

1 **JEFFERY A. BENDAVID, ESQ.**

2 Nevada Bar No. 6220

3 **STEPHANIE J. SMITH, ESQ.**

4 Nevada Bar No. 11280

5 **MORAN BRANDON BENDAVID MORAN**

6 630 South 4th Street

7 Las Vegas, Nevada 89101

8 (702) 384-8424

9 j.bendavid@moranlawfirm.com

Electronically Filed
Aug 28 2019 04:56 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

10 **GREGORY J. KAMER, ESQ.**

11 Nevada Bar No. 0270

12 **KAITLIN H. ZIEGLER, ESQ.**

13 Nevada Bar No. 013625

14 **KAMER ZUCKER ABBOTT**

15 3000 W. Charleston Blvd., #3

16 Las Vegas, Nevada 89102

17 (702) 259-8640

18 *Attorneys for Respondent*

19 IN THE SUPREME COURT OF THE STATE OF NEVADA

20 JACQUELINE FRANKLIN,
21 ASHLEIGH PARK, LILY
22 SHEPARD, STACIE ALLEN,
23 MICHAELA DEVINE,
24 KARINA STRELKOVA, and
25 DANIELLE LAMAR,
26 individually and on behalf of a
27 class of similarly situated
28 individuals,

Appellants,

vs.

RUSSEL ROAD FOOD AND
BEVERAGE, LLC,

Respondent.

Case No. 74332

**RESPONDENT, RUSSELL
ROAD FOOD AND
BEVERAGE, LLC'S AND
APPELLANTS' JOINT
MOTION TO VACATE, STAY,
OR CONTINUE ORAL
ARGUMENT PURSUANT TO
NRAP 34(a)**

**Action requested prior to
September 4, 2019**

EMERGENCY MOTION UNDER NRAP 27(e)



MORAN BRANDON
BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6668

1 Respondent, RUSSELL ROAD FOOD AND BEVERAGE, LLC
2 (“Russell Road” and/ or “Respondent”), by and through its attorneys of
3 record, Jeffery A. Bendavid, Esq., and Stephanie J. Smith, Esq., of Moran
4 Brandon Bendavid Moran and Appellants JACQUELINE FRANKLIN,
5 ASHLEIGH PARK, LILY SHEPARD, STACIE ALLEN, MICHAELA
6 DEVINE, KARINA STRELKOVA, and DANIELLE LAMAR
7 (“Appellants”, or jointly with Respondent, the “Parties”), by and through
8 their counsel of record, Michael J. Rusing, Esq. and P. Andrew Sterling of
9 Rusing Lopez & Lizardi and Ryan M. Anderson, Esq. and Kimball Jones,
10 Esq. of Morris//Anderson hereby jointly move the Court to vacate, stay, or
11 alternatively continue the oral argument currently set for September 4, 2019
12 at 1:00 p.m. in Carson City, Nevada, before the Supreme Court, *en banc*, to
13 either vacate, stay, or continue oral argument six months to March 2020, or
14 as soon thereafter as the Court’s oral argument schedule permits.
15
16
17
18
19

20 The Appellants and Respondent jointly have engaged in extensive
21 substantive negotiations, and have now reached a settlement. See
22 *Declaration of Jeffery A. Bendavid, Esq., attached hereto as Exhibit 1*.
23
24

25 Accordingly, based on the settlement of the Parties, counsel for
26 Appellant and Respondent’s have conferred, and have agreed to vacate oral
27 argument for this matter, pursuant to the settlement that has been reached.
28



MORAN BRANDON
BENDAVID MORAN
ATTORNEYS AT LAW

830 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-8688

1 As such, the Parties respectfully request that this Court vacate the oral
2 argument set for September 4, 2019.

3
4 The Parties jointly request that the appeal be stayed so that the Parties
5 have time to draft and sign a settlement agreement along with all necessary
6 attachments, which will include a motion for preliminary approval, a
7 preliminary approval order, a class notice, and other necessary pleadings.
8 After which the Parties will file joint motion for limited remand to the
9 District Court to approve and implement the settlement terms. The Parties
10 will then file a motion to dismiss appeal after deadline for individual class
11 members to appeal from the final settlement approval order. The Parties
12 believe a stay is essential to preserve judicial economy and avoid additional
13 fees and costs to the Parties in asking for additional continuances for oral
14 argument, and in light of the multiple steps which need to occur to finalize
15 and implement the terms of the settlement.

16
17 Alternatively, the Parties request that the oral argument on this matter
18 be postponed for six (6) months, to the March 2020, or as soon thereafter as
19 the Court may decide. *Id.* The Parties request this continuance in order to
20 finalize the settlement documents and required motions necessary to
21 implement such a settlement. *See Declaration of Jeffery A. Bendavid, Esq.*

22
23 The Parties only just reached a settlement, and as such this Motion
24
25
26
27
28



MORAN BRANDON
BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6668

1 was filed as soon as was practicable, and in a reasonable time prior to the
2 hearing, in light of the ongoing nature of the settlement discussions, and the
3 fact that the Parties have now reached a settlement. *Id.*
4

5 Since the oral argument is set for September 4, 2019, which is a mere
6 seven (7) days from today's date, it was necessary to request emergency or
7 expedited relief, as irreparable harm may result to both Parties' settlement
8 agreement and terms, should this matter be heard on September 4, 2019.
9

10 Accordingly, the Parties respectfully request that this Court vacate
11 oral argument, issue a stay, or alternatively postpone oral argument on this
12 matter until March 2020, or as soon thereafter as the Court's oral argument
13 schedule may permit.
14

15 DATED this 28th day of August, 2019.
16

17 **MORAN BRANDON BENDAVID MORAN**
18

19 /s/ Jeffery A. Bendavid,
20 **JEFFERY A. BENDAVID, ESQ.** (SBN:6220)
21 **STEPHANIE J. SMITH, ESQ.** (SBN:11280)
22 Nevada Bar No. 11280
23 630 South 4th Street
24 Las Vegas, Nevada 89101

25 **KAMER ZUCKER ABBOTT**
26

27 /s/ Gregory J. Kamer
28 **GREGORY J. KAMER, ESQ.** (SBN: 0270)
3000 W. Charleston Blvd., #3
Las Vegas, Nevada 89102
Attorneys for Respondent



**MORAN BRANDON
BENDAVID MORAN**
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-8868

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RUSING LOPEZ & LIZARDI

/s/ Andrew Sterling, Esq.

MICHAEL J. RUSING, ESQ.

Pro Hac Vice

P. ANDREW STERLING, ESQ.

Pro Hac Vice

6363 North Swan Road #151

Tucson, AZ 85718

MORRIS//ANDERSON

/s/ Ryan M. Anderson, Esq.

RYAN M. ANDERSON, ESQ. (SBN: 11040)

KIMBALL JONES, ESQ. (SBN:12982)

716 South Jones Blvd.

Las Vegas, NV 89107

Attorneys for Appellants



**MORAN BRANDON
BENDAUID MORAN**
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6668

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 28th day of August, 2019, I served the
3
4 foregoing RESPONDENT, RUSSELL ROAD FOOD AND BEVERAGE,
5
6 LLC'S MOTION VACATE, STAY, OR CONTINUE ORAL ARGUMENT
7
8 PURSUANT TO NRAP 34(a) upon each of the parties to this action via
9
10 electronic service through the Supreme Court of the State of Nevada File &
11
12 Serve System.

13 Dated this 28th day of August, 2019.

14 Ryan Anderson, Esq.
15 Morris Anderson Law
16 Ryan@morrisonandersonlaw.com
17 *Attorney for Appellants*

Michael J. Rusing, Esq.
Andrew Sterling, Esq.
Rusing & Lopez, P.L.L.C.
mrusing@rllaz.com
asterling@rllaz.com
Attorney for Appellants

18 /s/ Leilani Gamboa
19 An Employee of
20 MORAN BRANDON BENDAVID MORAN
21
22
23
24
25
26
27
28



MORAN BRANDON
BENDAVID MORAN
ATTORNEYS AT LAW

830 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 394-8424
FAX: (702) 394-6568

1 **JEFFERY A. BENDAVID, ESQ.**

2 Nevada Bar No. 6220

3 **STEPHANIE J. SMITH, ESQ.**

4 Nevada Bar No. 11280

5 **MORAN BRANDON BENDAVID MORAN**

6 630 South 4th Street

7 Las Vegas, Nevada 89101

8 (702) 384-8424

9 j.bendavid@moranlawfirm.com

10 **GREGORY J. KAMER, ESQ.**

11 Nevada Bar No. 0270

12 **KAITLIN H. ZIEGLER, ESQ.**

13 Nevada Bar No. 013625

14 **KAMER ZUCKER ABBOTT**

15 3000 W. Charleston Blvd., #3

16 Las Vegas, Nevada 89102

17 (702) 259-8640

18 *Attorneys for Respondent*

19 IN THE SUPREME COURT OF THE STATE OF NEVADA

20 JACQUELINE FRANKLIN,
21 ASHLEIGH PARK, LILY
22 SHEPARD, STACIE ALLEN,
23 MICHAELA DEVINE,
24 KARINA STRELKOVA, and
25 DANIELLE LAMAR,
26 individually and on behalf of a
27 class of similarly situated
28 individuals,

Appellants,

vs.

RUSSEL ROAD FOOD AND
BEVERAGE, LLC,

Respondent.

Case No. 74332

**DECLARATION OF JEFFERY
A. BENDAVID, ESQ. IN
SUPPORT OF RESPONDENT,
RUSSELL ROAD FOOD AND
BEVERAGE, LLC'S AND
APPELLANTS' JOINT
MOTION TO VACATE, STAY
OR CONTINUE ORAL
ARGUMENT PURSUANT TO
NRAP 34(a)**

**EMERGENCY MOTION
UNDER NRAP 27(e)**



MORAN BRANDON
BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 I, Jeffery A. Bendavid, Esq. being first duly sworn deposes and
2 swears, under penalty of perjury:
3

4 1. I am lead counsel for Respondent Russell Road Food and
5 Beverage, LLC ("Respondent") in the above-captioned appeal. I am a
6 partner with the law firm of Moran Brandon Bendavid Moran, counsel of
7 record for Respondent, and I have personal knowledge, and/or I am informed
8 and in good faith believe, the facts and statements set forth herein, and could
9 and would testify to such if called upon to do so.
10
11

12 2. Oral argument is currently set for September 4, 2019 at 1:00
13 p.m. in Carson City, Nevada before the Nevada Supreme Court *en banc*,
14 which is only seven (7) days away from today's date.
15

16 3. Since the previous order setting the presently scheduled oral
17 argument, I have been engaged in substantive settlement negotiations with
18 Appellants' counsel, Andrew Sterling, Esq. and Mick Rusing, Esq.
19

20 4. We have now reached a settlement in this matter, and need to
21 formally document and finalize the many terms of the settlement, and as
22 such, we have agreed to request jointly that the Court vacate oral argument
23 pursuant to the settlement, issue a stay of the oral argument and appeal, or
24 alternatively, continue oral argument on the above-captioned matter to
25
26
27
28



MORAN BRANDON
BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 March 2020, or as soon thereafter as the Court's oral argument schedule
2 permits.
3

4 5. We are jointly requesting this continuance in order to prepare
5 and finalize all settlement documents, motions, and notice(s), and the many
6 terms that will be involved in structuring and implementing the settlement.
7

8 6. This motion to continue has been brought reasonably in
9 advance of the date fixed for hearing which is September 4, 2019, in
10 accordance with NRAP 34 (a), in light of the fact the parties have been
11 previously engaged in ongoing negotiations and have now reached a
12 settlement.
13

14
15 I DECLARE UNDER PENALTY OF PERJURY THAT THE
16 FOREGOING IS TRUE AND CORRECT.
17

18 Executed this 28th day of August, 2019.

19
20
21 
22 JEREMY A. BENDAUID, ESQ.
23
24
25
26
27
28



MORAN BRANDON
BENDAUID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 **JEFFERY A. BENDAVID, ESQ.**

2 Nevada Bar No. 6220

3 **STEPHANIE J. SMITH, ESQ.**

4 Nevada Bar No. 11280

5 **MORAN BRANDON BENDAVID MORAN**

6 630 South 4th Street

7 Las Vegas, Nevada 89101

8 (702) 384-8424

9 j.bendavid@moranlawfirm.com

10 **GREGORY J. KAMER, ESQ.**

11 Nevada Bar No. 0270

12 **KAITLIN H. ZIEGLER, ESQ.**

13 Nevada Bar No. 013625

14 **KAMER ZUCKER ABBOTT**

15 3000 W. Charleston Blvd., #3

16 Las Vegas, Nevada 89102

17 (702) 259-8640

18 *Attorneys for Respondent*

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

20 JACQUELINE FRANKLIN,
21 ASHLEIGH PARK, LILY
22 SHEPARD, STACIE ALLEN,
23 MICHAELA DEVINE,
24 KARINA STRELKOVA, and
25 DANIELLE LAMAR,
26 individually and on behalf of a
27 class of similarly situated
28 individuals,

Appellants,

vs.

RUSSELL ROAD FOOD AND
BEVERAGE, LLC,

Respondent.

Case No. 74332

NRAP 27(e) CERTIFICATE



MORAN BRANDON
BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 **NRAP 27(e)(3)(A):**

2 **Counsel for all Appellants**

3 **MORRIS//ANDERSON**

4 **RYAN M. ANDERSON, ESQ.**

5 Nevada Bar No.11040

6 716 South Jones Blvd.

7 Las Vegas, NV 89107

8 (702) 800-5506

9 **RUSING LOPEZ & LIZARDI**

10 **MICHAEL J. RUSING, ESQ.**

11 *Pro Hac Vice*

12 **P. ANDREW STERLING, ESQ.**

13 *Pro Hac Vice*

14 6363 North Swan Road #151

15 Tucson, AZ 85718

16 (520) 792-4800

17 **NRAP 27(e)(3)(B):**

18 The Parties have been engaged in extensive substantive settlement
19 negotiations, and have now reached a settlement of this matter. The Parties
20 only just reached this settlement, and they now need additional time to
21 finalize documents, structure the settlement, and prepare the requisite
22 motions to accompany the settlement and fully implement it.
23

24 Accordingly, an emergency continuance is requested so as not to
25 derail the settlement or to force the Parties to argue this matter and expend
26 additional fees while finalizing and implementing the settlement, since there
27
28



MORAN BRANDON
BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568

1 are only seven (7) days until this matter is set for oral argument, which will
2 involve travel for both Parties' counsel and their extensive preparation.

3
4 Additionally, the Parties wish to vacate, stay or continue this oral
5 argument in the interests of judicial economy as no oral argument will be
6 needed in light of the settlement. This motion to continue has been brought
7 reasonably in advance of the date fixed for hearing which is September 4,
8 2019 at 1:00 p.m. in accordance with NRAP 34 (a).

9
10
11 **NRAP 27(e)(3)(C):**

12 Counsel for the Respondent and the Appellants are in agreement
13 regarding the request to vacate, stay, or alternatively continue oral
14 argument, and as such have been notified prior to and concurrent with filing
15 this Motion via the Court's electronic service and filing system.
16

17
18 DATED this 28th day of August, 2019.
19

20
21 /s/Jeffery A. Bendavid, Esq.
22 JEFFERY A. BENDAVID, ESQ.
23
24
25
26
27
28



MORAN BRANDON
BENDAVID MORAN
ATTORNEYS AT LAW

630 SOUTH 4TH STREET
LAS VEGAS, NEVADA 89101
PHONE: (702) 384-8424
FAX: (702) 384-6568