

1  
2 **IN THE SUPREME COURT OF THE STATE OF NEVADA**  
3 **OFFICE OF THE CLERK**

4  
5 TAE-SI KIM, AN INDIVIDUAL; AND )  
6 JIN-SUNG HONG, AN INDIVIDUAL, )

7 Appellants, )

8 v. )

9 GIBSON LOWRY BURRIS, LLP, (NOW )  
10 KNOWN AS GIBSON LOWRY, LLP), A )  
11 NEVADA LIMITED LIABILITY )  
12 PARTNERSHIP; DICKINSON )  
13 WRIGHT, PLLC, A NEVADA )  
14 PROFESSIONAL LIMITED LIABILITY )  
15 COMPANY; STEVE A. GIBSON, ESQ., )  
16 AN INDIVIDUAL; JODI DONETTA )  
17 LOWRY, ESQ., AN INDIVIDUAL; )  
18 JONATHAN M.A. SALLS, ESQ., AN )  
19 INDIVIDUAL; ERIC DOBBERSTEIN, )  
20 ESQ., AN INDIVIDUAL; AND )  
21 MICHAEL G. VARTANIAN, ESQ., AN )  
22 INDIVIDUAL, )

23 Respondents. )

Electronically Filed  
Jun 14, 2018 04:18 pm.  
Supreme Court No. 74803  
District Court Case No. A756785  
Elizabeth A. Brown  
Clerk of Supreme Court

24 **OPPOSITION TO**  
25 **APPELLANTS' MOTION TO**  
26 **ALLOW LATE FILING OF**  
27 **OPENING BRIEF AND**  
28 **APPENDIX**

29 Respondents, by and through their counsel of record, hereby  
30 file this opposition to Appellants' Motion to Allow Late Filing of Opening  
31 Brief and Appendix.

32 **I. ARGUMENT**

33 On December 20, 2017, Appellants filed their Notice of Appeal,  
34 appealing the decision issued by the District Court granting Respondents'  
35 Motion to Dismiss. On December 28, 2107, Appellants filed their Case  
36 Appeal Statement with the District Court.

37 ///

1           The original deadline for Appellants' opening brief was May 9,  
2 2018. The Court granted Appellants' telephonic request to extend by one  
3 week the deadline for Appellants' Opening Brief on May 10, 2018 and  
4 extended the deadline until May 23, 2018. Respondents did not oppose  
5 Appellants' requested extension, which was based "on a family emergency  
6 [that] occurred over the weekend" involving "Appellants' counsel's mother,  
7 who was from out-of-state visiting and had to be admitted to Desert  
8 Springs Hospital."

9           Appellants then filed a Motion to Extend time for filing of  
10 Appellants' Opening Brief on May 23, 2018. This time, the extension was  
11 based on "unexpected events effecting the Law Firm, primarily the  
12 unexpected death of a client, also a friend and attorney in licensed [sic] in  
13 Nevada, which has resulted in the Law Firm taking on additional  
14 cases . . . ." Again, Respondents did not oppose Appellants' requested  
15 extension. The Court granted Appellants' second request for an extension  
16 of time on June 4, 2018 and gave Appellants until June 6, 2018 to file the  
17 Opening Brief and Appendix. In granting the second extension to June 6,  
18 2018, the Court cautioned that "[n]o further extensions of time shall be  
19 permitted absent demonstration of extraordinary circumstances and  
20 extreme need," that "[c]ounsel's caseload normally will not be deemed such  
21 a circumstance," and that "[f]ailure to the file opening brief and appendix  
22 may result in the imposition of sanctions."

23           Appellants did not file their opening brief and appendix as  
24 required on June 6, 2018. Nor did Appellant's counsel contact  
25 Respondents' counsel to indicate that he had any problem or impediment  
26 to filing it timely. Instead, when the deadline for filing passed without  
27 service of the opening brief or courtesy copies from Appellants,  
28 Respondents' counsel, on June 7, 2018, checked the Court's docket and

1 discovered the instant motion to allow late filing of the opening brief and  
2 appendix, this time based upon alleged "network wide" computer  
3 problems that Appellants' counsel had on June 4 and June 6.

4           The Court's June 4 order made clear that no further extensions  
5 would be given absent "a demonstration of extraordinary circumstances  
6 and extreme need." Appellants' motion fails to demonstrate "extraordinary  
7 circumstances and extreme need" because it contains no corroborating  
8 documentation. Moreover, Appellants did notify Respondents' counsel of  
9 those purported computer issues when, or soon after, they allegedly  
10 occurred. Nor did Appellants' Motion attach any proposed brief, despite  
11 representing that it was fully prepared and ready to file by June 7, 2018.  
12 Lastly, there are several "after-hours" computer repair facilities in Las  
13 Vegas that Appellants' counsel could have contacted to remotely resolve  
14 the purported issue he had on June 6.

15           For these reasons, Appellants failed to meet their burden of  
16 "demonstrating extraordinary circumstances and extreme need" to justify  
17 being allowed to late file a brief that was originally due over a month ago.  
18 *See Huckabay Props. v. NC Auto Parts*, 130 Nev. Adv. Op. 23, 311 P.3d 429,  
19 434-35 (2014) (denying motion for reconsideration of dismissal of appeal  
20 for failure to meet filing deadlines after several extensions). The instant  
21 motion should be denied and the appeal dismissed.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

## II. CONCLUSION

Based on the forgoing Appellants' Motion to Allow Late Filing of Opening Brief and Appendix should be denied and this appeal dismissed.

MORRIS LAW GROUP

By: /s/ RYAN M. LOWER

Steve Morris, NV Bar No. 1543  
Ryan M. Lower, NV Bar No. 9108  
411 E. Bonneville Ave., Ste. 360  
Las Vegas, Nevada 89101

Attorneys for Defendants  
Dickinson Wright, PLLC  
Jodi Donetta Lowry, Jonathan M.A.  
Salls, Eric Dobberstein, and  
Michael G. Vartanian

**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. App. P. 25(b) and NEFR 9(f), I hereby certify that I am an employee of Morris Law Group; that on this date I electronically filed the foregoing **OPPOSITION TO APPELLANTS' MOTION TO ALLOW LATE FILING OF OPENING BRIEF AND APPENDIX**, with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (Eflex). Participants in the case who are registered with Eflex as users will be served by the Eflex system as follows

TO:

Brandon L. Phillips, NV Bar No. 12264  
BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC  
1455 E. Tropicana Ave., Suite 750  
Las Vegas, Nevada 89169  
blb@abetterlegalpractice.com

Attorneys for Plaintiffs

DATED this 14TH day of June, 2018.

By: /s/ JUDY ESTRADA  
An employee of Morris Law Group