

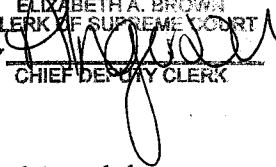
**Ingersoll, Amanda**

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**From:** Marcus Berg <Marcus@mossberglv.com>  
**Sent:** Wednesday, October 24, 2018 9:17 AM  
**To:** Supreme Court Clerk  
**Subject:** ADKT 501

**FILED**

OCT 24 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

Dear Ms. Brown,

Please find the following comments and concerns regarding the proposed amendment to NRAP 3A and the addition of NRAP 3F.

On behalf of my law firm and my clients, I am opposed to these proposals as they will severely limit the ability of a party who loses a motion for summary judgment to properly contest the lower court's decision. If briefing is not permitted, the appellant will have no opportunity to point out erroneous reasoning on the part of the lower court, or the failure of the court to consider certain evidence without filing motions for additional briefing, motions for reconsideration or motions for en banc consideration. Moreover, under the proposed changes, the appellant will essentially be at a three to one disadvantage. The Court will have the underlying motion for summary judgment and the moving party's reply, as well as the lower court's order, versus the non moving party's opposition. This will create an almost insurmountable burden for an appellant to overcome.

If the goal of the proposed amendments is to increase the Court's ability to resolve appeals in a timely manner, then I feel that can certainly be accomplished in other ways without sacrificing a litigant's ability to have its arguments heard. Perhaps the Court can consider an abbreviated briefing schedule in the type cases covered by the proposed changes.

Sincerely,

**Marcus A. Berg, Esq.**  
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