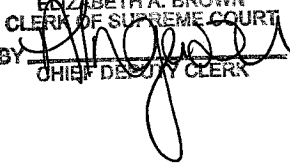


FILED

OCT 24 2018

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

October 24, 2018

Chief Justice Douglas
c/o Elizabeth A. Brown
Nevada Supreme Court Clerk
201 South Carson Street
Carson City, NV 89701-4702
nvscclerk@nvcourts.nv.gov

Re: Proposed Amendment to NRAP 3A and Addition of NRAP 3F (ADKT 0501)

Dear Chief Justice Douglas:

On behalf of the Litigation Section of the State Bar of Nevada (“Litigation Section”), we submit the following comments and concerns regarding the proposed Nevada Rules of Appellate Procedure Rule 3F. These comments are filed solely on behalf of the Litigation Section.

The Litigation Section understands the intent of the proposed NRAP 3F is to expedite appeals, but to only review dismissals under NRCP 12(b)(2) or NRCP 12(b)(5) and final or certified as final summary judgments under NRCP 56 on the trial record only and without additional briefing and argument will not accomplish the intent. Because such appeals will be decided on the trial record only and without briefing or argument, the parties to such appeal will likely file motions for rehearing and en banc reconsideration pursuant to NRAP 40 and NRAP40A, respectively. Also, NRAP 3F(b), if enacted, would greatly alter and diminish the efficacy of appeals from dismissals under NRCP 12(b)(2) and (5) and for summary judgment dismissals under NRCP 56.). Furthermore, there are other types of appeals that apply the de novo standard of review (*e.g. interpretation of contracts and statutes, administrative appeals*) but for which no short-circuited appeal process is being suggested, so that singling out these types of dispositive motions cannot be justified by the type of review. Finally, without any briefing, the parties are precluded from discussing or addressing any revelation of erroneous thinking or overlooking of evidence that comes out at the hearing or in the written order. Thus, the Litigation Section objects to the proposed NRAP 3F(b).

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Alternatively, the Litigation Section proposes that to accomplish the intent to achieve more efficiency, the briefing schedule could be expedited for these types of appeals or allowing the parties to choose the expedited method rather than make it mandatory.

Very truly yours,



Litigation Section of the State Bar of Nevada

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