

IN THE SUPREME COURT OF THE STATE OF NEVADA

HAMPTON & HAMPTON, PC, A
NEVADA PROFESSIONAL
CORPORATION.

Appellant,

vs.

APPLETON PROPERTIES, LLC, A
NEVADA LIMITED LIABILITY
CORPORATION; CBRIS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; CUSTOM ESTATES, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; EKNV, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
EL SINORE, LLC, A NEVADA LIMITED
LIABILITY COMPANY; EQUISOURCE
HOLDINGS, LLC, A NEVADA LIMITED
LIABILITY COMPANY; EQUISOURCE,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; HIGHER GROUND, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; KECJ, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
KINGFUTTS PFM, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
MEGA, LLC, A NEVADA LIMITED
LIABILITY COMPANY; MONTESA,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; RRR HOMES, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; SOUTHERN NEVADA
ACQUISITIONS, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
THORNTON AND ASSOCIATES, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; TRIPLE BRAIDED CORD,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; VESTEDSPEC, INC., A
NEVADA CORPORATION; AND

No. 60000

FILED

MAR 27 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

WINGBROOK CAPITAL, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Respondents.

SILVER STATE TRUSTEE SERVICES,
INC., A NEVADA LIMITED LIABILITY
COMPANY,

Appellant,

vs.

APPLETON PROPERTIES, LLC, A
NEVADA LIMITED LIABILITY
CORPORATION; CBRIS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; CUSTOM ESTATES, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; EKNV, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
ELSinORE, LLC, A NEVADA LIMITED
LIABILITY COMPANY; EQUISOURCE
HOLDINGS, LLC, A NEVADA LIMITED
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KINGFUTTS PFM, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
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LIABILITY COMPANY; MONTESA,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; RRR HOMES, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; SOUTHERN NEVADA
ACQUISITIONS, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
THORNTON AND ASSOCIATES, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; TRIPLE BRAIDED CORD,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; VESTEDSPEC, INC., A

No. 60423

NEVADA CORPORATION; AND
WINGBROOK CAPITAL, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Respondents.

NEVADA ASSOCIATION SERVICES,
INC., A NEVADA CORPORATION; RMI
MANAGEMENT, LLC, A NEVADA
LIMITED LIABILITY COMPANY; AND
ANGIUS & TERRY COLLECTIONS,
INC., A NEVADA LIMITED LIABILITY
COMPANY,

Appellants,

vs.

APPLETON PROPERTIES, LLC, A
NEVADA LIMITED LIABILITY
CORPORATION; CBRIS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; CUSTOM ESTATES, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; EKNV, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
ELSNORE, LLC, A NEVADA LIMITED
LIABILITY COMPANY; EQUISOURCE
HOLDINGS, LLC, A NEVADA LIMITED
LIABILITY COMPANY; EQUISOURCE,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; HIGHER GROUND, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; KECJ, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
KINGFUTTS PFM, LLC, A NEVADA
LIMITED LIABILITY COMPANY;
MEGA, LLC, A NEVADA LIMITED
LIABILITY COMPANY; MONTESA,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; RRR HOMES, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; SOUTHERN NEVADA
ACQUISITIONS, LLC, A NEVADA
LIMITED LIABILITY COMPANY;

No. 60476

THORNTON AND ASSOCIATES, LLC,
A NEVADA LIMITED LIABILITY
COMPANY; TRIPLE BRAIDED CORD,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; VESTEDSPEC, INC., A
NEVADA CORPORATION; AND
WINGBROOK CAPITAL, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,
Respondents.

ORDER OF AFFIRMANCE

This matter consists of three consolidated appeals that stem from a single mandatory nonbinding arbitration. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

The underlying arbitration in this matter was initiated by a group of eighteen residential property owners and investors (the investors) who claimed that homeowners' associations and collection agencies were unlawfully collecting "superpriority liens" that exceeded the statutory maximum amount under NRS 116.3116. The arbitrator ruled on two of the requests for declaratory relief related to the interpretation of NRS 116.3116 and subsequently issued an "Interim Award" that finalized his ruling on the interpretation of NRS 116.3116. The Interim Award did not dispose of the investors' remaining tort claims. The arbitrator stated that he issued the Interim Award so the parties could proceed to the district court, and eventually to this court, to litigate the discrete legal issues without conducting discovery for the remaining tort claims.

Following the arbitrator's Interim Award, each of the collection agencies filed separate complaints for declaratory relief in district court. The investors moved to dismiss the complaints because the arbitrator had not issued a final decision and award that disposed of all

claims in arbitration, as required by NRS 38.330(5). Each district court granted the motion to dismiss, finding it lacked jurisdiction to hear the action. The collection agencies now appeal.

Standard of review

Questions of subject matter jurisdiction are questions of law that are subject to a de novo review. *In re Nev. State Eng'r Ruling No. 5823*, 128 Nev. ___, ___, 277 P.3d 449, 453 (2012) (citing *Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009)). Questions of statutory interpretation are also subject to a de novo review. *Id.* at ___, 277 P.3d at 453. This appeal turns on the proper interpretation of NRS 38.330(5), and is therefore subject to de novo review. *See id.* at ___, 277 P.3d at 453.

“Generally, when a statute’s language is plain and its meaning clear, the courts will apply that plain language.” *Leven v. Frey*, 123 Nev. 399, 403, 168 P.3d 712, 715 (2007). But when a statute is susceptible to more than one reasonable interpretation, this court must resolve that ambiguity by looking to legislative history and “construing the statute in a manner that conforms to reason and public policy.” *Great Basin Water Network v. Taylor*, 126 Nev. ___, ___, 234 P.3d 912, 918 (2010).

The district courts did not err in finding that they lacked jurisdiction because NRS 38.330(5) requires a final decision and award that is dispositive of all issues and claims before a party may commence a civil action in district court

NRS 38.330(5) was amended in 2011. 2011 Nev. Stat., ch. 175, § 4, at 802. The plain language of NRS 38.330(5) was ambiguous prior to the 2011 amendments. Under the previous version of the statute, which the parties agree is controlling here, the phrase “decision and award” could be reasonably interpreted to include only decisions and awards that disposed of all issues in arbitration as well as partial decisions and awards. Therefore, this court must look to the statute’s

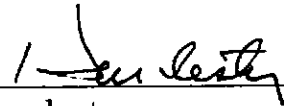
legislative history and must construe it “in a manner that conforms to reason and public policy.” See *Great Basin*, 126 Nev. at ___, 234 P.3d at 918.

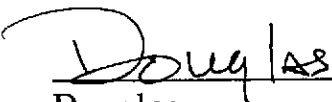
Our review of the legislative history does not shed light on the proper interpretation of “decision and award.” However, looking at the general structure of NRS Chapter 38, we note that the use of the phrase “conclusion of arbitration” in other subsections of NRS 38.330, most notably NRS 38.330(4), indicates that the Legislature intended that a decision and award must be final. Additionally, when a previously ambiguous statute is “made clear through subsequent legislation, [this court] may consider the subsequent legislation [as] persuasive evidence of what the Legislature originally intended.” *Pub. Emps.’ Benefits Program v. Las Vegas Metro. Police Dep’t*, 124 Nev. 138, 157, 179 P.3d 542, 554-55 (2008); accord *Police Pension Bd. of Phoenix v. Warren*, 398 P.2d 892, 896 (Ariz. 1965) (recognizing that “an amendment which, in effect, construes and clarifies a prior statute will be accepted as the legislative declaration of the original act.” (internal quotations omitted)). The Nevada Legislature’s 2011 amendments to NRS 38.330(5) specify that a party may commence a civil action only after a final decision and award that disposes of all claims before the arbitrator. Specifically, NRS 38.330(5) now states that a party may commence a civil action “within 30 days after a *final* decision and award which are dispositive of *any and all issues of the claim which were submitted to nonbinding arbitration* have been served upon the parties.” (Emphasis added.)

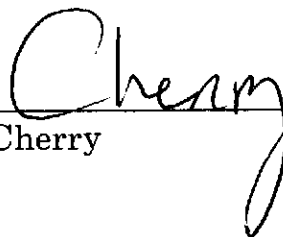
Thus, given NRS Chapter 38’s use of the phrase “conclusion of arbitration” and the subsequent clarification from the Legislature that NRS 38.330(5) requires “a *final* decision and award which are dispositive

of *any and all issues of the claim*,” we conclude that the statute required the arbitrator to decide all issues before him before the collection agencies could file civil actions in district court.¹ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Douglas W. Herndon, District Judge
Stephen E. Haberfeld, Settlement Judge
Holland & Hart LLP/Las Vegas
Robert A. Massi, Ltd.
Gordon Silver
Adams Law Group
Brown Brown & Premsrirut
Eighth District Court Clerk

¹We have considered the parties' remaining arguments and conclude that they are without merit.