

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Supreme Court No. 71101  
District Court Case No. A698764

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Electronically Filed  
Aug 09 2018 08:34 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

BOMBARDIER TRANSPORTATION,  
(HOLDINGS) USA, INC.,

Appellant,

vs.

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

Respondents.

**RESPONDENT CLARK COUNTY'S**  
**MOTION TO POSTPONE ORAL ARGUMENT**  
**PURSUANT TO NRAP 34(A)**

MARK J. RICCIARDI, ESQ. (SBN 3141)  
HOLLY E. WALKER, ESQ. (SBN 14295)  
FISHER & PHILLIPS LLP  
300 S. Fourth Street  
Suite 1500  
Las Vegas, Nevada 89101  
(702) 252-3131  
[mricciardi@fisherphillips.com](mailto:mricciardi@fisherphillips.com)  
[hwalker@fisherphillips.com](mailto:hwalker@fisherphillips.com)  
Attorneys for Respondent Clark County

## **MEMORANDUM OF POINTS AND AUTHORITIES**

On July 17, 2018, this Court issued a Notice of Oral Argument, notifying all parties that oral argument was scheduled to take place in Carson City, Nevada on September 5, 2018 at 10:30 a.m. Pursuant to Nevada Rule of Appellate Procedure 34(a), Respondent Clark County timely files this motion to postpone oral argument for the following reasons. This motion is unopposed, and it is brought in good faith and not for purposes of delay.

Nevada Rule of Appellate Procedure 34(a) states as follows:

The clerk shall advise all parties of the date, time, and place for oral argument, the time allowed for oral argument, the court before which argument will occur, and if before the Supreme Court, whether it will be before the full court or a panel, and if deemed appropriate, the issues to be addressed at oral argument. *A motion to postpone the argument must be filed reasonably in advance of the date fixed for hearing.*

(Emphasis added.) In this case, counsel for all parties are located in Las Vegas. Moreover, the subject matter of the appeal takes place in Las Vegas. Accordingly, for purposes of efficiency and to minimize the burden of travel arrangements and scheduling conflicts, it would be preferable to hold oral argument in Las Vegas instead of Carson City. Thus, counsel for all parties have stipulated to respectfully request that the date set for oral argument be postponed for another date that is convenient for the Court, where oral argument could be heard in Las Vegas. *See* Exhibit 1.

Based on the foregoing, Respondent Clark County respectfully requests this Honorable Court to postpone the oral argument in the above-referenced matter.

Dated this 8<sup>th</sup> day of August, 2018.

FISHER & PHILLIPS LLP



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MARK J. RICCIARDI, ESQ. (SBN 3141)  
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[hwalker@fisherphillips.com](mailto:hwalker@fisherphillips.com)  
Attorneys for Respondent Clark County

**DECLARATION OF HOLLY E. WALKER, ESQ. IN SUPPORT OF  
RESPONDENT CLARK COUNTY'S MOTION TO POSTPONE ORAL  
ARGUMENT PURSUANT TO NRAP 34(A)**

Holly E. Walker, Esq. states as follows:

1. I am an attorney representing Respondent Clark County in this proceeding.

I have personal knowledge of, and am competent to testify to, the facts set forth herein. I make this Declaration in support of Respondent's Motion to Postpone Oral Argument Pursuant to NRAP 34(a).

2. The factual contentions contained within Respondent Clark County's Motion to Postpone Oral Argument are true and correct to the best of my knowledge.

3. Appended as Exhibit 1 are true and correct copies of excerpts of the stipulation among all parties in support of this Motion. *See Exhibit 1.*

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

Dated this 8<sup>th</sup> day of August, 2018.



HOLLY E. WALKER, ESQ.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that this document was filed electronically with the Nevada Supreme Court on the 8<sup>th</sup> day of August, 2018, Electronic service of the foregoing **RESPONDENT CLARK COUNTY'S MOTION TO POSTPONE ORAL ARGUMENT** shall be made in accordance with the Master Service List as follows:

Electronic Notification List:

Robert E. Werbicky, Esq.  
Deputy Attorney General  
Adam Paul Laxalt, Esq.  
Bureau of Business and State Services  
Business and Taxation Division  
100 North Carson Street  
Carson City, NV 89701  
*Attorneys for State of Nevada Office of  
the Labor Commissioner*

Paul T. Trimmer, Esq.  
Jackson Lewis P.C.  
3800 Howard Hughes Pkwy.  
Suite 600  
Las Vegas, NV 89169  
*Attorneys for Appellant  
Bombardier Transportation*

Richard G. McCracken, Esq.  
Andrew J. Kahn, Esq.  
McCracken, Stemerman & Holsberry  
1630 South Commerce Street  
Suite A-1  
Las Vegas, NV 89102  
*Attorneys for The International Union  
of Elevator Constructors*

By:   
An employee of Fisher & Phillips LLP

# EXHIBIT 1

## Walker, Holly

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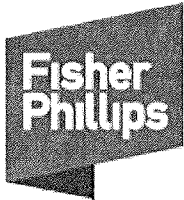
**From:** Walker, Holly  
**Sent:** Monday, August 6, 2018 10:37 AM  
**To:** 'rwerbicky@ag.nv.gov'; 'rmccracken@dcbsf.com'; Trimmer, Paul T. (Las Vegas)  
**Cc:** Ricciardi, Mark; Salvador, Erin; Grata, Stacey  
**Subject:** Bombardier Transportation v. Nevada Labor Commissioner (Supreme Court No. 71101)

Good morning, everyone,

As you know, oral argument for the above case has been scheduled for September 5, 2018 at 10:30 a.m. in Carson City.

Pursuant to NRAP 34(a), a party may file a motion to postpone the argument, if it is filed reasonably in advance of the hearing date. Because all of the parties are located in Las Vegas, I am writing to ask if you would be interested in filing a joint request to postpone the argument for another date, where it could be heard in Las Vegas instead of Carson City.

Please let me know your thoughts. Thank you.



**Holly E. Walker**

**Attorney at Law**

Fisher & Phillips LLP

300 S. Fourth Street | Suite 1500 | Las Vegas, NV 89101

hwalker@fisherphillips.com | O: (702) 862-3819

Website [www.fisherphillips.com](http://www.fisherphillips.com)

*On the Front Lines of Workplace Law<sup>SM</sup>*

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## Walker, Holly

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**From:** Trimmer, Paul T. (Las Vegas) <Paul.Trimmer@jacksonlewis.com>  
**Sent:** Monday, August 6, 2018 10:39 AM  
**To:** Walker, Holly; rwerbicky@ag.nv.gov; rmccracken@dcbsf.com  
**Cc:** Ricciardi, Mark; Salvador, Erin; Grata, Stacey  
**Subject:** RE: Bombardier Transportation v. Nevada Labor Commissioner (Supreme Court No. 71101)

No objection. I agree that it would make sense.

**Paul Trimmer**

Attorney at Law

**Jackson Lewis P.C.**

3800 Howard Hughes Parkway  
Suite 600

Las Vegas, NV 89169

Direct: (702) 921-2472 | Main: (702) 921-2460

[Paul.Trimmer@jacksonlewis.com](mailto:Paul.Trimmer@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

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**From:** Walker, Holly <hwalker@fisherphillips.com>  
**Sent:** Monday, August 06, 2018 10:37 AM  
**To:** rwerbicky@ag.nv.gov; rmccracken@dcbsf.com; Trimmer, Paul T. (Las Vegas) <Paul.Trimmer@jacksonlewis.com>  
**Cc:** Ricciardi, Mark <mricciardi@fisherphillips.com>; Salvador, Erin <esalvador@fisherphillips.com>; Grata, Stacey <sgrata@fisherphillips.com>  
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**Holly E. Walker**

Attorney at Law

Fisher & Phillips LLP

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[hwalker@fisherphillips.com](mailto:hwalker@fisherphillips.com) | O: (702) 862-3819

Website

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## Walker, Holly

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**From:** Richard McCracken <rmccracken@msh.law>  
**Sent:** Monday, August 6, 2018 10:48 AM  
**To:** Trimmer, Paul T. (Las Vegas); Walker, Holly; rwerbicky@ag.nv.gov  
**Cc:** Ricciardi, Mark; Salvador, Erin; Grata, Stacey  
**Subject:** RE: Bombardier Transportation v. Nevada Labor Commissioner (Supreme Court No. 71101)

OK with the union.

Richard G. McCracken

McCRACKEN, STEMERMAN & HOLSBERRY  
1630 S. Commerce St.  
Las Vegas, NV 89102  
702-386-5107  
Fax 702-386-9848

595 Market Street, Suite 800  
San Francisco, CA 94105  
415-597-7200  
Fax 415-597-7201

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**Paul Trimmer**

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## Walker, Holly

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**From:** Robert E. Werbicky <RWerbicky@ag.nv.gov>  
**Sent:** Monday, August 6, 2018 11:43 AM  
**To:** Richard McCracken; Trimmer, Paul T. (Las Vegas); Walker, Holly  
**Cc:** Ricciardi, Mark; Salvador, Erin; Grata, Stacey  
**Subject:** RE: Bombardier Transportation v. Nevada Labor Commissioner (Supreme Court No. 71101)

No opposition from the State.

Robert E. Werbicky  
Office of the Attorney General  
Division of Business and State Service  
555 E. Washington Ave., #3900  
Las Vegas, NV 89101  
Phone: (702) 486-3105  
Fax: (702) 486-3416  
[RWerbicky@ag.nv.gov](mailto:RWerbicky@ag.nv.gov)



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OK with the union.