

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

2
3 MEI-GSR HOLDINGS, LLC, a
4 Nevada Limited Liability Company,
5 d/b/a/ GRAND SIERRA RESORT,

6 Appellants,

7 vs.

8 PEPPERMILL CASINO, INC., a
9 Nevada Corporation, d/b/a/
10 PEPPERMILL CASINO; RYAN
11 TORS, an individual,

12 Respondents.

Supreme Court No. 70319

District Court Case No.: CV-13-01704

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Elizabeth A. Brown
Clerk of Supreme Court

13 **APPELLANT'S MOTION FOR PERMISSION**
14 **TO FILE AN OVER-LENGTH REPLY BRIEF**

15 COHEN|JOHNSON|PARKER|EDWARDS

16 H. STAN JOHNSON, ESQ.

17 Nevada Bar No. 00265

18 sjohnson@cohenjohnson.com

19 CHRIS DAVIS, ESQ.

20 Nevada Bar No. 6616

 cdavis@cohenjohnson.com

 255 E. Warm Springs Road, Suite 100

 Las Vegas, Nevada 89119

 Telephone: (702) 823-3500

 Facsimile: (702) 823-3400

 Attorneys for Appellant

1 **I. MOTION**

2 Appellant MEI-GSR HOLDINGS, LLC (“GSR”), by and through its
3 counsel of record, hereby moves, pursuant to Nev. R. App. P. 32(a)(7)(D), for
4 permission to file Appellant’s Reply Brief, filed concurrently herewith, which
5 exceeds the applicable page limit and/or type-volume limitation by 778 words.
6 This motion is supported by the Declaration of Chris Davis, Esq., and the points
7 and authorities that follow.

8 Dated this 19th day of July 2017

9 COHEN|JOHNSON|PARKER|EDWARDS

10 By: /s/ Chris Davis

11 H. Stan Johnson, Esq.

12 Nevada Bar No. 00265

13 Chris Davis, Esq.

14 Nevada Bar No. 06616

255 E. Warm Spring Road, Suite 100

Las Vegas, Nevada 89119

Attorneys for Appellant-Plaintiff

15 **II. DECLARATION OF CHRIS DAVIS**

16 I, CHRIS DAVIS, ESQ., declare under penalty of perjury that the
17 following is true and correct of my own personal knowledge and if called to
18 testify in this matter would testify as follows:

19 1. I am an attorney, duly licensed to practice law in the State of Nevada
20 and represent Appellant in the foregoing matter.

1 2. I put a great deal of effort into drafting Appellant's Reply Brief, filed
2 concurrently herewith, which includes issues from the very beginning of this
3 thirty-two (32) month long case until its conclusion. The first draft of the brief
4 was more than 14,000 words. After long hours, I was ultimately able to reduce
5 the length of the parts of the brief not exempted by Nev. R. App. P. 32(a)(7)(C),
6 to 7,778 words, or just 778 words over the limit. Any further reduction would
7 prevent Appellant from responding to issues raised by Respondent.

8 3. An over-length brief is required due to Respondent's argument that the
9 district court's errors were harmless because the jury in this case might have
10 found that Appellant did not establish some other element in Appellant's case
11 which was not reached by the jury. This argument required Appellant to set forth
12 all of the facts and law establishing Appellant's claim, encompassing a two-week
13 trial, just as if Respondent had filed a cross-appeal. By itself, the section of the
14 Reply dealing with this argument is 1442 words.

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1 4. By granting this motion, the Court will be able to fully consider the
2 issues raised by the parties.

3 Dated this 19th day of July 2017

4 COHEN|JOHNSON|PARKER|EDWARDS

5 By: /s/ Chris Davis

6 H. Stan Johnson, Esq.

7 Nevada Bar No. 00265

8 Chris Davis, Esq.

9 Nevada Bar No. 06616

255 E. Warm Spring Road, Suite 100

Las Vegas, Nevada 89119

Attorneys for Appellant-Plaintiff

10 **III. POINTS AND AUTHORITIES**

11 Rule 32(a)(7)(A)(ii), of the Nevada Rules of Appellate Procedure provides,
12 in pertinent part: “A reply brief is acceptable if it contains no more than half the
13 type-volume specified for an opening or answering brief under this Rule,” which
14 in this case is 14,000 words. Accordingly, a reply brief in this case is limited to
15 7,000 words. Rule 32(a)(7)(D)(i), however, provides that a “motion to file a brief
16 that exceeds the applicable page limit or type-volume limitation will be granted
17 only upon a showing of diligence and good cause.” Appellant, based on its
18 diligence and good cause, seeks approval to file a 7778 word reply brief, just 778
19 words over the limit.
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1 An over-length brief is required due to Respondent's argument that the
2 district court's errors were harmless because the jury in this case might have
3 found that Appellant did not establish some other element in Appellant's case.
4 This argument required Appellant to set forth all of the facts and law establishing
5 Appellant's claim, encompassing a two-week trial, just as if Respondent had filed
6 a cross-appeal. Appellant was required to use 1442 words, just to respond to this
7 argument.

8 If Respondent had actually filed a cross-appeal, Appellants would have
9 been entitled to file a 14,000 word combined reply/answering brief, pursuant to
10 Nev. R. App. P. 28.1(e)(2)(A)(i). Appellant, was able to confine its total
11 arguments to just 778 words over the limit, even though the additional issues
12 raised by Respondent required 1442 words.

13 Appellant's Reply Brief, with parts not exempted by Nev. R. App. P.
14 32(a)(7)(C), totals 7778 words. While this exceeds the 7,000 word limit by 778
15 words, considering the importance and number of issues raised, which include
16 every aspect of this 23 month-long case, as well as Respondent's argument
17 which are very much like a cross appeal, the Reply Brief concisely addresses
18 those issues due to counsel for Appellant's diligent efforts.
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1 **IV. CONCLUSION**

2 Based on the foregoing, Appellant respectfully requests that this Court find
3 that its counsel has acted diligently and that good cause is present to exceed the
4 7,000 word limit by 778 words, and permit Appellant to file its 7,778 word brief,
5 filed concurrently herewith.

6 **V. CERTIFICATE OF COMPLIANCE**

7 I hereby certify that the attached reply brief complies with the formatting
8 requirements of Nev. R. App. P. 32(a)(4), the typeface requirements of Nev. R.
9 App. P. 32(a)(5) and the type style requirements of Nev. R. App. P. 32(a)(6)
10 because this brief has been prepared in a proportionally spaced typeface using
11 Microsoft Word 2013, font size 14-point, Times New Roman. This brief,
12 however, does not comply with the page- or type-volume limitations of Nev. R.
13 App. P. 32(a)(7) because, excluding the parts of the brief exempted by Nev. R.
14 App. P. 32(a)(7)(C), it contains 7,778 words, but by this motion seeks permission
15 to exceed this limitation pursuant to Nev. R. App. P. 23(a)(7)(D). Finally, I
16 hereby certify that I have read the attached appellate brief, and to the best of my
17 knowledge, information, and belief, it is not frivolous or interposed for any
18 improper purpose. I further certify that this brief complies with all applicable
19 Nevada Rules of Appellate Procedure, except as otherwise stated, in particular
20 Nev. R. App. P. 28(e)(1), which requires every assertion in the brief regarding

1 matters in the record to be supported by a reference to the page and volume
2 number, if any, of the transcript or appendix where the matter relied on is to be
3 found. I understand that I may be subject to sanctions in the event that the
4 accompanying brief is not in conformity with the requirements of the Nevada
5 Rules of Appellate Procedure.

6 Dated this 19th day of July 2017

7 COHEN|JOHNSON|PARKER|EDWARDS

8 By: /s/ Chris Davis
9 H. Stan Johnson, Esq.
10 Nevada Bar No. 00265
11 Chris Davis, Esq.
12 Nevada Bar No. 06616
13 255 E. Warm Spring Road, Suite 100
14 Las Vegas, Nevada 89119

15 Attorneys for Appellant-Plaintiff
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CERTIFICATE OF SERVICE

I certify that on 19th of July, 2017, pursuant to N.E.F.R. 7, I caused the
**APPELLANT’S MOTION FOR PERMISSION TO FILE AN OVER-
LENGTH REPLY BRIEF** to be filed electronically with the Clerk of the
Nevada Supreme Court. Pursuant to N.E.F.R. 9, notice of an electronically filed
document by the Court “shall be considered as valid and effective service of the
document” on the below listed persons who are registered users.

ROBISON, BELAUSTEGUI, SHARP & LOW
c/o Kent R. Robison, Esq.
71 Washington Street
Reno, Nevada 89503
krobison@rbsllaw.com
Attorney for the Defendants Peppermill

DATED the 19th day of July, 2017.

/s/ Sarah Gondek
An employee of
COHEN|JOHNSON|PARKER|EDWARDS