information is released on students with FERPA restrictions.
Approved for only those items listed in WCSD Board Regulation 512B2 Directory Information.
Approved with the following conditions:
Request denied. (Statement attached)

Date Signature of School District Custodian of Records or Designee

FOR DEPARTMENT USE ONLY

Request given to Name/Department on for processing.
Complete request returned to PPA&A by on
Requested information was
Signature

White - School Yellow - Requestor Pink - School/Department Processing Request

EXHIBIT B-8

EXHIBIT B-8

# Office of the General Counsel



**Washoe County School District**  
Every Child, By Name And Face, To Graduation

Randy A. Drake, Esq., Chief General Counsel  
Christopher B. Reich, Esq., General Counsel  
Sara K. Almo, Esq., Associate General Counsel  
P.O. Box 30425, Reno, NV 89520-3425  
Phone (775) 348-0300 / Fax (775) 333-6010  
[Legal@washoeschools.net](mailto:Legal@washoeschools.net)

July 30, 2014

Sent via email to [cparker@swlaw.com](mailto:cparker@swlaw.com)

Carrie L. Parker, Esq.  
Snell & Wilmer, LLP  
50 West Liberty, Suite 510  
Reno, Nevada 89501

**Re: Records Request**

Dear Ms. Parker:

The Washoe County School District ("District") is in receipt of your records request dated July 23, 2014, in which you have requested:

"public records related to Pedro Martinez, his position as superintendent, his certified public accountant ("CPA") credentials, allegations that he is not a CPA, his job performance, the termination of his employment, any investigation of him, any placing of him on leave, any relieving him of his duties, and/or any other employment or administrative action in relation to his employment as Superintendent, dated May 1, 2014 to and including the present (July 23, 2014):

1. Any and all emails sent to or received by members of the Washoe County School Board of Trustees (the "Board") and/or staff of Washoe County School District ("WCSD") or the Board, whether transmitted or received over WCSD server or personally;
2. Any and all telephone call records, including records of all calls sent by or received from Board members or staff of the Board or WCSD;
3. Any and all text messages sent by or received from Board members or staff of the Board or WCSD;
4. Any and all voice messages sent by or received from Board members or staff of the Board or WCSD;
5. Any and all voice mails sent by or received from Board members or staff of the Board or WCSD;
6. Any and all notes made by or received from Board members or staff of the Board or WCSD;

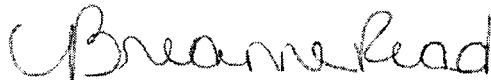
Ms. Parker  
Re: Records Request  
July 30, 2014  
Page 2

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7. Any and all text messages left by or received from Board members or staff of the Board or WCSD;
8. Any and all agendas, proposed agendas, and/or draft agendas for meetings (whether open or closed) of the Board and/or subcommittees;
9. Any and all audio recordings related to the above public records including but not limited to recordings of meetings (whether open or closed);
10. Any and all reports or other documents;
11. Any and all correspondence sent by or received from Board members or staff of the Board or WCSD; and
12. Any and all other records of any kind or nature, electronic or otherwise, relating to these matters."

Pursuant to NRS 239.0107(c)(1), I am writing to advise you that the District anticipates having those records available not later than September 30, 2014. *See*, NRS 239.0107(c)(2). I will forward the records to you on or before that date.

Sincerely,



Breanne Read, ACP  
Advanced Certified Paralegal  
Office of General Counsel

EXHIBIT B-9

EXHIBIT B-9

# Snell & Wilmer

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SALT LAKE CITY  
TUCSON

Carrie L. Parker  
(775) 785-5416  
cparker@swlaw.com

August 1, 2014

**Sent Via Email and U.S. Mail**

Breanne Read, ACP  
P.O. Box 30425  
Reno, Nevada 89520-3425

Re: Records Request

Ms. Read:

This office is in receipt of your response on behalf of Washoe County School District ("WCSD" or the "District") to our public records request, stating that "the District anticipates having those records available not later than September 30, 2014." This response violates the express language of NRS 239.0107 and further demonstrates the District's disregard for the laws of public transparency and accountability.

The Legislature and the Nevada Supreme Court have declared that the purpose of the Nevada Public Records Act ("NPR" or "Public Records Act") is "to further the democratic ideal of an accountable government by ensuring that public records are broadly accessible." *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. \_\_\_, \_\_\_, 266 P.3d 623, 626 (2011) (citing NRS 239.001(1)). Accordingly, "the provisions of the NPR are designed to promote government transparency and accountability." *Id.*

Unless it is "unable" to do so, a public agency is required to produce documents within five business days of the request. NRS 239.0107. Contrary to statute, the District has not said that it is unable to produce the requested records in a timely manner. It has merely announced that it will not do so. The District cannot credibly claim that it cannot produce within five days of the request all agendas for public meetings, all requested emails on the District's server, all call records and voicemails, or all audio recordings of meetings. Private emails or texts responsive to the request may understandably require more time although more than two months is plainly excessive and unreasonable.



Breanne Read, ACP  
August 1, 2014  
Page 2

Good faith compliance with the law requires the District to produce within the five-day period all available responsive documents, to identify documents which will require more time to provide, to identify any records that do not exist, and to provide both a description of the efforts underway to obtain such documents and a reasonable time frame for their production. Under the Open Meeting Law, audio recordings of Board meetings must be made available within 30 days after adjournment of the meeting in question. The more than two month delay asserted in the District's response thus violates not only the Public Records Act but also the Open Meeting Law.

We believe that the public records being wrongfully withheld by the District are likely to reveal Open Meeting Law violations, breaches of professional and ethical duties by public officials, and breaches of the WCSD Board of Trustees contract with Superintendent Pedro Martinez. We will expect a response from the District that complies with the Public Records Act within five business days of this letter. That gives the District more than twice the time allotted by statute to provide access to its public records.

Sincerely,

Snell & Wilmer L.L.P.



Carrie Parker

CLP:dmc  
cc: Randy A. Drake, Esq.

EXHIBIT B-10

EXHIBIT B-10

# Office of the General Counsel



**Washoe County School District**

Every Child, By Name And Face, To Graduation

Randy A. Drake, Esq., Chief General Counsel  
Christopher B. Reich, Esq., General Counsel  
Sara K. Almo, Esq., Associate General Counsel  
P.O. Box 30425, Reno, NV 89520-3425  
Phone (775) 348-0300 / Fax (775) 333-6010  
[Legal@washoeschools.net](mailto:Legal@washoeschools.net)

August 8, 2014

Sent via email to [cparker@swlaw.com](mailto:cparker@swlaw.com)

Carrie L. Parker, Esq.  
Snell & Wilmer, LLP  
50 West Liberty, Suite 510  
Reno, Nevada 89501

**Re: Records Request**

Dear Ms. Parker:

The Washoe County School District ("District") is in receipt of your August 1, 2014 letter regarding your July 23, 2014 records request and the District's initial response to that request. I would like to take this opportunity to clarify the District's July 30, 2014 initial response to your records request.

NRS 239.0107(1)(c) provides that if the District is unable to make a public record available by the fifth business day, it is to provide a notice of that fact to the requestor along with a date when the record will be available. That was the intent behind the District's July 30, 2014 letter. At this time, the District is unable to fulfill records requests within five business days due to the limited amount of District resources and the number and extensiveness of the incoming records requests. Presently there are a total of thirteen pending records requests; seven of these pending requests were made prior to your July 23, 2014 request.

Additionally, some of your requests may include attorney client communications and other statutorily protected material. When the District responds to your records request, it will specify, pursuant to NRS 239.0107(1)(d), which of these records are not being released.

Ms. Parker  
Re: Records Request  
August 8, 2014  
Page 2

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With regards to your request surrounding meetings of the Board of Trustees, you may find the following link helpful: <http://www.washoe.k12.nv.us/trustees/meetings-agendas-minutes-archive>. This link will take you to a list of Board Meetings since 2006 with links to the meeting agendas, highlights, minutes and video.

Sincerely,



Breanne Read, ACP  
Advanced Certified Paralegal  
Office of General Counsel

EXHIBIT 3

EXHIBIT 3

1 **1520**  
2 William E. Peterson, Bar No. 1528  
3 SNELL & WILMER L.L.P.  
4 50 W. Liberty Street, Suite 510  
5 Reno, NV 89501  
6 Telephone (775) 785-5440  
7 Facsimile (775) 785-5441  
8 Email: [wpeterson@swlaw.com](mailto:wpeterson@swlaw.com)

9 *Attorneys for Plaintiff*  
10 *Pedro Martinez*

11  
12 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
13 **IN AND FOR THE COUNTY OF WASHOE**

14 PEDRO MARTINEZ,

15 Plaintiff,

16 vs.

17 WASHOE COUNTY SCHOOL  
18 DISTRICT; WASHOE COUNTY  
19 SCHOOL DISTRICT BOARD OF  
20 TRUSTEES,

21 Defendants.

Case No.: CV14-01617

Dept. No.: 9

22 **DECLARATION OF CARRIE L. PARKER**

23 Carrie L. Parker, under penalty of perjury, states as follows:

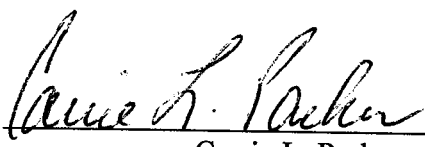
24 1. I am an attorney at Snell & Wilmer L.L.P., which is counsel for the plaintiff, Pedro  
25 Martinez, in the matter of "Pedro Martinez, Plaintiff, vs. Washoe County School District; Washoe  
26 County School District Board of Trustees, Defendants," Case No. CV14-01617, in the Second  
27 Judicial District Court for Washoe County, Nevada.

28 2. On July 29, 2014, I arrived at the Washoe County School District Board of  
Trustees (the "Board") meeting, scheduled to begin at 2:00 p.m. Outside the Board room, copies  
of the agenda and supporting materials were placed on a table. Included on the table were copies

1 of the Board's Motion for Extension of Time to File Answer or Responsive Pleading to Verified  
2 Complaint" ("Motion for Extension of Time").

3 3. Before public comment at the beginning of the meeting, Board President Barbara  
4 Clark delivered what she described as a prepared statement. During the statement, President  
5 Clark explained that outside counsel had been retained and the Board had filed a Motion for  
6 Extension of Time, which she referenced as being in the Welcome Center. She indicated that she  
7 hoped the media would publish or print the document in its entirety. She requested that questions  
8 about the filing be directed toward outside counsel, as Board members would not comment.

9 Executed in Reno, Nevada, this 11 day of August, 2014.

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11 

12 Carrie L. Parker  
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Snell & Wilmer  
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