1 JoNell Thomas FILED State Bar No. 4771 616 South 8th Street Las Vegas, NV 89101 (702) 471-6565 JAN 22 2002 Attorney for Proposed Amicus Nevada Attorneys for Criminal Justice 4 5 6 IN THE SUPREME COURT OF THE STATE OF NEVADA 7 8 THE STATE OF NEVADA, Appeal No. 38987 9 Petitioner 10 VS. 11 THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR 12 THE COUNTY OF CLARK COUNTY, AND THE HONORABLE MARK W. GIBBONS, 13 DISTRICT JUDGE, 14 Respondents, 15 and 16 ALFRED P. CENTOFANTI, III, 17 Real Party In Interest. 18 19 MOTION OF NEVADA ATTORNEYS FOR CRIMINAL JUSTICE 20 FOR LEAVE TO FILE AMICUS CURIAE BRIEF 21 The Nevada Attorneys for Criminal Justice, by and through its attorney JoNell 22 Thomas, hereby moves, pursuant to Rules 2 and 28 of the Nevada Rules of Appellate 23 Procedure, for leave to appear as amicus curiae and to file the accompanying Amicus 24 /// 25

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ANETTE M. BLOOM K OF SUPREME COURT DEPUTY CLERK

02-01459

Curiae Brief. This motion is based upon the attached memorandum of points and authorities and the brief submitted to the clerk in conjunction with this motion.

Dated this 17th day of January, 2002.

Respectfully submitted,

VelDThomas, Esq. Nevada Bar No.

(702) 471-6565 Counsel for Amicus Curiae Nevada Press Association

Points and Authorities

1. <u>Interest of Amicus Curiae</u>

The Nevada Attorneys for Criminal Justice is a voluntary organization whose members are attorneys who defend people accused of violating criminal laws. NACJ's members believe that both the criminal justice system and the ideal of justice are enhanced by the considered and fair application of statutory and constitutional principles to every criminal proceeding. NACJ's members believe that the issues presented in this matter are of great importance to the citizens of this state and that the impact of this Court's decision in this matter will go far beyond Mr. Centofanti and the individual concerns presented by this case. Because this Court's decision will impact other cases and future requests by the State for psychiatric examinations of defendants and access to the defendant's privileged documents, we submit that involvement by amicus curiae is warranted.

2. Necessity of Involvement of an Amicus Curiae

Involvement of an amicus curiae in this important case is justified for a number of reasons. This appeal appears to present an issue of first impression in this state. It does not appear that this Court has ever held that a defendant in a case not involving a question of insanity or competency must submit to a psychological examination by the State's expert witness. Moreover, it does not appear that this Court has ever held that a defendant must disclose privileged documents prior to a formal waiver of the psychologist-client privilege. This Court's ruling in this matter could have a significant impact on a large number of criminal cases and its holding may go far beyond the individual concerns relevant to this case. This is not a dispute that is limited to the parties appearing before the Court, but instead involves the interests of many criminal proceedings within the state. Third, critical issues of public policy will be decided. This Court will determine whether a defendant may maintain a privileged relationship

until the time of formal waiver of his right to confidentiality, or whether he may be forced to relinquish that right by listing psychiatric experts as potential witnesses for trial. For each of these reasons, it is appropriate for Amicus to appear.

3. <u>Substantiality of Issues</u>

The necessity of involvement of an amicus curiae is not based merely upon abstract policy considerations but arises from the substantial nature of the constitutional and statutory issues presented in this case.

4. Conclusion

The Nevada Attorneys for Criminal Justice respectfully submits that this Court should grant leave to file the accompanying Brief and permit participation by amicus curiae.

Dated this 17th day of September, 2002.

Respectfully submitted,

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(702) 471-6565

Counsel for Amicus Curiae

Nevada Attorneys for Criminal Justice

1	<u>CERTIFICATE OF SERVICE</u>
2	The undersigned hereby certifies pursuant to NRAP 25, that on this 17th day
3	of September, 2002, she deposited for mailing in the United States mail, postage
4	prepaid, a true and correct copy of the foregoing Motion for Leave to File Amicus
5	Curiae Brief, addressed to counsel as follows:
6	Allen Bloom 1551 Fourth Avenue Suite 801
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15 16	Frankie Sue Del Papa Nevada Attorney General 100 North Carson Street Carson City, NV 89701-4717
17 18	The Honorable Chief Judge Mark E. Gibbons District Court Department VII 200 South Third Street
19	Las Vegas, NV 89155
20	John Ju
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22	V