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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT  
STATE OF NEVADA**

**THOMAS S. TAORMINA and MIDGE A.  
TAORMINA,**

**Plaintiffs,**

**Case No.: 3:11-CV-00645-RCJ-VPC**

**vs.**

**STOREY COUNTY, NEVADA, and DOES  
1-10,**

**Defendants.**

\_\_\_\_\_ /

**MOTION TO WAIVE LR IA 10-2, PERMITTING COUNSEL TO CONTINUE  
REPRESENTATION**

Plaintiffs, THOMAS S. TAORMINA, and MIDGE A. TAORMINA, by and through their attorneys, Brian M. McMahon, Esq., of McMahon Law Offices, Ltd., and Fred Hopengarten, Esq., of the District of Columbia Bar, hereby request that this court waive Local Rule IA 10-2 for this lawsuit and this lawsuit only, so that Fred Hopengarten, Esq., may continue to represent them without further documentation and expense.

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Background

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1. This lawsuit is the continuation of a claim by Plaintiffs that Storey County has failed to obey the requirements of 47 CFR § 97.15(b) and NRS 278.02085, and the requirements set forth by the Ninth Circuit Court of Appeals in *Howard v. Burlingame*, 937 F. 2d 1376, 1380 (9th Cir. 1991).

2. That lawsuit was assigned Case No. 3:09-cv-00021-LRH-VPC ("Taormina I").

3. On January 29, 2009, Fred Hopengarten, an attorney not admitted to the Bar of this Court, petitioned this Court for permission to practice in this case, and designated Brian M. McMahon, Bar Number 927, of Reno, to be Designated Resident Nevada Counsel as required by the rules of this Court.

4. Atty. Hopengarten's petition was accompanied by letters of good standing from each bar to which he is admitted, showing that since his initial admission to the bar in 1972, he has never suffered a reprimand, suspension or disbarment.

5. Atty. Hopengarten's petition was unopposed by the defendant in that case, Storey County, represented by the same attorney who now represents the County.

6. This Court, by Larry R. Hicks, U.S.D.J., approved the petition for permission to practice in that case on January 27, 2009.

7. On June 14, 2010, Atty. Hopengarten was admitted to the Bar of the United States Supreme Court.

8. Atty. Hopengarten remains in good standing with every Bar to which he is admitted: the District of Columbia Court of Appeals (since 1972, Bar Number 114124), the United States District Court – District of Columbia (since 1972, Bar Number 114124), the State of Maine (since

1 1972, Bar Number 1660), and the Supreme Court of the United States (since 2010, see  
2 <http://www.supremecourt.gov/orders/journal/jnl09.pdf> at 965).

3  
4 9. This action, which may be called Taormina II, involves the same parties and many  
5 of the same issues. Most particularly, this action focuses on matters that this Court ruled, in  
6 Taormina I, by Order of June 17, 2010, were not yet ripe for decision, holding that :

7 *Because the county has not had the opportunity to apply its zoning*  
8 *regulations, the court cannot determine whether the county has reasonably*  
9 *accommodated the PlaintiffL 61 \f "WP TypographicSymbols" \s 12s amateur*  
10 *communications. Thus, until Plaintiff[s] appl[y] for a special use permit, and*  
11 *the county has the opportunity to review the request, the court must deny*  
12 *Plaintiff[s]' as applied challenge to the zoning regulations.*

13 10. Judgment denying the Motion for Summary Judgment in Taormina I was entered by  
14 this court on June 21, 2010.

15 11. In accordance with the Court's decision, on December 29, 2010, the Taorminas  
16 applied for a special use permit, with voluminous accompanying detail. Atty. Hopengarten prepared  
17 that application, appeared before the Storey County Planning Commission on March 3, 2011,  
18 appeared before the Storey County Commissioners on May 3 and June 7, 2011, and prepared, under  
19 the supervision of Atty. McMahon, the complaint in this matter now before the Court.

20 12. As this case, Case No: 3:11-CV-0645-RCJ-VPC (Taormina II), involves the same  
21 parties, the same attorneys, many of the same issues, and is, realistically, a continuation of the same  
22 matter previously submitted to this Court, Plaintiffs, and their Attorney, Brian McMahon, ask this  
23 Court to waive LR IA 10-2, so that Atty. Hopengarten may continue to represent his clients under the  
24 supervision of Atty. McMahon, without the delay and cost of obtaining repetitive Certificates of  
25 Good Standing, and the preparation of the other materials required by LR IA 10-2, which would also

26  
27 ///

1 be repetitive.

2 Respectfully submitted,

3 Dated: November 16, 2011.

4  
5 McMAHON LAW OFFICES, LTD.

6 FRED HOPENGARTEN

7  
8  
9 By 

10 Brian M. McMahon  
11 Attorneys for Plaintiffs  
12 Thomas S. Taormina and  
13 Midge A. Taormina  
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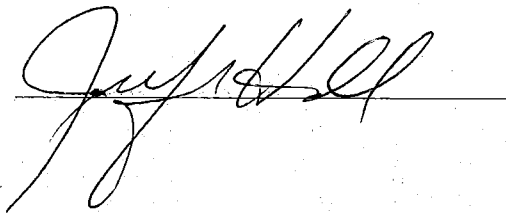
**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b) I hereby certify that I am an employee of McMahon Law Offices, Ltd., and that on the 11<sup>th</sup> day of November, 2011, I served a true and correct copy of the attached foregoing document by:

- Depositing for mailing, in a sealed enveloped, U.S. Postage prepaid, at Reno, Nevada
- Personal Delivery
- Facsimile
- Federal Express/Airborne Express/Other Overnight Delivery
- Reno-Carson Messenger Service

addressed as follows:

Brent T. Kolvet, Esq.  
Thorndal Armstrong Delk Balkenbush & Eisinger  
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