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ELIZABETH A. BROWN
 CLERK OF SUPREME COURT
 BY *[Signature]*
 CHIEF DEPUTY CLERK

Elizabeth A. Brown
 Clerk of the Supreme Court
 201 South Carson Street
 Carson City, Nevada 89701

Re: In The Matter of The Amendment of the Nevada Rules of Appellate Procedures; ADKT 501

Dear Ms. Brown:

Please accept the comments below as my opposition to the proposed amendments to Nevada Rules of Appellate Procedure (NRAP) 3A. Specifically, in ADKT 501, Justice Hardesty and Justice Stiglich filed a Petition to amend NRAP 3A "regarding standing to appeal and appealable determinations in civil actions and to add NRAP 3F regarding summary proceedings in certain civil appeals." According to the Petitioners, the "amendment to NRAP 3A and the addition of NRAP 3F will expedite appeals of dismissals under NRCP 12(b)(2) or 12(b)(5), and summary judgments under NRCP 56," thereby allowing "these matters to be considered by the appellate court on the trial record . . . without the need for additional briefing or argument."

I oppose the Petition and the proposed changes contained therein for several reasons. First, in my practice, Motions for Summary Judgment and/or Motions to Dismiss are widely abused by Defendants, many of whom are corporations and insurance companies. While the District Court Judges are generally adept at denying these oftentimes frivolous motions, sometimes they are not. Limiting the record on appeal and refusing oral argument will only worsen the already egregious violations that I routinely see in practice.

Second, Orders granting Motions for Summary Judgment and/or Orders granting Motions to Dismiss are the civil law equivalent of the "death penalty." I am uncomfortable with the Nevada Supreme Court expediting civil "death penalty" cases when the party against whom such a ruling has been reached has not had their proverbial day in Court. The "right of trial by jury" in civil cases is mandated by the Seventh Amendment. Dispositive motions, such as Motions for Summary Judgment and/or Motions to Dismiss, disproportionately and negatively affect Plaintiffs, not Defendants. Giving Plaintiffs the civil "death penalty," without allowing said individuals the opportunity to fully brief and orally argue the merits of their case is highly offensive to me.

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18-41821

Finally, in the event that the Petition set forth in ADKT 501 is granted, the entirety of the record on appeal will consist of four documents: (1) Defendant's Motion for Summary Judgment or Motion to Dismiss; (2) Plaintiff's Opposition thereto; (3) Defendant's Reply; and (4) the Court's Order Granting the Motion. No additional briefing allowed. No additional cases which perhaps Plaintiff's counsel did not cite at the district court level. No oral arguments to flush out the facts and the law. The only things to be considered will be the documents enumerated above, 3/4 of the documents will favor the moving party. This seems inequitable and heavily in favor of Defendants.

Motions to Dismiss and/or Motions for Summary judgment might be wonderful procedures were they not inefficient, unfair, and arguably unconstitutional. The deck is already stacked against Plaintiffs when they seek to address their Constitutional rights in the courtroom. Corporate defendants and corporate insurance companies do not care that filing Motions for Summary Judgment and/or Motions to Dismiss cost them a few hundred dollars in additional filing fees. These motions are seemingly more commonplace, and abused, than they have been in the several decades that I have practiced law in the State of Nevada. If the Court wants to expedite the litigation process, it should consider sanctioning Defendants that do not prevail when these Motions are denied by the District Court. The rights of Plaintiffs should not be further curtailed by the proposed amendments to NRAP 3A and the addition of NRAP 3(F) as set forth in the Petition that is the subject matter of ADKT 501.

Sincerely,

BRADLEY, DRENDEL & JEANNEY

A handwritten signature in black ink, appearing to read "Mark Wenzel", written over a circular stamp or mark.

Mark Wenzel, Esq.

mw/