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9 Attorney for Plaintiff

10 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
11 **IN AND FOR CARSON CITY**

12 MICHAEL LITTLE, a Citizen and Taxpayer of Nevada;

13 Plaintiff,

Case No. 14 OC 00026 1B

14 vs.

Dept. No. I

15 THE STATE OF NEVADA; THE NEVADA
16 GOVERNOR'S OFFICE OF ECONOMIC
17 DEVELOPMENT; and STEVEN HILL, in his
18 Official Capacity as Executive Director of The Nevada
19 Governor's Office of Economic Development; and
20 THE LEGISLATURE OF THE STATE OF NEVADA,

Defendants.

21 **PLAINTIFF'S DESIGNATION OF EXPERT WITNESS**

22 Plaintiff, Michael Little, by and through his undersigned counsel Joseph F. Becker, NPRI
23 Center for Justice and Constitutional Litigation, provides his Designation of Expert Witness
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25 ...
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28 ...

1 pursuant to NRCPP 16.1(a)(2), as an expert who may be used at trial to present evidence under NRS
2 50.275, 50.285 and 50.305:

3
4 Randall G. Holcombe, Ph.D.
3514 Limerick Dr.
5 Tallahassee, FL 32309
(850) 644-7095

6 Dr. Holcombe is expected to provide expert testimony as to how a subsidy to SolarCity
7 through a Catalyst Fund grant harms Plaintiff, and whether this subsidy provides public benefit to
8 the State of Nevada and its citizens.

9 Dr. Holcombe's report and CV is attached.

10 Plaintiff reserves the right to supplement his report should additional information become
11 available through discovery.

12 DATED this 7th day of August, 2014.

13
14 NPRI CENTER FOR JUSTICE AND
15 CONSTITUTIONAL LITIGATION

16 BY: 

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of August, 2014, I mailed a copy of the Plaintiff's Designation of Expert Witness to the following at the last known address, by depositing the same in the United States mail in Reno, Nevada, first class postage prepaid and addressed as follows:

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**EXPERT REPORT OF
RANDALL G. HOLCOMBE, Ph.D.
REGARDING
ECONOMIC IMPACTS OF THE PROPOSED CATALYST FUND PAYMENT TO
SOLARCITY**

1. INTRODUCTION

I, Randall G. Holcombe, Ph.D., have been retained on behalf of the NPRI's Center for Justice and Constitutional Litigation (NPRI) to offer expert opinion on whether a subsidy to SolarCity through a Catalyst Fund grant harms firms that compete with SolarCity, and whether this subsidy provides some public benefit to the State of Nevada and its citizens. I have reviewed documents related to the case, and offer my expert opinion based on my training as a professional economist.

I earned my Ph.D. in economics from Virginia Tech in 1976, and wrote my doctoral dissertation under James M. Buchanan, 1986 Nobel Laureate in economics. I have worked as an academic economist for 39 years, teaching at Texas A&M University, Auburn University, and Florida State University. I have also worked as an economic consultant for the federal government, and for the Florida legislature, on economic matters, and have worked with think tanks and public policy organizations on matters of economic policy.

SolarCity filed a Catalyst Fund Application through the Governor's Office of Economic Development for a \$1.2 million grant to expand their facility in Clark County, Nevada. SolarCity's application, dated March 2013, states that the Catalyst fund is critical to the relocation of some of SolarCity's workforce, and to ensuring that they have the correct and educated workforce to support their expansion.

2. STATEMENT OF OPINIONS

- 2.1 The subsidizing of one firm in a market (SolarCity) harms other firms competing in that market, because it gives a cost advantage to the subsidized firm. Competing firms are among the taxpayers who are required to pay their taxes to the state, out of which the subsidy payments are taken. In effect, the subsidy transfers through the tax system income from all firms in the market to provide a competitive advantage to the subsidized firm. However, regardless of where the money comes from to pay the subsidy, the fact that a firm subsidized by the government receives revenue that is not provided to unsubsidized firms always gives a cost advantage to the firm receiving the subsidy. This will lower the profitability of unsubsidized firms, and if the cost advantage is great enough, could even put unsubsidized firms out of business.

2.2 Government subsidies to businesses are a drain on the economy, and do not provide any net benefit to the state or to its citizens. If the business would be profitable without the subsidy, there is no public purpose served by paying it. If the business would not be profitable without the subsidy, then the subsidy supports a business that takes more out of the economy than it puts back in. Costs measure the value of resources firms take out of the economy; revenues measure the value of the output firms produce for the economy. Firms that produce more value than they take out of the economy benefit the economy. Firms that take more value out of the economy than they produce reduce economic welfare. Government policy produces the greatest economic benefit when it is neutral toward all firms, allowing firms that produce more value to prosper while those that drain value from the economy disappear. Government subsidies disrupt that process by distorting economic incentives. Even if a firm would be profitable without a subsidy, a subsidy allows the subsidized firm to use more resources than would be efficient.

2.3 The Catalyst Fund Agreement specifies job targets that must be met for SolarCity to receive money from the fund. The implication is that the creation of jobs provides some public benefit, but jobs are not a benefit, they are a cost. Firms place their labor costs as an expense, rightfully so, because hiring labor uses up a resource. The benefit is the output that the labor produces. Paying people to do nothing would not provide any public benefit. It would be a cost to the public, even though the recipient would be better off getting the income. Paying people so a firm can get a government subsidy also provides no public benefit. The benefit only comes if the employee's labor generates more in revenues for the firm than the cost of the labor. If this is the case, no subsidy is needed for the hire. If it is not true, the subsidy provides no public benefit, but imposes a net cost on the public.

2.4 Due to ongoing discovery related to this matter, opinions stated herein may be supplemented or amended once all evidence has been presented and reviewed.

3. FACTS AND DATA USED TO FORM OPINIONS

3.1 SolarCity's Catalyst Fund Application to the Governor's Office of Economic Development.

3.2 Agreement for Allocation of Catalyst Funds between Nevada Governor's Office of Economic Development and County of Clark, Nevada.

3.3 Catalyst Fund Agreement between Clark County, Nevada, and SolarCity Corporation.

4. EXHIBITS TO BE USED TO SUPPORT OPINIONS

None presently constructed.

5. QUALIFICATIONS

Education	Ph.D., Economics, Virginia Tech, 1976 M.A., Economics, Virginia Tech, 1974 B.S.B.A., Economics, University of Florida, 1972
Affiliations	Member, American Economic Association Member, Southern Economic Association Member and Past President, Public Choice Society Member, Mont Pelerin Society Senior Fellow, James Madison Institute, Tallahassee, Florida Research Fellow, Independent Institute, Oakland, California

Biographical Summary

Dr. Holcombe is DeVoe Moore Professor of Economics at Florida State University. He taught economics at Texas A&M University and Auburn University prior to coming to Florida State in 1988. He served on Florida Governor Jeb Bush's Council of Economic Advisors from 2000 to 2006. He is the author of 15 books, more than 150 peer-reviewed articles published in academic and professional journals, and more than 30 articles and reports for think tanks and public policy organizations. Dr. Holcombe frequently presents his research to his peers at meetings of professional organizations and has testified before committees in the U.S. Congress and the Florida legislature

Publications in the Last 10 Years.

Books

Public Sector Economics: The Role of Government in the American Economy. Englewood Cliffs, NJ: Prentice Hall, 2006.

Entrepreneurship and Economic Progress. London: Routledge, 2007.

Producing Prosperity: An Inquiry Into the Operation of the Market Process. London: Routledge, 2013.

Liberalism and Cronyism: Two Rival Political and Economic Systems (with Andrea M. Castillo). Arlington, VA: Mercatus Center, 2013.

The Austrian School of Economics. Cheltenham, UK: Edward Elgar, 2014.

Articles in Academic and Professional Journals

- "Progress and Entrepreneurship," *Quarterly Journal of Austrian Economics* 6, no. 3 (Fall 2003), pp. 3-26. Reprinted in *The ICFAI Journal of Entrepreneurship Development* 1, no. 3 (September 2004), pp. 10-28.
- "Government: Unnecessary but Inevitable," *The Independent Review* 8, no. 3 (Winter 2004), pp. 325-342. Reprinted in Mario J. Rizzo, ed., *Austrian Law and Economics* (Cheltenham, UK: Edward Elgar, 2011), Chapter 29.
- "The New Urbanism Versus the Market Process," *Review of Austrian Economics* 17, nos. 2-3 (June 2004), pp. 285-300.
- "The Effect of State Income Taxation on Per Capita Income Growth" (with Donald J. Lacombe), *Public Finance Review* 32, no. 3 (May 2004), pp. 292-312.
- "Using Matched Border Counties for Policy Analysis: The Effects of Entitlement Programs on Female-Headed Households and Female Labor Force Participation" (with Donald J. Lacombe), *Eastern Economic Journal* 30, no. 3 (Summer 2004), pp. 399-413.
- "National Income Accounting and Public Policy," *Review of Austrian Economics* 17, no. 4 (2004), pp. 387-405.
- "Factors Underlying the Growth of Local Government in the 19th Century United States" (with Donald J. Lacombe), *Public Choice* 120, nos. 3-4 (September 2004), pp. 359-377.
- "Economic Freedom, Institutional Quality, and Cross-Country Differences in Income and Growth" (with James D. Gwartney and Robert A. Lawson), *Cato Journal* 24, no. 3 (Fall 2004), pp. 205-233.
- "Echoes of Henry George in Modern Analysis: A Comment on Three Applications," *American Journal of Economics and Sociology* 63, no. 5 (November 2004), pp. 1131-1138.
- "The National Research Council Ranking of Research Universities: Its Impact on Research in Economics," *Econ Journal Watch* 1, no. 3 (December 2004), pp. 498-514.
- "Common Property in Anarcho-Capitalism," *Journal of Libertarian Studies* 19, no. 2 (Spring 2005), pp. 3-26.
- "Is Government Inevitable? Reply to Leeson and Stringham," *The Independent Review* 9, no. 4 (Spring 2005), pp. 551-557.
- "Government Growth in the Twenty-First Century," *Public Choice* 124, nos. 1-2 (July 2005), pp. 95-114.

- "The Effects of Public Investment on Private Investment in Developing Countries" (With Lutfi Erden), *Public Finance Review* 33, no. 5 (September 2005), pp. 575-602.
- "The Linkage Between Public and Private Investment: A Co-integration Analysis of a Panel of in Developing Countries" (with Lutfi Erden), *Eastern Economic Journal* 32, no. 3 (Summer 2006), pp. 479-492.
- "Institutions and the Impact of Investment on Growth" (with James D. Gwartney and Robert A. Lawson), *Kyklos* 59, no. 2(2006), pp. 255-273.
- "Does the Invisible Hand Hold or Lead? Market Adjustment in an Entrepreneurial Economy," *Review of Austrian Economics* 19, nos. 2-3 (June 2006), pp. 189-201.
- "Should We Have Acted 30 Years Ago To Prevent Global Climate Change?" *Independent Review* 11, no. 2 (Fall 2006), pp. 283-288.
- "Is Government Really Inevitable?" *Journal of Libertarian Studies* 21, no. 1 (Spring 2007), pp. 39-46.
- "Evidence on Voter Preferences from Unrestricted Choice Referendums" (with Lawrence W. Kenny), *Public Choice* 131, nos. 1/2 (April 2007), pp. 197-215.
- "Does Licensing of Health Care Professionals Improve Health Care?" *Journal of Medical Licensure and Discipline* 93, no. 3 (2007), pp. 13-19.
- "The Impact of Population Density on Municipal Government Expenditures" (with DeEdgra W. Williams), *Public Finance Review* 36, no. 3 (May 2008), pp. 359-373.
- "Pluralism Versus Heterodoxy in Economics and the Social Sciences," *Journal of Philosophical Economics* 1, no. 2 (2008), pp. 51-72.
- "Does Restricting Choice in Referenda Enable Governments to Spend More?" (with Lawrence W. Kenny), *Public Choice* 136, nos. 1/2 (May 2008), pp. 87-101.
- "Advancing Economic Analysis Beyond the Equilibrium Framework," *Review of Austrian Economics* 21, no. 4 (2008), pp. 225-249
- "Why Does Government Produce National Defense?" *Public Choice* 137, nos. 1/2 (October 2008), pp. 11-19.
- "Public Goods Theory: A Public Choice Critique," *Korean Journal of Public Choice* 3, no. 1 (December 2008), pp. 1-13.
- "The Sub-Optimality of Competitive Elections: Comment," *Public Choice* 138, nos. 1-2 (January 2009), pp. 217-219.

- "Principles and Politics: Like Oil and Water," *Review of Austrian Economics* 22, no. 2 (June 2009), pp. 151-157.
- "Product Differentiation and Economic Progress," *Quarterly Journal of Austrian Economics* 12, no. 1 (Spring 2009), pp. 17-35.
- "Are There Economies of Scale in Municipal Government Expenditures?" (with DeEdgra W. Williams), *Public Finance and Management* 9, no. 3 (2009), pp. 416-438.
- "A Reformulation of the Foundations of Welfare Economics," *Review of Austrian Economics* 22, no. 3 (September 2009), pp. 209-224.
- "The Behavioral Foundations of Austrian Economics," *Review of Austrian Economics* 22, no. 4 (December 2009), pp. 301-313.
- "Unions, Economic Freedom, and Growth" (with James D. Gwartney), *Cato Journal* 30, no. 1 (Winter 2010), pp. 1-22.
- "Urban Sprawl and Transportation Externalities" (with DeEdgra W. Williams), *Review of Regional Studies* 40, no. 3 (Winter 2010), pp. 257-272.
- "The Effect of Changes in the Tax Structure on the Reported Income of High-Income Individuals" (with Harnan Acuna), *Public Finance Review* 38, no. 3 (May 2010), pp. 321-345.
- "Policy Errors in Executive and Legislative Decision-Making" (with Dmitry Ryvkin), *Public Choice* 144, nos. 1/2 (2010), pp. 37-51.
- "The Bush-Obama Stimulus Programs and the Future of American Capitalism," *Pepperdine Policy Review* 3 (2010), pp. 55-66.
- "Pluralism and Heterodoxy in Economic Methodology," *Review of Austrian Economics* 24, no. 1 (March 2011), pp. 57-65.
- "Public Choice in a Local Government Setting," *Public Choice* 149, nos. 1/2 (October 2011), pp. 1-3.
- "The Cartelization of Local Governments" (with DeEdgra W. Williams), *Public Choice* 149, nos. 1/2 (October 2011), pp. 65-74.
- "Rule of Law and the Size of Government" (with Cortney S. Rodet), *Journal of Institutional Economics* 8, no. 1 (March 2012), pp. 49-69.
- "The Rise and Fall of Agglomeration Economies," *Advances in Austrian Economics* 16 (2012), pp. 211-232.

- "Make Economics Policy-Relevant: Depose the Omniscient Benevolent Dictator," *Independent Review* 17, no. 2 (Fall 2012), pp. 165-176.
- "Planning Versus the Invisible Hand: Allies or Adversaries?" *Planning Theory* 12, no. 2 (May 2013), pp. 199-210.
- "South Korea's Economic Future: Industrial Policy, or Economic Democracy?" *Journal of Economic Behavior & Organization* 88 (April 2013), pp. 3-13.
- "Crony Capitalism: By-Product of Big Government," *The Independent Review* 17, no. 4 (Spring 2013), pp. 541-559.
- "Institutional Quality and the Tenure of Autocrats" (with Christopher J. Boudreaux), *Public Choice* 156, no. 3 (2013), pp. 409-421.
- "Do Voters have a Duty to Promote the Common Good? A Comment on Brennan's *The Ethics of Voting*," *Reason Papers* 35, no. 1 (July 2013), pp. 17-25.
- "Profit and Prosperity," *American Journal of Entrepreneurship* 8, no. 1 (June 2013), pp. 11-23.
- "Economic Policy and the Creative Economy," *Korean Journal of Institutions and Economics* 11 (2013), pp. 125-152.
- "Firms as Knowledge Repositories," *Review of Austrian Economics* 26, no. 3 (2013), pp. 259-275.
- "Consenting to Collective Action: The Classical Liberal Constitutional Calculus of James M. Buchanan," *The Independent Review* 18, no. 3 (Winter 2014), pp. 359-372.

Book Chapters

- "Taxation, Production, and Redistribution," in Juergen G. Backhaus and Richard E. Wagner, eds., *Handbook of Public Finance*. Boston: Kluwer Academic Publishers, 2004, pp. 139-164.
- "Public Finance and the Median Voter Model," in Charles K. Rowley and Fritz Schneider, eds., *Encyclopedia of Public Choice*. Dordrecht, Netherlands: Kluwer Academic Publishers, 2004, pp. 453-455.
- "Committees in Legislatures," in Charles K. Rowley and Fritz Schneider, eds., *Encyclopedia of Public Choice*. Dordrecht, Netherlands: Kluwer Academic Publishers, 2004, pp. 100-102.
- "Electoral College," in Charles K. Rowley and Fritz Schneider, eds., *Encyclopedia of Public Choice*. Dordrecht, Netherlands: Kluwer Academic Publishers, 2004, pp. 206-208.

- "Growth of Local Government in the United States," in Charles K. Rowley and Fritz Schneider, eds., *Encyclopedia of Public Choice*. Dordrecht, Netherlands: Kluwer Academic Publishers, 2004, pp. 268-270.
- "Why Do Florida Counties Adopt Urban Growth Boundaries?" in Timothy S. Chapin, Charles E. Connerly, and Harrison T. Higgins, eds., *Growth Management in Florida: Planning for Paradise*. Aldershot, UK: Ashgate, 2007, pp. 227-240.
- Why Government?" in Hartmut Kliemt and Hardy Bouillon, eds., *Ordered Anarchy: Jasay and His Surroundings* (Aldershot, UK: Ashgate, 2007).
- "Entrepreneurship and Economic Growth," in Benjamin Powell, ed., *Making Poor Nations Rich: Entrepreneurship and the Process of Economic Development* (Stanford: Stanford University Press, 2008), reprint of an article originally published in the *Quarterly Journal of Austrian Economics*, 1999.
- "Democracy," in Ronald Hamowy, ed., *The Encyclopedia of Libertarianism*. Los Angeles: Sage, 2008.
- "Government: Unnecessary But Inevitable," in Mario J. Rizzo, ed., *Austrian Law and Economics* (Cheltenham, UK: Edward Elgar, 2011), Chapter 29.
- "Cultivating Creativity: Market Creation of Agglomeration Economies," in David Emanuel Andersson, Charlotta Mellander, and Ake Andersson, eds., *Handbook of Creative Cities* (Cheltenham, UK: Edward Elgar, 2011), Chapter 19.
- "Consent or Coercion? A Critical Analysis of the Constitutional Contract," in Alain Marciano, ed., *Constitutional Mythologies* (New York: Springer, 2011). pp. 9-23.
- "Democracy and Prosperity," Chapter 1 in Young Back Choi, ed., *Institutional Economics and National Competitiveness* (London: Routledge, 2012), pp. 1-23.
- "Federal Systems," Chapter 11 in Michael Reksulak, Laura Razzolini, and William F. Shughart, eds., *The Elgar Companion to Public Choice*, 2nd ed. Cheltenham, UK: Edward Elgar, 2013, pp. 179-194.
- "Institutions and Constitutions: The Economic World of James M. Buchanan," Ch. 2 in Dwight R. Lee, ed., *Public Choice: Past and Present* (New York: Springer, 2013).
- "The Rise and Fall of Growth Management in Florida," in David Emanuel Andersson and Stefano Moroni, eds., *Cities and Private Planning: Property Rights, Entrepreneurship, and Transaction Costs*. Cheltenham, UK: Edward Elgar, 2014, Ch. 11, pp. 232-247.
- "Improving Spontaneous Orders," in Guinevere Nell, ed., *Austrian Theory & Market Organization* (forthcoming).

"Unanimous Consent and Constitutional Economics," in Jac Heckelman and Nicholas Miller, eds., *The Elgar Handbook of Social Choice and Voting*. Cheltenham, UK: Edward Elgar, forthcoming.

"Rent-Seeking and Constitutional Political Economy," in Roger D. Congleton and Arye Hillman, eds., *A Companion to Rent-Seeking: Theory, Applications, Existence*. New York: Springer: forthcoming.

Research and Policy Institute Publications

"Why Has Florida's Growth Management Act Been Ineffective?" *The Journal of the James Madison Institute* 28 (Spring/Summer 2004), pp. 11-14.

"Is Florida's Tax Structure Ready for the 21st Century? James Madison Institute *Backgrounder* # 42, December 2004.

"Paying for Growth," *The Journal of the James Madison Institute* 32 (Summer 2005), pp. 5-7, 37-43.

"Empowering Florida's Taxpayers" (with Barry Poulson), James Madison Institute *Backgrounder* no. 47, November 2005.

"Florida's Fiscal Constitution: Opportunities for Reform," James Madison Institute *Backgrounder* no. 50, December 2006.

"Why Florida Needs Property Tax Limits," *Journal of the James Madison Institute* 40 (Fall 2007), pp. 9-13.

"Florida's Fiscal Future: Tax and Expenditure Policy in Uncertain Times," James Madison Institute *Backgrounder* no. 58, February 2009.

"Creating a Public/Private Partnership for Florida's Conservation Land Management," James Madison Institute *Backgrounder* no. 59, March 2009.

"Transforming America: The Bush-Obama Stimulus Programs," *The Freeman* 59, no. 7 (September 2009), pp. 34-38.

"The Value Added Tax: Too Costly for the United States," Research Paper, Mercatus Center, George Mason University, September 21, 2010.

"Protecting Florida's Cities Through Pension Reform," James Madison Institute *Backgrounder* 66, January 2011.

"The Value Added Tax: Impacts on Florida," Mercatus on Policy No. 89 (February 2011), Mercatus Center, George Mason University.

"Taxing Internet Sales: A State and National Perspective," *Journal of the James Madison Institute* 50 (Winter 2012), pp. 8-16.

"Economic Freedom: A Global Perspective," *Journal of the James Madison Institute* 51 (Summer 2012), pp. 15-19.

"Preserve Freedom of Contract in Florida's Labor Markets," *James Madison Institute Backgrounder* 73, March 2013.

6. LIST OF ALL OTHER CASES IN THE PREVIOUS FOUR YEARS IN WHICH THE WITNESS HAS TESTIFIED AS AN EXPERT

I have not testified or been deposed in any other cases during the previous four years.

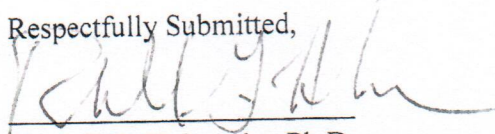
7. STATEMENT OF COMPENSATION TO BE PAID

Payment for the services rendered is not dependent on the expert's findings nor on the outcome of any legal action, mediation, arbitration, or the amount or terms of any settlement of the underlying legal cause, nor on any arrangement between the client or any other person or party. Client agrees to compensate expert for services rendered as follows:

7.1 Fees for Expert's Services. Expert shall be paid by client at a rate of \$150 an hour for all tasks performed under this agreement. Fees will be billed by the 1/2 of an hour. For testimony at deposition or trial the expert shall be paid at the rate of \$150 an hour, to be billed in hourly increments. This rate shall apply both while the expert is waiting to give testimony, whether at an office or court, and for time taken for breaks or meals, as well as for time actually spent giving testimony. If in any day the expert is away from Tallahassee, Florida, or en route to another city or returning to Tallahassee, the expert shall be paid \$1,200 a day for those days away from Tallahassee.

7.2 Support Services/Expenses. Client agrees to reimburse expert for all expenses associated with this testimony, including but not limited to air fare, lodging for any nights spent away from Tallahassee, and meals while away from Tallahassee.

Respectfully Submitted,


Randall G. Holcombe, Ph.D.

July 25, 2014
Date