

In the Supreme Court of Nevada

IN THE MATTER OF: THE W.N.
CONNELL AND MARJORIE T.
CONNELL LIVING TRUST, DATED
MAY 18, 1972,

JACQUELINE M. MONTOYA; AND
KATHRYN A. BOUVIER,

Appellants,

vs.

ELEANOR C. AHERN A/K/A
ELEANOR CONNELL HARTMAN
AHERN,

Respondent.

Supreme Court Case No. 69737
Electronically Filed
Jun 01 2016 03:10 p.m.
Tracie K. Lindeman
District Court Case No. P-09-066425-T
Clerk of Supreme Court

Appeal from the Eighth Judicial
District Court, The Honorable
Gloria Sturman Presiding

VOLUNTARY MOTION TO DISMISS PURSUANT TO NRAP 42

Appellants, Jacqueline M. Montoya and Kathryn A. Bouvier (the “Beneficiaries”), hereby move to dismiss the present appeal, Supreme Court Case No. 69737 (the “Appeal”), based on the following:

I. Relevant Background

1. The Notice of Appeal which commenced the Appeal was filed on February 10, 2016.

2. The Beneficiaries filed their emergency motion for stay on February 11, 2016 (the “Motion for Stay”).

3. On April 15, 2016, this Court denied the Beneficiaries’ Motion for Stay and issued an order to show cause (“OSC”).

4. The OSC outlined a potential jurisdictional deficiency related to the Appeal and ordered the Beneficiaries to provide additional briefing on the issue.

5. Shortly after the OSC was issued, the Beneficiaries' counsel drafted a stipulated dismissal and forwarded the same to the Respondent's counsel for review and approval.

6. Respondent's counsel has informed the Beneficiaries that the Respondent has yet to provide her consent to execute the stipulated dismissal.

7. The Beneficiaries' opening brief in the Appeal is due on June 10, 2016. The Beneficiaries seek dismissal of the Appeal prior to the opening brief deadline.

II. Legal Argument

NRAP 42(b) provides that an "appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the court." As the parties have been unable to reach an agreement regarding dismissal, the Beneficiaries ask that the Court dismiss the Appeal with the provision that each party shall bear their own fees and costs. Such request is reasonable as the present Appeal was not frivolously filed or pursued by the Beneficiaries. *See Breeden v. Eighth Jud. Dist. Ct.*, 131 Nev. Adv. Op. 12, 343 P.3d 1242, 1243-44 (2015).

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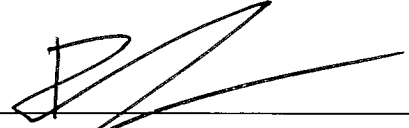
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III. Conclusion

For the reasons stated herein, the Beneficiaries request that the present Appeal be dismissed with the provision that each party shall bear their own fees and costs.

Respectfully submitted this 1st day of June 2016.

THE RUSHFORTH FIRM, LTD.

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