IN THE SUPREME COURT OF THE STATE OF NEVADA

FCH1, LLC, A NEVADA LIMITED LIABILITY COMPANY F/K/A FIESTA PALMS, LLC, D/B/A THE PALMS CASINO RESORT,

Appellant,

∥ v.

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ENRIQUE RODRIGUEZ, AN INDIVIDUAL,

Respondent.

Supreme**Electton 6all**y Filed Nov 01 2012 08:35 a.m. Tracie K. Lindeman Clerk of Supreme Court

MOTION FOR PERMISSION TO FILE ANSWERING BRIEF IN EXCESS OF WORD COUNT LIMITATION; CERTIFICATION OF COUNSEL

Pursuant to NRAP 32(a)(7)(D), respondent moves for permission to file an answering brief that is 1211 words longer than the 14,000 word limit for an answering brief. The proposed brief, which contains 15,211 words, is being submitted concurrently with the filing of this motion.

CERTIFICATION OF COUNSEL

Pursuant to NRAP 32(a), respondent's counsel provides the following certification stating the reasons for this motion.

This appeal involves a complex and unusual personal injury case that resulted in a judgment of more than \$6 million. Respondent was attending a televised Monday Night Football game at the Palms sports book. During the game, Palms' girls dressed as cheerleaders were energizing the party by throwing souvenirs into the crowd. A woman dove for a water bottle and wrestled another patron for it, seriously injuring respondent in the process. Respondent sued the Palms based on multiple, serious injuries.

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Appellant has raised several issues in this appeal, and was allowed to file an extra-length opening brief. Specifically, appellant's motion for permission to file its opening brief in excess of the word count limitation was granted by this Court on August 14, 2012. Although respondent believes the issues to be ordinary and without merit (not earth-shattering and precedent setting, as appellant suggests), the opening brief seriously misrepresents the facts and twists the case law to appear to present issue of substance, making it necessary to clarify the record before responding to the legal issues presented by the case.

The trial lasted twelve days and resulted in a 16-volume appendix, most of which is comprised of portions of the transcript of the bench trial. The medical testimony is lengthy and complex because respondent developed reflex sympathetic dystrophy ("RSD") as a result of the injury at the Palms, meaning he treated for years with many providers, and will suffer from this condition and others that resulted directly from the incident for the rest of his life.

I have diligently edited the brief and I eliminated thousands of words from my initial draft. Nevertheless, the complexity of the case, the number and character of the issues pursued by appellant, and the number of string cited but irrelevant cases relied on by the Palms, have caused the brief to exceed the word limit. I respectfully believe the brief cannot be shortened any more without compromising respondent's ability to fairly address the issues raised in the opening brief, and without impacting this Court's ability to understand and analyze the issues accurately and efficiently.

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1	Accordingly, respondent requests the court grant him permission to file his
2	answering brief containing 15,211 words; the brief is being submitted
3	concurrently with this motion.
4	DATED this 3 day of October, 2012.
5	HUTCHISON & STEFFEN, LLC
6	MA W/1 111
7	By Michael K Wall (2098)
8	Michael K. Wall (2098) 10080 W. Alta Drive, Ste. 200 Las Vegas, NV 89145
9	(702) 385-2500
10	Attorney for respondent
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CERTIFICATE OF SERVICE

2	I certify that I am an employee of HUTCHISON & STEFFEN, LLC and
3	that this MOTION FOR PERMISSION TO FILE ANSWERING BRIEF IN
4	EXCESS OF WORD COUNT LIMITATION; CERTIFICATION OF
5	COUNSEL was filed electronically with the Clerk of the court of the Nevada
6	Supreme Court, and therefore electronic service was made in accordance with the
7	master service list as follows:
8 9	Steven Baker John Naylor Marsha Stephenson
10	Robert Eisenberg
11	I further certify that on this date I served copies by U.S. mail to:
12	Kenneth C. Ward Keith R. Gillette ARCHER NORRIS
13 14	2033 North Main Street, Suite 800 P.O. Box 8035 Walnut Creek, CA 94596-3728
15	Adam S. Davis Moran Law Firm
16	630 S. Fourth Street Las Vegas, NV 89101
17 18	J. Randall Jones Jennifer C. Dorsey
19	Jennifer C. Dorsey 3800 Howard Hughes Pkwy., 17 th Floor Las Vegas, NV 89169
20	<u>at</u>
21	DATED this 31 day of October, 2012.
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23	
24	An employee of Hutchison & Stellen, LLC
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