

IN THE SUPREME COURT OF THE STATE OF NEVADA

FIELDEN HANSON ISAACS MIYADA
ROBISON YEH, LTD.,

Appellant,

v.

DEVIN CHERN TANG, M.D., SUN
ANESTHESIA SOLUTIONS, a Nevada
Corporation, DOE Defendants I-X

Respondents.

Supreme Court No. 78358

Electronically Filed
District Court No. A-18-78358-2
Feb 03 2020 02:25 p.m.

Elizabeth A. Brown

Clerk of the Supreme Court

**APPELLANT'S LIMITED
OPPOSITION TO MOTION TO
EXTEND TIME TO FILE
ANSWERING BRIEF**

Appellant Fielden Hanson Isaacs Miyada Robison Yeh, Ltd. ("Fielden Hanson"), by and through its counsel, the law firm of Dickinson Wright PLLC, hereby files its limited opposition to Respondents Devin Chern Tang, M.D. and Sun Anesthesia Solutions' (collectively "Respondents") Motion to Extend Time to File Answering Brief (the "Motion").

MEMORANDUM OF POINTS AND AUTHORITIES

Respondents seek to extend their deadline to file an answering brief because: (1) the case involves two complex legal issues and (2) their counsel's attention has been diverted to other work. While Fielden Hanson understands that schedules get

busy and other deadlines exist, neither of these excuses forms a valid basis for an additional thirty day extension of their deadline to file an answering brief.¹

First, although the legal issues in this appeal (the “Legal Issues”) are novel for this Court’s decision, they are not novel to counsel in this case who have extensively briefed the Legal Issues in two separate cases. Counsel for the parties initially briefed the Legal Issues in the context of motions for preliminary injunction in both this case and in *Fielden Hanson v. Duong et al.*, Case No. A-19-789110-B. After Judge Williams denied Fielden Hanson’s motion for preliminary injunction in this case, the parties further briefed the Legal Issues when Fielden Hanson filed its motion for reconsideration. As part of the reconsideration process, Judge Williams requested that the parties submit further supplemental briefing on the Legal Issues.

Similarly, after Judge Denton granted, in part, Fielden Hanson’s motion for preliminary injunction in *Duong*, the parties once again briefed the Legal Issues as part of the Duongs’ Motion for Reconsideration and separate Motion to Alter/Amend the Judgment. As a result of this extensive history, Respondents’ counsel is well-versed in the Legal Issues and should not require seventy-five days to file an answering brief in this matter.

¹ Respondents assert that this is their first request for an extension of time to file an answering brief, but it is their second request because they already received a fourteen day extension. *See* NRAP 31(b)(3)(A)(ii).

Additionally, because the Legal Issues impact this State's public policy and its working citizens, any further delay will needlessly extend the period in which this State's employers and employees lack guidance as to the applicability of NRS 613.195 to non-competition clauses. This delay is especially detrimental to Fielden Hanson in this matter where Judge Williams' ruling has emboldened Respondents to continue causing Fielden Hanson to suffer irreparable harm through their ongoing performance of anesthesia and pain management services at medical facilities in violation of the parties' non-competition agreement.

Lastly, Respondents' counsel's proffered excuse regarding another case having diverted their attention does not qualify as an "extraordinary and compelling circumstance" necessary to obtain a second extension. *See* NRAP 26(b)(1)(B). Respondents note that they had briefed thirty motions in limine which preoccupied them from working on the instant appeal. What Respondents fail to mention, however, is that they filed the opposition briefs for half of these motions within three days of Fielden Hanson filing its opening brief and then filed reply briefs for the other half of the motions on January 20, 2020.

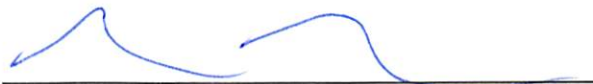
Furthermore, and perhaps more importantly, Respondents offer this Court no explanation as to why they require an additional thirty days beyond the already granted fourteen day extension to file the answering brief in this matter. As Respondents' counsel notes, he will have availability to work on the answering brief

beginning on January 29, 2020. As a result, there is no extraordinary or compelling reason why Respondents need an additional thirty days from the present deadline to file their answering brief.

Accordingly, while Fielden Hanson does not object to Respondents being provided a second extension of time to file their answering brief, to balance all interests, Fielden Hansen respectfully requests that the Court limit any extension to no later than February 12, 2020, which equates to a thirty day extension from the original deadline for the answering brief.

Respectfully submitted this 31 day of February, 2020.

DICKINSON WRIGHT PLLC

A handwritten signature in blue ink, appearing to read "Michael N. Feder", is written over a horizontal line.

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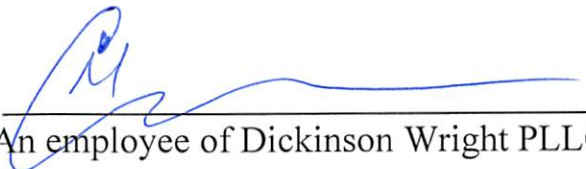
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Counsel of Record for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of February 2020, I submitted the foregoing **APPELLANT'S LIMITED OPPOSITION TO MOTION TO EXTEND TIME TO FILE ANSWERING BRIEF** for filing via the Court's eFlex electronic filing system.



An employee of Dickinson Wright PLLC