

IN THE SUPREME COURT OF THE STATE OF NEVADA

\* \* \* \*

FRANCHISE TAX BOARD OF  
THE STATE OF CALIFORNIA,

Appellant/Cross-  
Respondent,

vs.

GILBERT P. HYATT,

Respondent/Cross-  
Appellant.

Case No.: 53264  
Electronically Filed  
Mar 05 2012 08:46 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

**MOTION TO POSTPONE ORAL ARGUMENT FOR 30 DAYS**

Respondent Gilbert P. Hyatt files this motion under NRAP 34(a) requesting that the oral argument in this matter, now set for April 3, 2012, be postponed for approximately 30 days to a date convenient to the Court in early May 2012. Mr. Hyatt has timely moved for this relief as the Court only recently issued on February 27, 2012 its Notice of Oral Argument Setting scheduling oral argument for April 3, 2012.

Good cause exists to grant the requested brief postponement. This is an appeal of a \$490 million jury verdict in favor of Mr. Hyatt and against Appellant Franchise Tax Board of California (the "FTB"). The size of the judgment alone makes this is an extremely important case. In this regard, the Court has already allowed oversized briefs to be filed due to the numerous and complex issues Appellant FTB is asserting in the appeal. The sheer volume of the appellate record is unparalleled, with FTB Appellant's Appendix consisting of 93 volumes and Hyatt's Respondent's Appendix 101 volumes.

Although the Court identified eight issues in its February 24, 2012 Order Setting Oral Argument, many of these issues overlap and will require a great deal of preparation. Mr. Hyatt's counsel will focus their preparation on the eight issues identified, but even then the issues stated are quite broad.

0 In addition, one of Mr. Hyatt's lead counsel, Mark Hutchison, is counsel of record for the State of Nevada in the litigation over the Obama health care plan before the United States Supreme Court, *Department of Health and Human Services v. Florida*, Case No. 11-398, *et. al.* A three day oral argument is scheduled on March 26, 27, and 28, 2012 in Washington, D.C. While Mr. Hutchison will not be arguing that matter, he will be preparing his co-counsel for that argument and his time will be almost entirely consumed on that case until March 28, 2012. Without the requested postponement, Mr. Hutchison will have almost no time to assist in preparing either himself or another member of Mr. Hyatt's team for oral argument in this matter. Mr. Hutchison's conflict relative to this United States Supreme Court matter creates further good cause to grant the requested postponement.

1 Based on the foregoing, good cause exists to postpone the oral argument in this matter by 30 days. Thus, pursuant to NRAP 34(a), Mr. Hyatt moves the Court for an order postponing the oral argument in this matter for 30 days.

2 Dated this 2nd day of March, 2012

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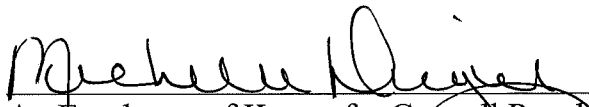
**CERTIFICATE OF SERVICE**

Pursuant to NRAP 25, I hereby certify that I am an employee of McDonald Carano Wilson LLP, and that I served true and correct copies of the foregoing **JOINT MOTION FOR AN EXTENSION OF TIME TO FILE REPLY BRIEF** on this 2<sup>nd</sup> day of March, 2011 by depositing said copies in the United States Mail, postage prepaid thereon, upon the following:

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