

In the Supreme Court of Nevada

CLARK COUNTY SCHOOL DISTRICT,
Appellant,

vs.

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

Respondents.

Electronically Filed
Dec 17 2018 09:19 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

**REPLY IN SUPPORT OF “MOTION FOR
EXTENSION OF TIME TO FILE REPLY BRIEF”**

Recognizing the extraordinary nature of the request, counsel for defendant-appellant Clark County School District moved in good faith for a final extension on the reply brief. Plaintiffs-respondents respond that the motion is late and accuse CCSD’s counsel of leaving the justifications for an extension “unspecified.” (Response 1, 3.) The motion, however, is timely, and there is good cause to grant it.

1. The Motion is Timely

Contrary to respondents’ representations, CCSD’s motion for extension is timely. As NRAP 31(b)(3) permits, the motion was electronically submitted on the due date, December 5, and processed the next morning by the court clerk. *See* NEFCR 8(d) (“Any document electroni-

cally submitted for filing by 11:59 p.m. at the court's local time shall be deemed to be filed on that date, so long as it is accepted by the clerk upon review.”).

2. The Family and Medical Complications are Genuine and Severe

Mr. Smith had primary responsibility for finalizing the draft of the reply brief but was unable due to unforeseeable family and medical complications. While Mr. Smith is reluctant to divulge the details of his family and personal ills, respondents' brief in opposition requests this additional detail.

First, Mr. Smith's family pet died. While different people have different relationships toward their pets, in our home pets are members of the family. The loss was especially difficult because it followed drawn-out, excruciating, and ultimately unsuccessful attempts to treat the pet—treatment that took time away from the preparation of the reply. Mr. Smith would be happy to provide treatment records and documentation of the animal's death, if requested.

Second, although respondents are correct that “the divorce of a family member [did not] suddenly occur on the date the Reply Brief was due” (Response 3), Mr. Smith until recently was unaware of the degree

to which his sister's living situation had deteriorated in the aftermath. These out-of-state visits have been critical but have taken away from the finalization of the brief.

Third, Mr. Smith, his wife, and his 2-year-old daughter each took turns with a cold or flu. While not every illness is extreme, this one was severe enough that Mr. Smith had to cancel plans to attend the Legal Aid Center of Southern Nevada's annual "Pro Bono Award Luncheon," at which he and Mr. Polsenberg were honored. (These illnesses also exacerbated the difficulties of attending to the ailing pet.)*

3. The Request is Reasonable in Light of the Complexity of the Issues

Although CCSD plans to file the reply as soon as is practicable, an extension through January 4, 2019 is reasonable. The questions of lia-

* Respondents also press for more information about the trial into which CCSD's counsel was brought. (Response 3.) *Richardson v. Mandalay Corp.*, Case No. A-17-750846-C (Clark County Dist. Ct.), was a case involving a temporary archway that toppled onto a passerby, in which plaintiffs were seeking more than \$60 million in damages. As CCSD's appellate counsel specialize in appeals, they were not notified of this case until just before trial, when they entered an appearance (on October 15, 2018), helped prepare an emergency petition to persuade the trial judge to reverse a critical pretrial ruling, and assisted during the trial on preserving issues for appeal, preparing bench briefs and motions, and arguing jury instructions.

bility under 42 U.S.C. § 1983 for a “state-created danger” and under Title IX of the Education Amendments of 1972 are exceptionally complex issues of federal law that are rarely brought to the Nevada Supreme Court. Phrases such as “deliberate indifference” or “on the basis of sex” have specialized meanings in this context that require careful parsing. The parties disagree sharply on the content of this federal law and the jurisprudence that shapes it, and the briefs accordingly require somewhat more context than would an issue of Nevada law that more frequently haunts this Court’s dockets.

We understand the extraordinary nature of a request for extension. The extraordinary circumstances here warrant it.

Dated this 14th day of December, 2018.

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CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2018, I submitted the foregoing “Reply in Support of ‘Motion for Extension of Time to File Reply Brief’” for filing *via* the Court’s eFlex electronic filing system. Electronic notification will be sent to the following:

ALLEN LICHTENSTEIN
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I further certify that a copy of this document was mailed, postage prepaid, at Las Vegas, Nevada, to the following:

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/s/ Adam Crawford
An Employee of Lewis Roca Rothgerber Christie LLP