

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

ROBERT L. MENDENHALL, AN  
INDIVIDUAL; AND SUNRIDGE  
CORPORATION, A NEVADA  
CORPORATION,

Appellants,

vs.

RONALD TASSINARI, AN  
INDIVIDUAL; AND AMERICAN  
VANTAGE BROWNSTONE, LLC, A  
NEVADA LIMITED LIABILITY  
COMPANY,

Respondents.

Electronically Filed  
Feb 28 2017 12:57 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Appeal from the Eighth Judicial  
District Court, the Honorable Rob  
Bare Presiding

**EMERGENCY MOTION FOR RELIEF UNDER NRAP 27(e)**  
**(Relief needed before March 6, 2017)**

**Marquis Aurbach Coffing**

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**EMERGENCY MOTION FOR RELIEF UNDER NRAP 27(e)**  
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**I. OVERVIEW AND RELIEF REQUESTED**

Appellants, Robert Mendenhall and Sunridge Corporation (collectively “Plaintiffs”), by and through their counsel of record, Marquis Aurbach Coffing, hereby request emergency relief from this Court in the form of a continuance of oral argument until a date in May or later on this Court’s oral argument calendar. The requested relief is needed on or before March 6, 2017.

Oral argument in this case is currently scheduled on March 8, 2017. Plaintiffs’ lead appellate counsel, Micah Echols, was just informed yesterday afternoon (February 27) that his two-year-old daughter has to have urgent surgery on March 7, 2017.<sup>1</sup> Good cause exists for this Court to grant a continuance and reschedule oral argument in this case to a later date on the Court’s oral argument calendar. Counsel for Plaintiffs has informed counsel for Respondents of this motion, which will not be opposed.

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<sup>1</sup> See **Exhibit 1** (Surgery scheduling paperwork from Dr. O-Lee).

## II. LEGAL ARGUMENT

NRAP 27(e) allows for relief to be granted by this Court in less than 14 days upon a showing of irreparable harm. Mr. Echols' daughter was born with a rare genetic disorder that affects hearing, vision, heart, balance, airways, and other systems. Because of her delicate medical condition, even routine medical procedures often keep Mr. Echols' daughter in the hospital for days. In total, Mr. Echols' daughter has been in the hospital for approximately 100 days since birth. When Mr. Echols' daughter received a similar procedure 18 months ago, she remained in the hospital for a week. Because of the various health issues posed by her genetic disorder, she is at high risk with each such procedure, and Mr. Echols needs to be in attendance at the surgery and during the critical early recovery period.

Unfortunately, Mr. Echols did not learn about this surgery until the afternoon of February 27, as indicated in **Exhibit 1**. Counsel for Respondents and the Court have been promptly notified.

Mr. Echols has been the lead counsel throughout the appellate process with the primary responsibility for drafting the briefs and determining the record on appeal. Mr. Echols is the only attorney scheduled to argue for Plaintiffs on

March 8, 2017, and he is the attorney who has been preparing for next week's oral argument.

Mr. Echols has contacted counsel for Respondents, Oliver Pancheri, and Mr. Pancheri has expressed his non-opposition to the continuance of oral argument in this case under the present circumstances. As Mr. Echols previously informed the Court in his January 24, 2017 notice of unavailability, he also has a conflict on March 17, 2017 due to a mediation scheduled in Supreme Court Case 71736 with out-of-state participants, and he also has a conflict April 4 and 5, as he is scheduled to argue in the Ninth Circuit. Mr. Echols is also scheduled to be out of state during April 10 through 14. Mr. Echols is available for the scheduled May panel argument days, and respectfully requests that the Court reschedule the oral argument hearing to any available May date on the Court's calendar

Relief from this Court is need by March 6, 2017 so that Mr. Echols can make the necessary changes to his travel arrangements prior to the surgery on March 7, 2017.

### **III. CONCLUSION**

This motion is submitted in good faith and for good cause shown in accordance with NRAP 27(e). Therefore, Plaintiffs respectfully request that the Court continue oral argument in this case to the next available time on this Court's

calendar in May, or later, and that this relief be granted on or before March 6, 2017.

Dated this 28th day of February, 2017.

MARQUIS AURBACH COFFING

By /s/ Micah S. Echols  
Avece M. Higbee, Esq. (SBN 3739)  
Micah S. Echols, Esq. (SBN 8437)  
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*Attorneys for Appellants,  
Robert L. Mendenhall and  
Sunridge Corporation*

### **NRAP 27(e) CERTIFICATE**

I hereby certify that this emergency motion for relief under NRAP 27(e) complies with the provisions of NRAP 27(e). The Supreme Court has complete control over its calendar, and, therefore, the requested relief can only be granted by this Court.

As set forth in the body of this motion, emergency relief is needed on or before March 6, 2017 because Mr. Echols' daughter is scheduled for surgery on March 7, 2017, and Mr. Echols needs to make any necessary changes to his travel arrangements prior to the surgery.

In the late afternoon of February 27, 2017, Mr. Echols was informed of the needed surgery and became aware of the scheduling conflict. On the morning of February 28, 2017, Mr. Echols informed Respondents' counsel, Mr. Pancheri, of the impending surgery and need for continuance of the oral argument. Mr. Pancheri expressed his non-opposition to continuing oral argument in this case to a later date. Mr. Echols's assistant also informed the Clerk's office on the morning of February 28, 2017 that this emergency motion would be forthcoming. While the Clerk's office informed Mr. Echols' assistant that an emergency motion under NRAP 27(e) was not strictly necessary to continue oral argument, this motion is

filed as an emergency motion under NRAP 27(e) due to the shortened time for the requested relief.

The telephone numbers, office addresses, and email addresses of the attorneys for the parties are as follows:

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*Attorneys for Respondents, Ronald Tassinari  
and American Vantage Brownstone, LLC*



According to the attached certificate of service, all parties through their counsel of record have been served electronically via email due to the exigent nature of the requested relief.

Dated this 28th day of February, 2017.

MARQUIS AURBACH COFFING

By /s/ Micah S. Echols  
Avece M. Higbee, Esq. (SBN 3739)  
Micah S. Echols, Esq. (SBN 8437)  
Adele V. Karoum, Esq. (SBN 11172)  
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Las Vegas, Nevada 89145  
*Attorneys for Appellants,  
Robert L. Mendenhall and  
Sunridge Corporation*

## **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **EMERGENCY MOTION UNDER NRAP 27(e)** was filed electronically with the Nevada Supreme Court on the 28th day of February, 2017. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Harry Paul Marquis, Esq.  
James J. Lee, Esq.  
Nicholas J. Santoro, Esq.  
Oliver J. Pancheri, Esq.

I further certify that all counsel of record have been served via email at the following addresses:

Nicholas J. Santoro, Esq.  
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*nsantoro@santoronevada.com*  
*opancheri@santorinevada.com*

Harry Paul Marquis, Esq.  
*harry@marquislaw.net*

James J. Lee, Esq.  
*james@leelawonline.com*

/s/ Leah Dell  
Leah Dell, an employee of  
Marquis Aurbach Coffing

# Exhibit 1

# T.J. O-Lee, M.D.

Otolaryngology-Head and Neck Surgery

Pediatric Otolaryngologist

1. Do not eat any food or drink fluids:
  - o After midnight the night before the surgery.
  - o 8 hours before surgery.
2. Do not take any aspirin or any medications that contain aspirin (aleve, naprosyn, ibuprofen, advil, etc) 1 week prior to surgery. You can take Tylenol for pain or any aspirin free medications. If unsure, please call.
3. Wear comfortable clothing and do not bring any valuables such as jewelry. You will be asked to change in a hospital gown.
4. All children under 18 years of age must be accompanied by a parent or legal guardian.
5. You will need to have someone drive you home unless you are told differently. This person should wait in the surgery waiting area.
6. If your surgery is at UMC/Sunrise hospital, you will need to go down to UMC/Sunrise and pre-register 2-3 days prior to surgery. (Pre- register SAME week of surgery. If you decide to pre-register 1 week before make sure you call and notify April)
7. Discharge instructions will be given to you or the person who accompanies you.  
*\*IF YOUR SURGERY IS ON TUESDAY I WILL CALL FRIDAY THE WEEK BEFORE FOR THE TIME\**  
*\*IF YOUR SURGERY IS ON THURSDAY I WILL CALL TUESDAY SAME WEEK FOR THE TIME\**

Medical Assistant: April

Phone: 702-992-6828

Voicemail: 702-992-6817

**Surgery  
Date**

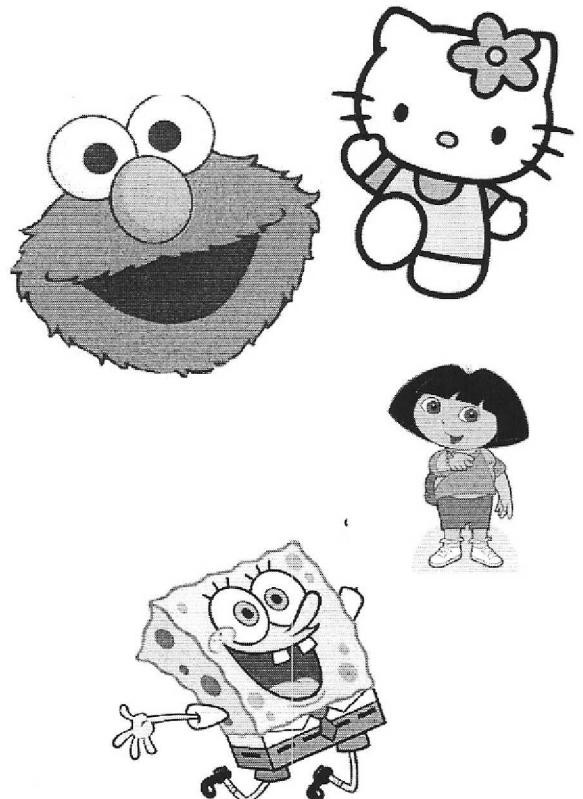
**March 07, 2017  
Will call for time**

**Surgery  
Location**

**Sunrise Hospital  
702-731-8000**

**Post  
Operative  
Appt**

**March 20, 2017  
5:00pm  
5380 S. Rainbow Blvd. #324  
Las Vegas, NV 89118**



AUTHORIZATION FOR PERFORMANCE OF OPERATION OR OTHER  
PROCEDUREPatient: EcholsDate: 2/27/17Time: 16:18

I hereby give my consent and authorize Doctor T.J. O-Lee  
to perform the following operation or other procedure:

1. Bilateral Myringotomy and Ear tube placement, T-tubes

I acknowledge that:

1. The nature and purpose of the operation or procedure, the risks involved, alternatives and the possibility of complications have been explained to me by Doctor O-Lee and all my questions, if any, have been answered to my satisfaction. I am aware the practice of medicine and surgery is not an exact science and I acknowledge that no guarantee has been made as to the results that may be obtained.
2. I consent to the performance of the above-named operation or procedure and if, during the contemplated operation or procedure, other conditions are discovered which, in the best judgment of the medical staff, require an extension of the original contemplated operation or other procedure or a different operation or other procedure, I authorize and request that the said operation or other procedure be performed.
3. I consent to the disposal of any tissues or parts that it may be necessary to remove. I authorize that any tissue or specimen taken from my body may be retained, preserved, and used for scientific or teaching purposes. I authorize any photodocumentation and other materials for scientific purposes, provided my identity is not revealed by the pictures or by the descriptive text accompanying them.
4. The undersigned acknowledges receipt of a copy of the foregoing consent and authorization to an operation or other procedure.
5. My physician has discussed with me the potential need for and risks of a transfusion of blood and/or blood components and the available alternatives.

Witness Signature

Signature of Physician Securing Consent

Patient Signature