

SUPREME COURT OF NEVADA
KRISTINA PICKERING, JUSTICE

RECEIVED

FEB 27 2009



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February 25, 2008

Tracie Lindeman, Clerk
Nevada Supreme Court
201 S. Carson Street
Carson City, NV 89701-4702

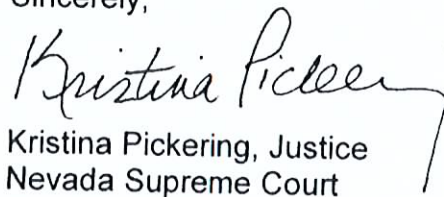
Re: *McCarran International Airport v. Boueri*
Case No. 52292

Dear Ms. Lindeman,

Please file the enclosed letter in *McCarran International Airport v. Boueri*, Case No. 52292. I find no provisions in the rules or statutes for such requests to be processed by a private letter to a Justice as opposed to a pleading filed in the public record of the case. This response should also be filed as part of the public record in *Boueri* and served on all parties and/or counsel in the case.

I do not entertain a disqualifying bias against Ms. Fitzsimmons under Canon 3(E)(1)(a), as authoritatively interpreted by the Court in *Martin v. Beck*, 112 Nev. 595, 915 P.2d 898 (1996). However, Canon 3 (B)(9) states that, "A judge shall not, while a proceeding is *pending or impending in any court*, make any public comment that might reasonably be expected to affect its outcome or impair its fairness. . . ." (emphasis added). Given the fact that Ms. Fitzsimmons's letter states there is an active federal criminal investigation involving her in which I may be a witness, I do not believe I can simultaneously participate in disqualification proceedings under Nev. R. App. P. 35 in *Boueri* consistent with my obligations under Canon 3(B)(9). Should the federal proceedings remain pending or impending at the time *Boueri* is assigned for decision, my recusal would be justified.

Sincerely,


Kristina Pickering, Justice
Nevada Supreme Court

cc: Chief Justice James Hardesty
Stan Hunterton
Counsel of record