# ORIGINAL

### IN THE SUPREME COURT OF THE STATE OF NEVADA

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ALFRED P. CENTOFANTI, III,

Petitioners,

VS.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, THE HONORABLE LEE A. GATES, DISTRICT

JUDGE

Respondent,

and

THE STATE OF NEVADA,

Real Party in Interest.

Case No. 52994

FILED

MAY 2 2 2009

TRACIE K. LINDEMAN CLERK OF SUPREME COURT BY DEPUTY CLERK

## MOTION TO STRIKE SUPPLEMENTAL POINTS AND AUTHORITIES

COMES NOW, the State of Nevada, by DAVID ROGER, District Attorney, through his deputy, STEVEN S. OWENS, on behalf of the above-named respondent and submits this Motion to Strike Supplemental Points and Authorities in the above-captioned case.

Dated this 20th day of May, 2009.

#### **DAVID ROGER**

Clark County District Attorney Nevada Bar # 002781

BY

STEVEN'S. OWENS Chief Deputy District Attorney Nevada Bar #004352

09-12886

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#### MOTION TO STRIKE SUPPLEMENTAL **POINTS AND AUTHORITIES**

Petitioner has submitted Supplemental Points and Authorities pursuant to NRAP 31(d) in support of his petition for writ of mandamus in the instant case. However, NRAP 31(d) applies only to "briefs" not petitions. Extraordinary writs are governed by NRAP 21 which provides for a petition and an answer, but no supplemental or reply brief is allowed.

Even if NRAP 31(d) were to apply, a supplemental brief "may not raise new points or issues" such as been done by Petitioner in raising judicial estoppel, the timing of the State's answer below, the employment of Navarro's husband, and the lack of affirmation below. In reality, it is not a supplement at all, but rather an attempt to reply to the State's Answer which the rules do not allow.

Dated this 20<sup>th</sup> day of May 2009.

**DAVID ROGER** 

Clark County District Attorney Nevada Bar # 002781

BY

Chief Deputy District Attorney

Nevada Bar #004352

Office of the Clark County District Attorney 200 South Third Street, Suite 701

Post Office Box 552212

Las Vegas, Nevada 89155-2212 (702) 671-2725

### **CERTIFICATE OF MAILING**

I hereby certify and affirm that I mailed a copy of the foregoing Motion to Strike Supplemental Points and Authorities to the attorney of record listed below on May 20, 2009.

Carmine Colucci, Esq. Carmine J. Colucci, Chtd. 629 South Sixth Street Las Vegas, Nevada 89101

and

Judge Lee A. Gates District Court, Dept. VIII Regional Justice Center 200 Lewis Avenue Las Vegas, Nevada 89155

Employee, Clark County District Attorney's Office

Owens/english

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