

Case Nos: 73856 & 74566

**IN THE SUPREME COURT OF NEVADA**

CLARK COUNTY SCHOOL  
DISTRICT (CCSD)

Appellant/Defendant.

v.

MARY BRYAN, mother of ETHAN  
BRYAN; AIMEE HAIRR, mother of  
NOLAN HAIRR,

Respondents/Plaintiffs,

District Court Case No. A-14-  
700018-C

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Elizabeth A. Brown  
Clerk of Supreme Court

Appeal from the Eighth Judicial District Court, Clark County, Nevada,  
The Honorable Nancy Allf, District Court Judge  
District Court Case No.: A-14-700018-C

**RESPONDENTS' RESPONSE TO APPELLANT'S SECOND MOTION  
FOR AN EXTENSION OF TIME TO FILE A REPLY BRIEF**

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Ethan Bryan, Aimee Hairr and Nolan Hairr*

Come now Plaintiffs/Respondents, by and through the undersigned attorneys and file this Response to Appellant's Second Motion for an Extension of Time to file its Reply Brief. This Response is based on all pleadings and papers on filed herein, and the Memorandum of Law attached hereto.

Dated this 7<sup>th</sup> day of December 2018

Respectfully submitted by:

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## POINTS AND AUTHORITIES

On December 6, 2018, Appellant/Defendant Clark County School Board (CCSD) filed its Motion for a second extension of time to file its Reply Brief, which was due on December 5, 2018. NRAP 31(b)(3) states that, “A motion for extension of time for filing a brief may be made no later than the due date for the brief . . .” The due date for this Reply Brief was December 5, 2018, thus making the December 6, 2018 filing untimely. This, however, is a minor matter under the circumstances.

The original due date for CCSD’s Reply Brief was October 5, 2018. On October 5, 2018 CCSD requested that Plaintiffs/Respondents stipulate to an extension of 30 days for CCSD to file its Reply Brief. Plaintiffs agreed to sign the Stipulation, which was filed on October 5, 2018, the date that the Reply Brief was due. Thus, pursuant to the Stipulation, the new due date for the Reply Brief became November 5, 2018. The next day, on November 6, 2018 CCSD filed a Motion for another 30 day extension of time to file its optional Reply Brief (see, NRAP 28 (c)), citing the following rationale:

Although counsel have completed a draft of the brief, additional time is necessary. The attorney primarily responsible for drafting the reply unexpectedly had to take time to travel out-of-state to visit a family member struggling with personal issues. And while counsel’s caseload is not in itself a reason for extending the deadline, this Court should be aware that counsel have faced extraordinary demands in their other cases, including a *pro bono* appeal and an emergency

petition in a case that is now in trial. The additional time will ensure a streamlined presentation of the legal issues.

CCSD's November 6, 2018 Motion for an Extension of Time to File Reply Brief, at 1-2.

Plaintiffs filed no opposition to CCSD's November 6, 2018 Motion. It should be noted however, that CCSD never explained why it needed an extra 30 days to finalize a completed draft of the brief. In any case, with a lack of opposition from the nonmoving party, the Court granted CCSD's Motion in its November 15, 2018 Order, thus extending the due date for the Reply Brief to December 5, 2018. Citing NRAP 31(b)(3)(B), the Order specifically stated that, "[n]o further extensions of time shall be permitted absent demonstration of extraordinary circumstances and extreme need." The rationale for the December 6, 2018 Motion as follows:

Although counsel have completed a draft of the brief, extraordinary personal and medical circumstances warrant the extension. Counsel again had to take time to assist a family member whose living situation has deteriorated in the aftermath of a divorce. During this same time, a family pet began experiencing extreme pain and anxiety that did not respond to treatment, so counsel's family has been weighing the serious decision of whether to euthanize her. Finally, in the last several days counsel's daughter, and then spouse, fell ill—an illness that has persisted now more than a week—requiring additional care. The draft could not be finalized by other members of counsel's firm because of their being brought into a high-stakes trial on the eve of opening statements. While counsel has continued to work on the brief during this time, the requested extension would greatly ease counsel's burden in finalizing the draft.

CCSD's December 6, 2018 Motion for an Extension of Time to File Reply Brief, at 1-2.

The only thing extraordinary about CCSD's request is the complete lack of specifics. For one thing, neither the November nor the December request specifies which of the four CCSD attorneys listed on Appellants' June 1, 2018 Opening Brief was the one referenced in terms of hardships. Perhaps most extraordinary is that CCSD's Motion never explains why a brief that was, by CCSD's own admission, almost completed in early November 2018 requires another two months for finalization. The excuse that other counsel working on this case were "brought into a[n] [unspecified] high-stakes trial on the eve of opening statements," actually argues against an extension. A high-stakes trial cannot be considered something that came up suddenly, as trials are scheduled well in advance. Nor did the divorce of a family member suddenly occur on the date the Reply Brief was due. CCSD cites no legal authority that would suggest that the illness of a family pet, even when a decision about whether euthanization may be required rises to the level of an extreme and extraordinary circumstance. Furthermore, while the weeklong illness of the unnamed attorney's spouse and daughter is unfortunate, at least as described in the Motion, this unspecified illness does not rise to the level of an extreme and extraordinary circumstance.

Finally, the Motion provides absolutely no rationale for why a Reply Brief that is almost finished, and just needs finalization, requires an extension of an entire month. This fact is particularly salient in light of the fact that it was the same argument made in the previous, November 6, 2018 Motion.

For these reasons, Plaintiffs believe that CCSD's Motion does not come close to meeting the standard for any further extension, as set forth in this Court's November 15, 2018 Order, and therefore should be denied.

Dated this 7<sup>th</sup> day of December 2018

Respectfully submitted by:

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## **CERTIFICATE OF SERVICE**

I hereby certify that I served upon all counsel, the foregoing Plaintiff's/Appellant's December 6, 2018 Response to CCSD's Motion for an Extension of Time to file its Reply Brief via the Court's electronic filing and service process on December 7, 2018.

/s/ Allen Lichtenstein