



December 3, 2014

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VIA HAND DELIVERY

Tracie K. Lindeman  
Clerk of the Nevada Supreme Court  
201 South Carson Street  
Carson City, Nevada 89701

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

Re: ADKT 0501

Dear Ms. Lindeman:

This letter is a response to the Court inviting, in ADKT 0501, comment on the Nevada-Rules-of-Appellate-Procedure amendments proposed for establishing a Court of Appeals. Thank you for this opportunity. My colleagues and I understand that the Court of Appeals' primary purpose is expediting the appellate process by lessening the Supreme Court's workload. Our suggestions are made with that mind and are drawn from my experience as a Supreme Court staff attorney, many of my colleagues' experiences as Supreme Court clerks, and our current work as litigators.

- Proposed Rule 17 specifically designates certain cases as presumptively either Supreme Court cases or Court of Appeals cases. But there is no catch-all category for cases that do not fit within the specified categories. For instance, as drafted, it is unclear where a business-related case—albeit one not in business court—should go. Creating a category, perhaps in Rule 17(a)(1)(O), for “All other cases not specifically enumerated in Rule 17” would capture the myriad case categories that cannot be designated without making the rule unwieldy. A catch-all category would also preempt argument about where the Supreme Court should route a case.
- Proposed Rule 17(b)(1)(G) appears to allow writ petitions challenging all types of discovery orders. If so, this deviates from the Court's current policy against considering writ petitions that challenge discovery orders unless the order allows blanket discovery without regard to relevance or

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requires the disclosure of privileged information). *See Hetter v. District Court*, 110 Nev. 513, 515, 874 P.2d 762, 763 (1994). To avoid increasing the number of writ petitions, particularly those contrary to caselaw, the rule amendments should preserve the general policy against considering writ petitions challenging discovery orders.

- Proposed Rule 28(a)(5) and (b)(2), regarding routing statements in briefs, suggest that the final decision to route a case to the Supreme Court or Court of Appeals is made after briefing is complete. This means that the Supreme Court will continue to resolve all motions filed before a case is submitted on the briefs. To further lessen the Court's burden in that regard, the Court may want to consider routing cases before briefing is complete or how to otherwise allow the Court of Appeals to resolve certain motions.

Thank you for considering our comments.

Sincerely,

Stephan J. Hollandsworth  
for Holland & Hart LLP

Constance Akridge  
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