

1 JOSEPH F. BECKER, ESQ.
2 Nevada State Bar No.12178
3 NPRI CENTER FOR JUSTICE AND
4 CONSTITUTIONAL LITIGATION
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6 Reno, Nevada 89509-2807
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10 Attorney for Petitioner

11 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
12 **IN AND FOR CARSON CITY**

13 DOUGLAS E. FRENCH,

14 Plaintiff,

15 vs.

16 HEIDI GANSERT in her official capacity as Executive Director,
17 External Relations for the University of Nevada, Reno;
18 UNIVERSITY OF NEVADA, RENO; NEVADA SYSTEM OF
19 HIGHER EDUCATION; NEVADA BOARD OF REGENTS;
20 and the STATE OF NEVADA on Relation to The Nevada
21 System of Higher Education, The Nevada Board of Regents, and
22 the University of Nevada, Reno;

23 Defendants.

) Case No.: 17 0C 000231B
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) Dept. No. 1
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24 **CASE APPEAL STATEMENT**

25 **1. Name of appellant filing this case appeal statement:**

26 Douglas E. French

27 **2. Identify the judge issuing the decision, judgment, or order appealed from:**

28 Honorable James T. Russell

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REC'D & FILED

2017 AUG 29 AM 9:25

SUSAN HERRIWEATH
CLERK

BY V. Alegria
DEPUTY

1 **3. Identify each appellant and the name and address of counsel for each appellant:**

2 Douglas E. French; Joseph F. Becker of NPRI Center for Justice and Constitutional Litigation,
3 75 Caliente Street, Reno, NV 89509.
4

5 **4. Identify each respondent and the name and address of appellate counsel, if known, for each**
6 **respondent:**

7 HEIDI GANSERT in her official capacity as Executive Director, External Relations for the
8 University of Nevada, Reno; UNIVERSITY OF NEVADA, RENO; NEVADA SYSTEM OF
9 HIGHER EDUCATION; NEVADA BOARD OF REGENTS; and the STATE OF NEVADA on
10 Relation to The Nevada System of Higher Education, The Nevada Board of Regents, and the
11 University of Nevada, Reno; Melissa P. Barnard, Assistant General Counsel, University of
12 Nevada, Reno, 1664 N. Virginia Street, MS 0550, Reno, NV 89557.
13

14 **5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed**
15 **to practice law in Nevada and, if so, whether the district court granted that attorney**
16 **permission to appear under SCR 42:**

17 To the best of appellant's knowledge all counsel are licensed to practice law in Nevada.
18

19 **6. Indicate whether appellant was represented by appointed or retained counsel in the district**
20 **court:**

21 Appellant was represented by retained counsel.

22 **7. Indicate whether appellant is represented by appointed or retained counsel on appeal:**

23 Appellant is represented by retained counsel.
24

25 **8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of**
26 **entry of the district court order granting such leave:**

27 Non-applicable.
28

1 **9. Indicate the date the proceedings commenced in the district court (e.g. date complaint,**
2 **indictment, information, or petition was filed):**

3 Complaint for Declaratory Judgment and Injunctive Relief was filed on February 21, 2017; First
4 Amended Complaint for Declaratory Judgment and Injunctive Relief was filed on May 1, 2017.
5

6 **10. Provide a brief description of the nature of the action and result in the district court,**
7 **including the type of judgment or order being appealed and the relief granted by the**
8 **district court:**

9 Plaintiff sought declaratory and injunctive relief against Defendants for violating Article 3,
10 Section 1 of the Nevada Constitution – a provision which bars any person “charged with the
11 exercise of power” in one branch of the Nevada government from exercising “any functions,
12 appertaining to either of the others.” The appeal herein is from a final order by the District Court
13 in which Plaintiff’s First Amended Complaint was dismissed with prejudice on various grounds,
14 including Plaintiff’s alleged failure to name a necessary party.
15

16 **11. Indicate whether the case has previously been the subject of an appeal to or original writ**
17 **proceeding in the Supreme Court and, if so, the caption and Supreme Court docket**
18 **number of the prior proceeding:**

19 Case has not been previously submitted.

20 **12. Indicate whether this appeal involves child custody or visitation:**

21 Case does not involve child custody or visitation.

22 **13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:**

23 This is a case in which declaratory judgment and injunctive relief is sought on a question of
24 significant public interest relating to a provision in the Nevada Constitution. It is believed by
25 Plaintiff that the case would have no possibility of settlement because Defendants’ actions are
26 either unconstitutional or they are not.
27

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1 This case presents a question on which the Nevada Supreme Court has never fully ruled despite
2 at least fourteen Attorney General Advisory Opinions having been issued over more than a one
3 hundred year span.
4

5 DATED this 23rd day of August, 2017.

6 **NPRI CENTER FOR JUSTICE**
7 **AND CONSTITUTIONAL LITIGATION**

8 BY: _____

9 JOSEPH F. BECKER, ESQ.
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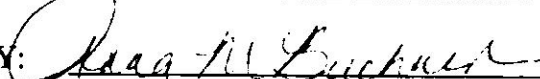
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Attorney for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of NPRI Center for Justice and Constitutional Litigation
3 and that on the 21st day of August, 2017 I served the foregoing Case Appeal Statement on all parties
4 by placing a true copy thereof in sealed envelope with postage prepaid in the U.S. Mail as follows:
5

6 Melissa P. Barnard
7 Assistant General Counsel
8 University of Nevada, Reno
9 1664 N. Virginia St. MS 0550
10 Reno, NV 89557-0550

11 **NPRI CENTER FOR JUSTICE
12 AND CONSTITUTIONAL LITIGATION**

13 BY: 
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