

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

**Case No. 53264**

FRANCHISE TAX BOARD OF THE STATE OF CALIFORNIA

Electronically Filed  
May 23 2016 10:25 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

Appellant/Cross-Respondent,

v.

GILBERT P. HYATT,

Respondent/Cross-Appellant

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APPEAL FROM JUDGMENT – EIGHTH JUDICIAL DISTRICT COURT  
STATE OF NEVADA, CLARK COUNTY  
HONORABLE JESSIE WALSH, DISTRICT JUDGE

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**APPELLANT’S MOTION FOR PERMISSION TO FILE  
MOTION IN EXCESS OF 10 PAGES**

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Franchise Tax Board of the State of California*

Pursuant to NRAP 27(d)(2), appellant Franchise Tax Board of the State of California (“FTB”) moves for permission to file its Motion for Supplemental Briefing Following Mandate from the Supreme Court of the United States (the “Motion”) in excess of ten pages – specifically 28 pages. The Motion exceeds NRAP 27’s ten-page limit. FTB submits that the subject matter of the Motion, and the procedural posture of this case following the United States Supreme Court having vacated this Court’s judgment as unconstitutional and remanded for further proceedings, are sufficiently extraordinary and compelling to justify the additional length.

As the Court has recognized before, extraordinary cases or complex legal issues can justify briefs in excess of the page limits in the Nevada Rules of Appellate Procedure. Because this Court has already permitted briefing in excess of the page limits in this matter, the Court is aware that this is an exceptional and complex case. The additional pages in the Motion are warranted when the Court reviews this case’s procedural history and record and compares them with other cases in which the Court has permitted briefs or motions in excess of page limitations. For example, in *Evans v. State*, the Court allowed the appellant to file an opening brief 120 pages in length, where there were numerous appellate issues, including issues dealing with statutory application and constitutional law. *See* 117

Nev. 609, 28 P.3d 498 (2001); *see also McConnell v. Federal Election Com'n*, 539 U.S. 938 (complex election case justified a 140-page brief).

On April 19, 2016, the United States Supreme Court vacated this Court's 2014 Opinion, and mandate has issued, returning the case to this Court. The Supreme Court held that the Constitution's Full Faith and Credit Clause requires this Court to treat FTB – a sister State – no differently than it would a similarly situated Nevada government agency. The Motion addresses this Court's disparate treatment of FTB and requests supplemental briefing on this issue. FTB requests the supplemental briefing so that this Court can ensure that its post-mandate proceedings comply with the Supreme Court's remand directive.

Accordingly, FTB requests that the Court grant permission for FTB to file the Motion in excess of NRAP 27's ten-page limit.

Dated this 23rd day of May, 2016.

McDONALD CARANO WILSON LLP

By: /s/  
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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of McDonald Carano Wilson LLP and on the 23rd day of May, 2016, I certify that I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

Peter Bernhard  
Mark Hutchinson  
Michael Wall  
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Clark Len Snelson

I further certify that on this date I served a copy, postage prepaid, by U.S.

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