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

3 EVARISTO JONATHAN GARCIA,

4 Appellant,

5 vs.

6 THE STATE OF NEVADA,

7 Respondent.
8
9

Electronically Filed
Jun 19 2014 04:58 p.m.
Tracie K. Lindeman
Clerk of Supreme Court
Supreme Court Case No. 64221

10 **MOTION FOR LEAVE TO FILE OPENING BRIEF**

11
12 COMES NOW Appellant, EVARISTO GARCIA, by and through his
13 attorney, ROSS GOODMAN, ESQ., and moves this Honorable Court for
14 leave to file his opening brief beyond the last extended date of June 13,
15 2014. This Court had graciously extended time to file the Opening Brief and
16 Appendix to June 13, 2014. While counsel was able to file the full 11-
17 volume Appendix, the Opening Brief was inadvertently left out and
18 accidentally deleted. This motion is being filed simultaneously with the
19 Opening Brief and based on NRCP 26(b), declaration of counsel, and all
20 papers and pleadings on file herein.
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2 Further, this Motion is made in good faith and not for purpose of
3 delay.

4 Dated this 19th day of June, 2014.

5
6 GOODMAN LAW GROUP,
7 A Professional Corporation

8 /s/ Ross C. Goodman, Esq.

9 Ross C. Goodman, Esq.

10 Nevada State Bar No.: 7722

11 *Attorney for Appellant*
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2 **DECLARATION OF ROSS C. GOODMAN, ESQ.**

3 STATE OF NEVADA)
4) ss:
5 COUNTY OF CLARK)

6 ROSS C. GOODMAN, ESQ., upon information and belief, declares
7 and says:

8 1. That Declarant is an attorney duly licensed to practice law in
9 the State of Nevada and was trial counsel and is NRAP 3C(b)(2) appointed
10 appellate counsel for EVARISTO GARCIA in the present case. Declarant
11 was trial counsel in a protracted trial that involved numerous complex issues
12 and rulings mid-trial that impact the outcome as well as matters heard prior
13 and rulings mid-trial that impact the outcome as well as matters heard prior
14 to the dispositive ruling which in essence struck portions of the State's case..

15 2. Declarant has previously been graciously granted extensions of
16 time to file the instant Opening Brief and Appendix which was absolutely
17 necessary given the complexity of the case and unforeseen circumstances
18 which made filing the brief a challenge.

19 3. That Declarant diligently filed the necessary documents on the
20 due date of Friday June 13th, 2014, but inadvertently failed to include only
21 the Opening Brief in that mass of documents. That upon realization of this
22 inadvertent error, Declarant discovered to his horror that the document had
23 somehow been destroyed or lost from Declarant's electronic data files and
24 somehow been destroyed or lost from Declarant's electronic data files and
25 somehow been destroyed or lost from Declarant's electronic data files and
26 somehow been destroyed or lost from Declarant's electronic data files and
27 somehow been destroyed or lost from Declarant's electronic data files and
28 somehow been destroyed or lost from Declarant's electronic data files and

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2 Declarant has been diligently re-creating the document without further
3 delay.

4 4. Declarant cannot apologize enough for any inconvenience or
5 confusion this may have caused the Court but assures the Court he has
6 worked non-stop to remedy his own inadvertence.
7

8 5. This specific request for extension of time is therefore sought
9 out of necessity only and not made for purposes of delay.
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11 **FURTHER YOUR DECLARANT SAYETH NAUGHT.**

12 /s/ Ross C. Goodman, Esq.

13 Ross C. Goodman, Esq.
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 19th day of June, 2014,
the above and foregoing *Motion for Leave to File Opening Brief* was
served upon the appropriate parties hereto via the Supreme Court's
notification system in accordance to the Master Service List.

STEVEN S. OWENS, ESQ.
Chief Deputy District Attorney
200 South Third Street - 7th Floor
Las Vegas, Nevada 89155
Attorney for Respondent

CATHERINE CORTEZ MASTO, ESQ.
Nevada Attorney General
555 E. Washington Ave., #3900
Las Vegas, Nevada 89101

/s/ Ross C. Goodman, Esq.
Ross C. Goodman, Esq.