

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOMBARDIER
TRANSPORATATION
(HOLDINGS) USA, INC.,

Appellant,

vs.

NEVADA LABOR COMMISSIONER;
THE INTERNATIONAL UNION OF
ELEVATOR CONSTRUCTORS; and
CLARK COUNTY,

Respondents.

Supreme Court No. 71101
Electronically Filed
Nov 03 2017 03:28 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**APPELLANT'S MOTION TO EXCEED PAGE
LIMIT IN ITS OPENING BRIEF**

Appellant Bombardier Transportation (Holdings) USA, Inc., by and through its counsel, Jackson Lewis P.C., hereby moves this Court pursuant to Rule 32(a)(7) of the Nevada Rules of Appellate Procedure ("NRAP") to exceed the page limit for its Opening Brief, which is being filed concurrently with this motion. This Motion is based upon the following memorandum of points and authorities and exhibits thereto.

MEMORANDUM OF POINTS AND AUTHORITIES

NRAP 32(a)(7) requires that an opening brief shall not exceed 14,000 words, exclusive of pages containing the table of contents, tables of citations and any

addendum containing statutes, rules, regulations, etc.” However, NRAP 32(a)(7) also allows a party to exceed the page limit “by permission of the court.”

In the instant case, the streamlined administrative record contains more than 3,000 pages. The administrative hearing lasted six days. The liability portion of the case involves two matters of first impression. And, because Bombardier is also seeking review of the Labor Commissioner’s remedial findings, that too requires significant discussion. For these reasons, there is good cause for permitting Bombardier to exceed the page limitations set forth in NRAP 32(a)(7), and Bombardier respectfully requests that the Court allow it to file its current Opening Brief that consists of nineteen thousand, seven hundred and twelve (19,712) words in 14 point Times New Roman Font. Bombardier makes this request in good faith, and has done its best to limit the size of its brief so as not to burden the Court with an overly-long, unfocused brief. Counsel for Appellant make this declaration as a true and accurate statement under the penalties of perjury in the State of Nevada.

Dated this 3rd day of November, 2017.

JACKSON LEWIS P.C.

/s/ Paul T. Trimmer
GARY C. MOSS, Bar # 4340
PAUL T. TRIMMER, Bar # 9291
3800 Howard Hughes Parkway
Suite 600
Las Vegas, Nevada 89169

Attorneys for Appellant/Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Jackson Lewis P.C., and that on this 3rd day of November, 2017, I caused to be served via the Nevada Supreme Court’s electronic filing and service system, a true and correct copy of the above foregoing **APPELLANT’S MOTION TO EXCEED PAGE LIMITS IN ITS OPENING BRIEF** to the following:

<p>Robert E. Werbicky, Esq. Deputy Attorney General mflatley@ag.nv.gov Adam Paul Laxalt, Esq. Bureau of Business and State Services Business and Taxation Division 100 North Carson Street Carson, City, Nevada 89701 (775) 684-1218 (office) (775) 684-1156 (facsimile) <i>Attorneys for State of Nevada Office of the Labor Commissioner</i></p>	<p>Richard G. McCracken, Esq. rmccracken@dcbsf.com Andrew J. Kahn, Esq. ajk@dcbsf.com McCracken, Stemerman & Holsberry 1630 South Commerce Street Suite A-1 Las Vegas, Nevada 89102 (702) 386-5107 (office) (702) 386-9848 (facsimile) <i>Attorneys for The International Union of Elevator Constructors</i></p>
<p>Mark Ricciardi Fisher & Phillips LLP 300 S. Fourth Street Suite 1500 Las Vegas, NV 89101 mricciardi@fisherphillips.com <i>Attorneys for Clark County, NV</i></p>	

/s/ Paul T. Trimmer _____
Employee of Jackson Lewis P.C.

**DECLARATION OF PAUL T. TRIMMER IN
SUPPORT OF APPELLANT'S MOTION TO
EXCEED PAGE LIMIT IN ITS OPENING BRIEF**

I, Paul T. Trimmer, declare and state as follows:

1. I am over the age of 18 and competent to testify. The following facts are based on my personal knowledge. If called as a witness, I am competent to testify as to these facts. I submit this declaration in support of Appellant Bombardier Transportation (Holdings) Inc.'s Motion to Exceed Page Limit in its Opening Brief.

2. I am an attorney at Jackson Lewis P.C. in Las Vegas, Nevada. I currently represent Bombardier Transportation (Holdings) USA, Inc. ("Bombardier") in the appeal filed with the Nevada Supreme Court (Case No. 71101). Additionally, I represented Bombardier in the proceedings conducted before the Nevada Labor Commissioner ("Respondent") and the Eighth Judicial District Court that underlie this appeal.

3. Appellant's Opening Brief contains 19,712 words, which is 5,712 more words than the limit allowed by NRAP 32(a)(7). However, good cause exists to allow the Appellant to exceed the page limit.

4. Given the exhaustive and lengthy nature of the proceedings conducted before the Nevada Labor Commissioner and the Eighth Judicial District Court in the petition for the judicial review of the Labor Commissioner Order, Appellant needs to provide a more comprehensive background section in its Opening Brief. This detailed factual and procedural background is integral for this Court to understand the legal issues involved in this appeal in order for the Court to rule on the Opening Brief.

5. The case also involves multiple matters of first impression under NRS Chapter 338. A thorough discussion of the applicable statutes and regulations pertaining to those issues, including a discussion of the relevant statutory schemes, required additional length,

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 3rd day of November, 2017.

/s/ Paul T. Trimmer
Paul T. Trimmer