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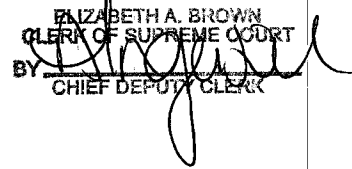
ADLT 0501

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Elizabeth Brown
Clerk of the Supreme Court
201 S. Carson Street
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via email to: nvscclerk@nvcourts.nv.gov

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

Re: Proposed NRAP 3F(b): Summary appeals of certain dispositive orders

We write to request this Honorable Court reject the adoption of the proposed NRAP 3F(b), creating summary appeals of orders granting motions under NRCP 12(b)(2), (5), and NRCP 56. In addition to being engaged in appellate practice, we are both former staff attorneys of this Court.

We respectfully submit that the proposed rule change unnecessarily prohibits appellate advocacy in cases of great importance. A sizeable portion of our practice involves litigation over constitutional issues, including inverse condemnation and pre-condemnation actions stemming from the Nevada Constitution's guarantee that private property shall not be taken for public use without the payment of just compensation. Nev. Const. art 1, § 8.

Such matters are often disposed of on motions to dismiss or summary judgment. Indeed, the lead case on the standards for NRCP 12(b)(5), *Buzz Stew v. City of N. Las Vegas*, 124 Nev. 224, 181 P.3d 670 (2008), was an action for inverse condemnation and pre-condemnation damages. There are a number of unanswered legal issues in Nevada's jurisprudence concerning eminent domain and related litigation. Indeed, this Court fully set forth the elements of inverse condemnation only two years ago, in *Fritz v. Washoe County*, 132 Nev. Adv. Op. 57, 376 P.3d 794 (2016). *Fritz*, it should be noted, was a successful appeal from an order granting summary judgment under NRCP 56. We respectfully submit that the appellate briefs in these cases were important in advancing the jurisprudence

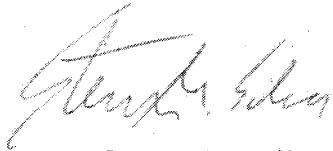
underpinning and securing the Constitutional guarantee of just compensation when private property is taken for public use.

Finally, we note that in our experience as staff attorneys, the record on appeal of summary judgment cases in particular can be voluminous, by which we mean that we each have recollections of appendices in excess of one hundred volumes. While we know from first-hand experience that this Court's dedicated staff attorneys will, in fact, read every page of the record, we submit that appellate briefing is of paramount assistance in navigating such records

We very respectfully request that this rule change be withdrawn or rejected.

Very truly yours,

BLANCHARD, KRASNER & FRENCH



Steven M. Silva



Elizabeth J. Bassett