

IN THE SUPREME COURT  
STATE OF NEVADA

JOHN ILIESCU, JR.; JOHN  
ILIESCU, JR. and SONNIA  
ILIESCU, AS TRUSTEES OF THE  
JOHN ILIESCU, JR. and SONNIA  
ILIESCU 1992 FAMILY TRUST  
AGREEMENT,

Appellants,

v.

MARK B STEPPAN,

Respondent.

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Sep 05 2017 03:38 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**Supreme Court No. 68346**

**MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF  
AND FOR EXTENSION OF TIME IN WHICH TO FILE**

COMES NOW the American Institute of Architects, N.A., by and through their attorneys of record, LEWIS ROCA ROTHGERBER CHRISTIE, LLP, and hereby submit this Motion for Leave to File an Amicus Curiae Brief and for Extension of Time in Which to File. NRAP 29.

**I.**

**The Interests of the American Institute of Architects**

The American Institute of Architects (AIA) represents the professional interests of more than 90,000 architects nationwide whose practices are diverse and span all areas of construction design and oversight. The AIA consists of design professionals throughout the State of Nevada, in virtually all urban and rural locations. The AIA provides a means for

members to address common issues and challenges, including the right to seek redress for non-payment for services rendered. Common among the various members is the unwavering commitment to the highest standards of professionalism and public service.

As part of this commitment, the AIA provides advocacy and educational resources on risk management issues facing design professional firms. One of AIA's most important risk management priorities is extending mechanic's lien protections to design professionals. Without such protections, AIA's members have no recourse for non-payment for their design efforts and their ability to rationally weigh the risks involved in accepting work is limited or eliminated altogether.

## **II.**

### **The AIA's Concerns About Strictly Limiting the Actual Notice Exception to NRS 108.245 to Work Physically Conducted on the Subject Property**

The AIA seeks leave to file an amicus brief to present its members concerns regarding limiting the actual notice exception to NRS 108.245 strictly to work physically conducted on the subject property. Limiting the actual notice exception to NRS 108.245 unfairly prejudices architects, engineers, and other design professionals by allowing property owners to benefit from their services and enhance the value of their property while offering no recourse for nonpayment for those services. Accordingly, the

AIA believes it can offer a unique and broad perspective as to why it is poor public policy and contrary to existing law for Nevada to restrict the actual notice exception to NRS 108.245 strictly to work physically conducted on the subject property.

If allowed to file an amicus brief, the AIA intends to add to, without merely duplicating, the legal and public policy arguments presented by appellant against limiting the actual notice exception to NRS 108.245. Among other things, the AIA will explain why adopting the doctrine would lead to undesirable consequences for design professionals specifically and the construction industry as a whole. Strictly limiting the actual notice exception to NRS 108.245 fails to recognize the risks assumed by design professionals and the benefits acquired by their customers.

Such a strict interpretation of the statute unfairly prejudices design professionals whose services greatly enhance the value of their clients' property and, without which, other contractors would be unable to provide their services. Strictly interpreting the actual notice exception to NRS 108.245 allows property owners to take advantage of design professionals to increase the value of their property while providing the design professionals with no adequate recourse for nonpayment for their services. Interpreting the exception so narrowly unfairly places a unique and substantial burden on

design professionals that is not born by other service providers and contractors in the construction industry.

In sum, the court would benefit from the AIA's perspective in resolving this issue. For these reasons, the court should grant the AIA leave to file an amicus brief.

**III.**  
**The AIA Requests Leave To File Its Brief on or Before October 1, 2017**

The AIA recognizes that its request to file an amicus brief in support of appellant was due at the outset of the briefing schedule. *See* NRAP 29. However, the AIA was only recently made aware of the briefing schedule and the disposition of this matter. The undersigned counsel was immediately engaged, without the typical time necessary to analyze the issues and prepare a brief.

The issue raised in the present matter requires a thorough review, as well as thoughtful analysis of the potential effects on Nevada's construction industry and design professionals. Granting the AIA additional time will allow it to fully address the legal and public policy considerations of strictly interpreting the actual notice exception to NRS 108.245 to work physically performed on the subject property.

The AIA therefore requests leave to file an amicus brief on or before October 1, 2017.

**CONCLUSION**

For these reasons, the court should grant the American Institute of Architects leave to file an amicus brief on or before October 1, 2017.

RESPECTFULLY SUBMITTED this 5th day of September, 2017.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: *s/ Paul A. Matteoni* \_\_\_\_\_

Paul A. Matteoni  
State Bar No. 3486  
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*Attorneys for The American Institute of  
Architects*

## **CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of Lewis Roca Rothgerber Christie LLP, and that on this day, I caused a true and correct copy of the foregoing **MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF AND FOR EXTENSION OF TIME IN WHICH TO FILE** to be filed and served via the Court's E-Filing System, on all interested parties listed below.

G. Mark Albright, Esq. D. Chris Albright, Esq. Albright, Stoddard, Warnick & Albright 801 South Rancho Drive, Suite D-4 Las Vegas, NV 89106 <i>Attorneys for Appellants</i>	Michael D. Hoy, Esq. Hoy Chrissinger Kimmel Vallas, P.C. 50 W. Liberty Street, Suite 840 Reno, NV 89501 <i>Attorneys for Respondent</i>
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DATED this 5th day of September, 2017.

/s/ Deborah A. Haffey

Employee of Lewis Roca Rothgerber Christie LLP