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Elizabeth A. Brown  
Clerk of Supreme Court

5 **SUPREME COURT OF NEVADA**

6  
7 Tae-Si Kim as an individual; and Jin-Sung,  
as an individual.

SUPREME COURT CASE NO.  
74803

8 Appellants,

DISTRICT COURT CASE NO.  
A-756785

9 v.

10 Dickinson Wright, PLLC, a Nevada  
11 Professional Limited Liability Company;  
Jodi Donetta Lowry, Esq. an Individual;  
12 Jonathan M.A. Salls, Esq., an Individual;  
13 Eric Dobberstein, Esq., an Individual; and  
Michael G. Vartanian Esq., an Individual

14 Respondents.

15  
16 **APPELLANTS' MOTION TO ALLOW LATE FILING OF OPENING BRIEF AND**  
17 **APPENDIX**

18 Now comes Appellants by and through their counsel of record Brandon L. Phillips, Esq.  
19 of the law firm BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC, and hereby files their  
20 Motion for an Order Allowing Filing of Opening Brief . This Motion is based on the  
21 memorandum of facts, legal authority, the Declaration of Brandon L. Phillips, Esq., and any  
22 exhibits attached hereto.

23 Dated this 7<sup>th</sup> day of May, 2018.

24 BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC

25 /s/ Brandon L. Phillips  
26 Brandon L. Phillips, Esq.  
*Attorney for Appellants*

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2 I. FACTUAL BACKGROUND

3 On December 20, 2017, Appellants filed their Notice of Appeal, appealing the decision  
4 issued by the District Court granting Respondents' Motion to Dismiss  
5

6 On December 28, 2107, Appellants timely filed their Case Appeal Statement with the  
7 District Court.

8 Previously this Court granted Appellants' telephonic request to extend the date of filing  
9 the Appellants' Opening Brief until May 23, 2018. Due to the sudden death of a close friend and  
10 colleague, counsel has spent much time handling the effects of this death and personal matters of  
11 the decedent in addition to his regular case load. For these reasons, counsel submitted to this  
12 Court a Motion to Extend time for Service on May 23, 2018. This Motion was granted on June 4,  
13 2018, allowing counsel until June 6, 2018 in which to file the Opening Brief and Appendix.  
14

15 On June 4, 2018, the office of Brandon L. Phillips, Attorney at Law, PLLC experienced a  
16 system wide network failure, preventing the access and viewing of all client files contained  
17 within the network, preventing internet access, and preventing scanned documents to be sent  
18 destination folders. After nearly four hours, a local company, Computer Repair Specialists of  
19 Nevada was able to repair the network failure. This delay caused the loss of nearly half a day of  
20 much needed time to comply with all pending deadlines of the firm.  
21

22 On June 6, 2018, after diligently working throughout the day to comply with Court  
23 deadlines and completing the Opening Brief and Appendix, counsel had finished preparing the  
24 Opening Brief and was working to complete the Appendix when the office network experienced  
25 another failure. As this occurred after normal business hours, counsel was unable to reach a a  
26 computer repair company that could take make an emergency repair. After repeated attempts to  
27 repair the problem without assistance, counsel finally decided to try to reset the network modem  
28

1 which is housed in the electrical room of the office building, restarting the entire network. After  
2 all devices on the network were rebooted, the system was up and running again. Unfortunately  
3 the system did not come back online until after midnight on June 7, 2018. Counsel filed the  
4 Opening Brief at 12:48am on June 7, 2018. The Appendix was not filed until 9:11am on June 7,  
5 2018. All filings were rejected on June 7, 2018 between 11:54am and 12:20pm.  
6

7 NRAP 26(b)(1)(A) provides that "For good cause, the court may extend the time  
8 prescribed by these Rules or by its order to perform any act, or may permit an act to be done  
9 after that time expires. Counsel diligently made good faith efforts to timely file the Opening  
10 Brief and Appendix, but for reasons beyond his control was unable to do so. Counsel has the  
11 Opening Brief prepared and ready for filing  
12

## 13 II. CONCLUSION

14 Based on the foregoing, Appellant hereby pray this Court allow the late filing of the  
15 Opening Brief and Appendix.  
16

17 Dated this 7<sup>th</sup> day of June, 2018.

18 **BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC**

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20 Brandon L. Phillips, Esq.  
21 *Attorney for Appellants*  
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1 **DECLARATION OF BRANDON L. PHILLIPS, ESQ. IN SUPPORT OF APPELLANTS'**  
2 **MOTION FOR AN EXTENSION OF TIME**

3 I, Brandon L. Phillips, hereby declare under penalty of perjury that the following  
4 statements are true and accurate to the best of my knowledge.

- 5 1. I, Brandon L. Phillips, am over the age of 18 and competent to testify to the  
6 statements made below.  
7  
8 2. That due to the unexpected circumstances of the death of a client/friend, Nevada  
9 attorney, the Firm has had to take on additional cases, and work with the Court and  
10 State Bar to obtain certain client files.  
11  
12 3. That the office of Brandon L. Phillips, Attorney at Law, PLLC has experienced two  
13 total network failures, one on June 4, 2018, and on June 6, 2018.  
14  
15 4. This network failure caused serious delays in completing work and meeting  
16 deadlines.  
17  
18 5. That there was no intent to delay this matter or any of the required filings.  
19  
20 6. Counsel respectfully requests that this Court, grant the Motion and allow for the  
21 immediate filing of said documents.

22 DECLARANT FURTHER SAYETH NAUGHT.

23 Dated this 7<sup>th</sup> day of June, 2018.

24 **BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC**

25 

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