

**FILED****IN THE SUPREME COURT OF THE STATE OF NEVADA** JUL 27 2015

HONORABLE CATHERINE RAMSEY, NORTH LAS VEGAS  
 MUNICIPAL JUDGE  
 Petitioner  
 vs.

TRACIE K. LINDEMAN  
 CLERK OF SUPREME COURT

BY S. Young  
 Electronically Filed  
 Jul 13 2015 08:06 a.m.  
 Tracie K. Lindeman  
 Clerk of Supreme Court

THE HONORABLE ERIC JOHNSON, DEPARTMENT 20, DISTRICT COURT  
 JUDGE  
 EIGHTH JUDICIAL DISTRICT COURT  
 Respondent,

THE CITY OF NORTH LAS VEGAS AND BARBARA A. ANDOLINA City  
 Clerk of NORTH LAS VEGAS, BETTY HAMILTON, MICHAEL WILLIAM  
 MORENO, and BOB BORGERSEN, individually and as Members of  
 "REMOVE RAMSEY NOW"  
 Real Parties in Interest

**EMERGENCY MOTION UNDER NRAP 27(e)  
 ACTION NECESSARY ON OR BEFORE JULY 22, 2015**

**MOTION FOR STAY PURSUANT TO NRAP 8**

**CASE NO: ~~68394~~ 68450**

Respectfully Submitted by:

MUELLER, HINDS & ASSOCIATES  
 CRAIG MUELLER, ESQ.  
 Nevada Bar No.: 12380  
 600 S. 8<sup>th</sup> Street  
 Las Vegas, NV 89101  
 702-382-1200 Fax: 702  
 Attorney for Petitioner, Catherine Ramsey

*Transferred from docket no. 68394  
 per order filed 7-27-15.*

15-22691

## **NRAP RULE 27(e) CERTIFICATE**

Petitioner respectfully certifies that her motion for stay pending Writ of Certiorari Mandamus/Prohibition is an emergency motion requiring "relief...in less than 14 days" to "avoid irreparable harm." The Eighth Judicial District Court Department 20 has denied Petitioners motion to stay requested two times orally in arguments on July 2, 2015 (See exhibit A) In a very curious and novel approach towards jurisprudence, the Court systematically eliminated Petitioner's causes of actions in her Complaint by dismissing them sua sponte and without discovery. The Court also dismissed Petitioner's constitutional argument that Article 6 of the Nevada State Constitution provides the exclusive means for removing judges in the State of Nevada. Unless this Court imposes a stay, the recall of Judge Ramsey will continue. The continuation of that process could render moot any relief that this court may provide.

### **A. NRAP 27(e)(3)(A) Telephone Numbers and Office Addresses of the Attorneys for the Parties**

**MUELLER, HINDS & ASSOCIATES**

Craig Mueller, Esq.  
Nevada Bar No: 4703  
600 S. 8<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 382-1200  
Attorney for Petitioner

**GENTILE, CRISTALLI, MILLER ARMENI & SAVARESE**

Dominic Gentile, Esq.

Nevada Bar No: 1923

410 South Rampart Boulevard, Suite 420

Las Vegas, NV 89145

(702)-880-0000

[dgentile@gentilecristalli.com](mailto:dgentile@gentilecristalli.com)

Attorney for Respondents: Bob Borgerson,

Betty Hamilton, and Michael William Moreno

**SNELL & WILLMER**

Richard C. Gordon, Esq

Nevada Bar No: 5336

2338 Howard Hughes Parkway, #600

Las Vegas, NV 89169

(702) 784-5252

[rgordon@swlaw.com](mailto:rgordon@swlaw.com)

Attorney for Respondents: City of North Las Vegas

and Barbara A. Andolina, City Clerk

**B. Facts Showing the Existence of the Claimed Emergency**

A hearing was held on the Petition for Emergency Injunction on June 18, 2015.

The Court took the matter under advisement. Petitioner also filed a Complaint as to the Sufficiency of the Recall Petition on June 9, 2015. Department 1 was assigned to preside over that case. The Eighth Judicial District Court Department 20 consolidated Petitioner's two matters and set a hearing of all matters for June 29, 2015.

The Eighth Judicial District Court has now denied Petitioner's Emergency

Injunction and the Complaint for Sufficiency. Petitioner has filed a Writ of Mandamus, Certiorari or Prohibition accepted as filed on July 10, 2015. The Eighth Judicial District Court Department having denied the Emergency Injunction, has still mandated that the hearing for case A-15-719651-C is not being continued.

## **II.**

### **MEMORANDUM OF POINTS AND AUTHORITIES**

#### **IN SUPPORT OF PETITIONER'S EMERGENCY MOTION FOR STAY**

##### **A. Motion for an Emergency Stay was denied two times in the District Court**

The Nevada Rules of Appellate Procedure require a party to seek a stay in the district court before seeking a stay in the Nevada Supreme Court. A stay was requested twice and denied both times.

##### **B. Issues Presented by Writ of Mandamus/Prohibition**

The Petition filed concurrently with this emergency stay motion presents the following issues identified generally for the purposes of this motion:

- (1) The Constitutional issues presented in Judge Ramsey's emergency request for injunction. Specifically whether Article 6 or Article 2 of the Nevada Constitution is the mechanism for the removal of judges in the State of Nevada
- (2) The various procedural due process deprivations brought upon Judge Ramsey

in the recall process instigated and initiated by Respondents, and whether the recall procedure as it has been implemented this far is fair and balanced

### **C. Stay Pending Appeal**

This Court may stay an appeal or original proceeding under NRAP 8.

Accord Rickard v. Montgomery Ward and Co., Inc., 120 Nev. 493, 495, 96 P. 3d 743, 745 (2004) The Court considers four factors when evaluating a request for a stay: (1) whether the object of the appeal will be defeated if the stay is denied; (2) whether applicant will suffer irreparable or serious injury if the stay is denied; (3) whether respondent will suffer irreparable or serious injury if the stay is granted; and (4) whether appellant is likely to prevail on the merits in the appeal. See NRAP 8( c) accord Mikohn Gaming Corp. V McCrea, 120 Nev. 248, 251, 89 P. 3d 36, 38 (2004). While no factor carries any more weight than the others, if one or two factors are especially strong, they may counterbalance other weak factors. See Fritz Hansen A/S/ v. Dist Ct., 116 Nev. 650, 6 P 3d 982 (2000).

All four factors militate in favor of a stay in this case.

#### **1. The Object of Petitioner's Writ of Certiorari Mandamus/Prohibition Will Be Defeated if a Stay Does Not Issue**

The object of the Petition is to prevent the recall of Judge Ramsey from going forward. If the recall is not halted at this juncture in the recall process, the

Respondents will be seeking a vote from the North Las Vegas voting population. This vote will be for the purpose of determining if there are enough voters that are dissatisfied with Judge Ramsey's performance as Judge of North Las Vegas, to remove her from the bench via the recall election. In the absence of an emergency stay there are no options available to Judge Ramsey for relief because her only option is reliance upon judicial determination to halt the process that has been initiated for the recall of Judge Ramsey. If a stay is not imposed and the election goes forward, the issues presented in the Writ of Certiorari or Mandamus/Prohibition, will be rendered moot. Consequently, the first NRAP 8( c) factor militates in favor of the emergency stay.

## **2. Petitioner Will Suffer Harm If a Stay is Not Granted**

The district court's actions have been irregular. Judge Johnson systematically and sua sponte dismissed the causes of actions presented to the Court in a complaint filed by Judge Ramsey without allowing for any discovery whatsoever. Despite the fact that the issues presented to the Court are primarily issues of first impression; as well as critical constitutional matters that will have a tremendous impact on the separation and delegation of powers in the State of Nevada, Judge Johnson dismissed Petitioner's complaint in an ad hoc process. This process did not emerge from the procedures provided by statute, common

law, or tradition, but instead from Judge Johnson's "comfort with the issues". In his systematic and cursory dismissal of Judge Ramsey's causes of actions, Judge Johnson exposed Judge Ramsey to irreversible injury. Judge Johnson's decisions circumvented the protections to which Judge Ramsey is entitled and exposed her to unnecessary and premature danger.

Judge Johnson did not permit Judge Ramsey to develop her defenses embodied in her complaint in the usual fashion. Instead, he disposed of all of the causes of action in her complaint in a series of sua sponte judgments based on the face of the complaint. Judge Ramsey now faces a recall vote without the benefit of her defenses having been considered in a fair, coherent, and procedurally sound process to which she is entitled by the United States Constitution, the Nevada Constitution, the statutes of Nevada and Nevada case law.

Petitioner faces imminent, irreparable harm. An emergency stay is need to prevent this harm

**3. Respondent Will Not be Harmed if a Stay is Granted Respondent faces no prospect of injury whatsoever if the Court grants a stay.**

Respondents objective ultimately is to remove Judge Ramsey from the bench. There are no impending or critical issues or matters, that necessitate the removal of Judge Ramsey in the near future. In fact, the reasons upon which the

"Remove Ramsey Now" campaign identifies as causal impetuses for the removal of Judge Ramsey are past events and circumstances. The only possible deadline that Respondents have in their attempt to remove Judge Ramsey is the end of her term as Judge which is not for more than a year. Consequently, Respondents face no possibility of harm in the granting of a stay.

**4. Petitioners are likely to succeed**

Petitioner has concurrently filed a Petition for Certiorari or Writ of Mandamus/Prohibition and are requesting that the Nevada Supreme Court essentially

(1) Consider the Constitutional issues presented in Judge Ramsey's emergency request for injunction, specifically whether Article 6 or Article 2 of the Nevada Constitution is the mechanism for the removal of judges in the State of Nevada

(2) Consider the various procedural due process deprivations brought upon Judge Ramsey in the recall process instigated and initiated by Respondents and whether the recall procedure as it has been implemented is fair and balanced

Petitioner contends that, when the Court fully considers the Petition, Petitioner will succeed on the merits and a Writ will issue.

**CONCLUSION**

For the reasons set forth above, Petitioner respectfully request an emergency stay of the district court proceedings below.

DATED this 10th day of July, 2015

MUELLER, HINDS & ASSOCIATES,

By:

 <sup>2318</sup> For  
CRAIG MUELLER, ESQ

Nevada Bar No. 4703  
600 S. Eighth Street  
Las Vegas, NV 89101  
(702) 940-1234  
Attorney for Petitioner

**EXHIBIT A**

CASE NO. A-15-719406-P

www.elsevier.com/locate/jmb

Cross-Reference Case Number: A719406

A-15-719651-C (Consolidated)

Petitioner	Ramsey, Catherine	Lead Attorneys Craig A Mueller Retained 702-382-1200(W)
Respondent	Andolina, Barbara A	Patrick G. Byrne Retained 702-784-5200(W)
Respondent	Borgersen, Bob	Dominic P. Gentile Retained 702-880-0000(W)
Respondent	Hamilton, Betty	Dominic P. Gentile Retained 702-880-0000(W)
Respondent	Moreno, Michale Williams	Dominic P. Gentile Retained 702-880-0000(W)
Respondent	North Las Vegas City of	Patrick G. Byrne Retained 702-784-5200(W)

- Prior to hearing, Mr. Mueller provided documents based on the testimony by Mr. Pruesch. Arguments by Mr. Miller and Mr. Gordon. Exclusionary rule invoked. Hearing continued. Testimony and exhibits presented (see worksheets). Closing arguments by Mr. Mueller and Mr. Miller. Court stated its FINDINGS and ORDERED, the Petition for Emergency Injunction, treating it as first a complaint for alleging a violation of Judge Ramsey's constitutional rights concerning the recall, is DENIED and DENIED the Injunction. FURTHER, as to the separate complaint challenging the sufficiency of the petition process, Court FINDS the eight causes of action are not sufficient to undermine the Petition and DENIED the complaint. Court advised it would prepare a written Order by Monday, July

6th. Mr. Mueller requested a stay to file an appeal. Statements by Mr. Miller as to the call for a special election and requested this also be addressed in the Court's Order including that the Clerk is to issue a call for a special election within 10-20 days and that the election be held no later than August 25th. Statements by Mr. Gordon. Arguments by counsel as to the stay. Court DENIED request for stay. CLERK'S NOTE: The documents presented prior to the hearing reconvening, were never marked for evidence, offered or admitted. Is

Parties Present

Return to Register of Actions