

## SYNOPSIS OF LEGAL PLEADINGS

### WRIT OF PROHIBITION (COUNTY CLERK)

Under the Nevada Constitution, the county clerk, an elected official, is also clerk of the court. The duties and responsibilities of the clerk of the court have been established by the Nevada Legislature.

In 1975 the Washoe County District Court Judges sponsored and supported an ordinance which effectively removed the duties of clerk of the court from the elected county clerk. The ordinance unconstitutionally removed former county employees from the jurisdiction of the county clerk and placed them under the direct control and supervision of the district court judges while the employees continued to perform their duties as deputy clerks.

Since that time the elected county clerk has had no control over these deputies who on a daily basis accept monies, file documents and prepare reports all of which are accepted and prepared in the name of the elected county clerk as clerk of the court.

The Writ of Prohibition filed by the Washoe County Clerk requests that the Nevada Supreme Court make conclusions that the Second Judicial District Court judges have usurped the duties and responsibilities of the legally elected county clerk in her performance as clerk of the court as mandated by the Nevada Constitution.

### RESPONDENTS' (JUDGES) ANSWER TO APPLICATION AND COMPLAINT AND MOTION TO DISMISS

In their response to the Plaintiff's Writ of Prohibition, the Second Judicial District Court Judges represented by the Nevada Attorney General's Office argue the following:

1. The County Clerk, when ex-officio performing duties of Clerk of the Court, is subject to the administrative control of the Judicial Department in all her functions.
2. Under the Nevada Constitution, the County Clerk is subject to the Administrative Authority of the Supreme Court when performing duties as Clerk of the Court.

3. Under the Court's inherent powers, the County Clerk is subject to the Administrative Authority of the Supreme Court when performing duties as Clerk of the Court.
4. The Nevada Legislature recognizes the County Clerk is subject to the administrative authority of the Supreme Court when performing duties as Clerk of the Court. To the extent such statutes contradict inherent judicial powers, the statutes are unconstitutional.
5. The Respondents move for an order dismissing the Writ of Prohibition on the grounds that it fails to state a claim and should be dismissed as a matter of law.

**BRIEF OF AN AMICUS CURIAE**  
**NEVADA ASSOCIATION OF COUNTY CLERKS &**  
**ELECTED OFFICIALS**

The Nevada Association of County Clerks & County Elected Officials (NACO) requested and was granted permission to file a Friend of the Court (Amicus Curiae) brief on behalf of the Plaintiff (Amy Harvey, Washoe County Clerk by the Nevada Supreme Court.

In its brief NACO made the following arguments:

1. The Nevada Constitution mandates that the duly elected county clerk must also be the clerk of the court for the district court.
2. The Nevada Constitution does not address the issue of complete separation and/or transfer of the court clerk's duties to a court administrator.
3. No other jurisdiction in Nevada is compelled to separate the court clerk's functions.
4. Judicial supervision of the court clerk's functions does not justify transferring those duties from the county clerk/clerk of the court to a court administrator.

5. The Washoe County ordinance placing employees under the complete jurisdiction and control of the district court judges is inappropriate legislation and an intrusion into the constitutional authority of the county clerk.

**RESPONSE IN OPPOSITION TO MOTION TO DISMISS (COUNTY CLERK)**

The Clerk's position is very simple. The Clerk does not believe that it is either necessary or proper for the Judges to have invaded the office and taken away the authority invested in the elective Court Clerk by Constitution and Law.

**PLAINTIFF'S REPLY TO RESPONDENTS' ANSWER (COUNTY CLERK)**

The Court Clerk maintains that she has the power and responsibility to manage her elective office as court clerk, to keep custody of court documents, to appoint deputies in the manner prescribed by statute and to carry out all of the duties customarily attendant to that office.

**RESPONDENTS' (JUDGES) ANSWER TO AMICUS CURIAE BRIEF OF NEVADA ASSOCIATION OF COUNTY CLERKS AND COUNTY ELECTION OFFICIALS**

Respondents argue that the adoption of an amended Rule 2 of the Rules of Practice for the Second Judicial District Court Rules establishing a strong chief judge negates the County Clerk's Writ of Prohibition and the complaint should be dismissed and the petition denied. This amended Rule 2 was introduced by the Second Judicial District Court Judges and approved by the Nevada Supreme Court after the County Clerk had filed the Writ of Prohibition with the Supreme Court.

**BRIEF OF AMICUS CURIAE SHIRLEY B. PARRAGUIRRE (CLARK COUNTY CLERK)**

1. Article 4, Section 32 of the Nevada Constitution requires the District Court Clerk to be the County Clerk.

2. The Court Clerk's duties are inherent in the office and cannot be altered unless specifically authorized by the Constitution and changed by the legislature.

**DEFENDANTS/ RESPONDENTS' (JUDGES) BRIEF IN RESPONSE  
TO AMICUS CURIAE BRIEF OF SHIRLEY B. PARRAGUIRRE**

Under the Rules of the Second Judicial District Court providing for a strong chief judge system, the clerk of the court is subject to the directives of the chief judge. Applicant's Petition and Complaint should be dismissed.