

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOHN F. BOSTA; AND FRANK  
MAURIZIO, AND OTHERS SIMILARY  
SITUATED,

Appellants,

vs.

JASON KING, THE STATE ENGINEER,  
IN HIS OFFICIAL AND PERSONAL  
CAPACITY,

Respondent.

No. 68448

**FILED**

SEP 08 2016

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER*

This is a pro se appeal from a district court order denying a motion for a preliminary injunction and dismissing appellants' complaint in a water rights action. Appellants filed their opening brief in pro se on September 21, 2015. They subsequently obtained pro bono counsel, Thomas Gibson, who filed a replacement opening brief that was essentially identical to the pro se opening brief already on file. Thus, this court granted respondent's motion for sanctions, and as a sanction, struck appellants' opening brief for failure to comply with NRAP 28. Mr. Gibson filed an "Amended Opening Brief," and respondent has filed a renewed motion for sanctions on the ground that the brief is again essentially identical and still fails to comply with NRAP 28, and a renewed motion to strike portions of appellants' appendix. We grant appellants' unopposed motion for leave to file an untimely opposition to the motion to strike and for sanctions. The clerk of this court shall file the opposition provisionally received on May 19, 2016.

In the body of the opposition, Mr. Gibson informs this court that appellants have terminated his services and are henceforth proceeding in pro se. He argues that they should not be held to the same

standard for briefing as attorneys. On June 17, 2016, appellants submitted a "Renewed Notice of Reappearance in Proper Person," and a motion for permission to file a reply brief in excess of the pages or word count authorized. We direct the clerk of this court to file the "Renewed Notice" and we deny it.

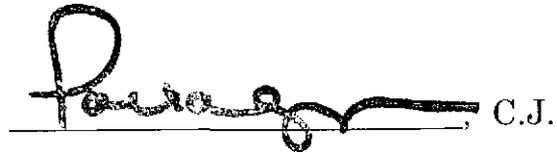
The withdrawal, substitution or discharge of an attorney in a civil appeal is governed by NRAP 46(e). A withdrawal of counsel may be effected only by filing a motion in this court, with a copy of the motion served on the attorney's client and any adverse party. Appellants have failed to comply with NRAP 46(e). Accordingly, counsel is not removed from this appeal at this time. Furthermore, as appellants still have counsel, they are not permitted to file documents in pro se, but must proceed through counsel. We direct the clerk of this court to return, unfiled, appellants' pro se motion for permission to file a reply brief, and the reply brief, received in this court on June 17, 2016.

Having considered the amended opening brief, filed on March 31, 2016, we grant respondent's renewed motion for sanctions. The amended opening brief is again essentially the same opening brief with the same failure to comply with NRAP 28, and we again strike the opening brief as a sanction. NRAP 28(j). Appellants shall have 15 days from the date of this order to file and serve an opening brief that complies with the rules of appellate procedure. If counsel for appellants wishes to withdraw, he shall file a motion pursuant to NRAP 46(e)(3) within the same time period.

Respondent also moves to strike the "Platt [sic] Map of the Pahrump Valley Area" and "Language Taken from the Land Patents Issue [sic] by State" from appellants' appendix on the ground that these

documents were not part of the district court record. Appellants fail to address respondent's arguments regarding the documents, and having considered the motion and the documents, we grant the motion to strike. *See Carson Ready Mix v. First Nat'l Bank*, 97 Nev. 474, 476, 635 P.2d 276, 277 (1981); *see also* NRAP 10(a), (b). We direct the clerk of this court to strike "Platt [sic] Map of the Pahrump Valley Area" and "Language Taken from the Land Patents Issue [sic] by State" from appellants' appendix.

It is so ORDERED.

 C.J.

cc: Gibson Law Group  
Attorney General/Carson City  
John F. Bosta  
Frank Maurizio