

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY OFFICE OF THE
CORONER/MEDICAL EXAMINER,

Appellant,

vs.

LAS VEGAS REVIEW-JOURNAL,

Respondent.

CLARK COUNTY OFFICE OF THE
CORONER/MEDICAL EXAMINER,

Appellant,

vs.

LAS VEGAS REVIEW-JOURNAL,

Respondent.

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Case Nos.: 74604/75095
Elizabeth A. Brown
Clerk of Supreme Court

Appeal from the Eighth Judicial
District Court, the Honorable
Jim Crockett Presiding

APPELLANT'S MOTION TO
POSTPONE ORAL
ARGUMENT HEARING
DATE AND ALLOW
LONGER ARGUMENT
TIME

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APPELLANT’S MOTION TO POSTPONE ORAL ARGUMENT HEARING
DATE AND ALLOW LONGER ARGUMENT TIME

Pursuant to NRAP 34(a), Appellant, Clark County Office of the Coroner/Medical Examiner (“Coroner”), hereby moves this Court to postpone the en banc oral argument hearing, currently scheduled for June 3, 2019, at 2:30 p.m. in Las Vegas until the next available hearing date for en banc oral arguments. Pursuant to NRAP 34(b), the Coroner also moves this Court to allow a longer argument time. The oral argument hearing is currently set for 15 minutes per side (a total of 30 minutes) for both consolidated appeals. The Coroner respectfully requests that this argument time be doubled to allow for 30 minutes per side (a total of 60 minutes), or alternatively, 20 minutes per side (a total of 40 minutes).

On May 1, 2019, the Court issued an order setting the date for en banc oral argument in these two appeals consolidated for the purpose of argument only. At the time this notice was filed, lead appellate counsel for the Coroner, Micah Echols, was involved in a three-week jury trial in the Eighth Judicial District Court that has since resolved. *See Fritz v. Technogym USA Corp.*, Case No. A-14-709325-C. Mr. Echols has now had the opportunity to briefly confer with the Coroner, John Fudenberg, and files this motion to postpone the current oral argument hearing date “reasonably in advance of the date fixed for hearing” (NRAP 34(a)), and to allow longer argument time “reasonably in advance of the

date fixed for the argument. . . .” NRAP 34(b). Good cause exists for the Court to both postpone the date of the oral argument hearing and allow a longer argument time.

Mr. Fudenberg is a paid lobbyist for Clark County and is temporarily residing in Carson City for Nevada’s current 80th Legislative Session.¹ The current Legislative Session is expected to end on June 3, 2019, which is the same day as the current en banc oral argument hearing.² Because of the critical events leading up to the end of the current Legislative Session, Mr. Fudenberg is not available to meet with counsel prior to the end of the Legislative Session, and would not be able to attend the current oral argument hearing. Mr. Fudenberg’s input into the Coroner’s strategy and position for the oral argument hearing is necessary, as his input bears upon the policies and procedures of the Coroner’s Office, which is relevant to the issues in these consolidated appeals.

¹ <https://www.leg.state.nv.us/Lobbyist/80th2019/Lobbyist?lobbyist-grid-pageSize=10&lobbyist-grid-page=36> (last visited May 8, 2019).

² https://www.leg.state.nv.us/Session/80th2019/Docs/120-day_calendar.pdf (last visited May 8, 2019).

Mr. Echols and his family³ have also been active in supporting SB 200⁴ and SB 203.⁵ Both bills are proceeding through the legislative process, yet it is unclear when additional testimony or information might need to be provided on a moment's notice to secure the passage of these two bills.⁶ Therefore, there is good

³ https://www.fox5vegas.com/news/proposed-bill-could-expand-resources-for-blind-and-deaf-children/video_f45f4f83-7207-5128-819e-4b5e35bc5006.html?utm_medium=social&utm_source=facebook&utm_campaign=user-share (last visited May 8, 2019).

⁴ AN ACT relating to health care; requiring certain health insurance policies, health care plans and benefit plans and contracts to include coverage for certain services, devices, accessories and supplies relating to hearing devices for certain persons; and providing other matters properly relating thereto.

⁵ AN ACT relating to persons with disabilities; authorizing the establishment of a program to negotiate discounts and rebates for hearing devices and related costs for children who are deaf or hard of hearing; requiring the establishment of a program to provide hearing aids at no charge to certain children who reside in low-income households; providing for the establishment of criteria for evaluating the development of language and literacy skills by certain young children who are deaf, hard of hearing, blind, visually impaired or both deaf and blind; requiring the Department of Education to develop a resource for parents or guardians to measure the development of such skills by such children; requiring a team developing certain plans and programs for such children to use the established criteria to measure the development of such skills by such children; requiring the Department to publish an annual report concerning the development of such skills by such children; providing for an interim study of the feasibility of establishing a public school for pupils who are blind, visually impaired, deaf or hard of hearing; and providing other matters properly relating thereto.

⁶ <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6344/Overview>; <https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6347/Overview> (last visited (May 8, 2019).

cause for this Court to postpone the oral argument hearing, currently scheduled for June 3, 2019, at 2:30 p.m. in Las Vegas until the next available hearing date for en banc oral arguments.

In its May 1, 2019 order, the Court consolidated these two appeals for purposes of oral argument, and limited the total time to 30 minutes. Each appeal presents unique issues of first impression regarding statutory interpretation. Among other issues, Case No. 74604 addresses the interplay between NRS Chapter 239, the Nevada Public Records Act (“NPRA”), and NRS 432B.407 (Information available to child death review teams; sharing of certain information; subpoena to obtain information; confidentiality of information). Similarly, Case No. 75095 addresses, among other issues, the interplay between NRS 239.011(2) and NRS 239.012, which focus upon the circumstances when a requester may recover attorney fees and costs in an NPRA case. As such, the NRAP 34(b) standard for a longer argument time is satisfied in light of the weighty issues in both appeals. Based upon this good cause, the Coroner respectfully requests that this argument time be doubled to allow for 30 minutes per side (a total of 60 minutes), or alternatively, 20 minutes per side (a total of 40 minutes).

In summary, the Coroner moves this Court to postpone the current June 3, 2019, oral argument hearing date to the next available en banc oral argument

hearing date. The Coroner also moves this Court to allow for a longer argument time from a total of 30 minutes to 60 minutes, or alternatively, 40 minutes.

Dated this 8th day of May, 2019.

MARQUIS AURBACH COFFING

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **APPELLANT’S MOTION TO POSTPONE ORAL ARGUMENT HEARING DATE AND ALLOW LONGER ARGUMENT TIME** was filed electronically with the Nevada Supreme Court on the 8th day of May, 2019. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Margaret A. McLetchie, Esq.
Alina M. Shell, Esq.
Kristen Gallagher, Esq.

/s/ Cally Hatfield
Cally Hatfield, an employee of
Marquis Aurbach Coffing