

IN THE SUPREME COURT OF THE STATE OF NEVADA

REPUBLIC SILVER STATE DISPOSAL, INC., A
NEVADA CORPORATION,

Appellant,

vs.

ANDREW M. CASH, M.D.; ANDREW M. CASH,
M.D., P.C., A/K/A ANDREW MILLER CASH,
M.D., P.C.; AND DESERT INSTITUTE OF
SPINE CARE, LLC, A NEVADA LIMITED
LIABILITY COMPANY,

Respondents.

Supreme Court No. 78572

District Court Case No. A738123

Electronically Filed
Dec 16 2019 11:37 a.m.

APPELLANT REPUBLIC SILVER
STATE DISPOSAL, INC. vs. ANDREW M. CASH, M.D.; ANDREW M. CASH, M.D., P.C.; A/K/A ANDREW MILLER CASH, M.D., P.C.; AND DESERT INSTITUTE OF SPINE CARE, LLC, A NEVADA LIMITED LIABILITY COMPANY
TO EXTEND TIME TO SUBMIT
OPENING BRIEF AND APPENDIX
(THIRD REQUEST)

Appellant, REPUBLIC SILVER STATE DISPOSAL, INC. hereby moves this Court for an Order extending the time for Appellant to file its Opening Brief and Appendix by 3 weeks pursuant to Rule 31(b)(3) of the Nevada Rules of Appellant Procedure. This is Appellant's third requested extension of time to file its Opening Brief. The Court previously approved a first and second request, each made by stipulation, extending the time for filing Appellant's Opening Brief and Appendix until December 16, 2019. Accordingly, no prior requests have been denied or denied in part.

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1 This Motion is supported by the attached Memorandum of Points and Authorities
2 as well as the records, pleadings, and papers on file herein and any other evidence and
3 oral argument this Court may entertain at the hearing of this Motion.

4 DATED this 16th day of December, 2019.

5 BARRON & PRUITT, LLP

6 
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17 *Attorneys for Appellant Republic Silver*
18 *State Disposal, Inc.*

19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 **I. PREFATORY STATEMENT/STATEMENT OF FACTS**

21 Appellant filed its Notice of Appeal with the district court on April 10, 2019 and
22 with the Supreme Court of Nevada on April 15, 2019. On April 15, 2019, the Supreme
23 Court of Nevada referred the case to the Settlement Program. Thereafter, the parties
24 participated in an in-person settlement conference on July 12, 2019, but were unable to
25 achieve settlement.

26 A subsequent settlement program status report was filed on July 17, 2019. The
27 Settlement Program judge notified this Court of the unsuccessful conference and this
28 Court ordered on July 18, 2019 that Appellant's Opening Brief and Appendix were due
90 days thereafter, on October 16, 2019.

On October 15, 2019, Appellant filed a stipulation to extend time to submit
opening brief and appendix. The Court approved the order and extended the time for
filing Appellants' Opening Brief and Appendix until November 16, 2019. On

1 November 12, 2019, Appellant filed a stipulation to extend time to submit opening brief
2 and appendix (second request). The Court approved the order and extended the time
3 for filing Appellants' Opening Brief and Appendix until December 16, 2019. To date,
4 no previous request for extension of time has been denied or denied in part.

5 Despite the best efforts of Appellant's counsel, Appellant requires additional
6 time to file its Opening Brief and Appendix, and requests an extension of 3 weeks—
7 until Monday, January 6, 2020—to do so. Due to illness, Appellant's counsel, David
8 Barron, Esq., is unable to complete the opening brief and appendix today as planned.
9 A short extension is requested on his behalf to allow Mr. Barron to recover from his
10 illness and to allow for the vacation time he has planned with his family for the
11 upcoming holidays.

12 Accordingly, Appellant respectfully requests a 3 week extension of time—until
13 Monday, January 6, 2020—to file its Opening Brief and Appendix.

14 **II. LEGAL ARGUMENT**

15 Pursuant to NRAP 26(b)(1), the Court may upon motion enlarge the time
16 prescribed "to perform any act" by its order on a showing of good cause. NRAP
17 31(b), the rule governing extensions of time for filing briefs requires that the request
18 be made no later than the due date of the brief.

19 Here, Appellant's Opening Brief and Appendix must be filed by Monday,
20 December 16, 2019. However, Appellant is unable to meet that deadline and good
21 cause exists for granting a 3 week extension. Specifically:

- 22 1. An illness has interfered with time set aside for counsel for Appellant to
23 prepare the aforementioned Opening Brief and Appendix.
- 24 2. Appellant's counsel, David Barron, will be out of state for the upcoming
25 holidays with family, which will interrupt the time he could dedicate to the
26 matter.

27 Permitting Appellant's counsel additional time to review the record—and draft
28 and revise the Opening Brief and Appendix constitutes good cause for an extension of
time under NRAP 26(b) and 31(b). Appellant does not seek this extension in bad faith

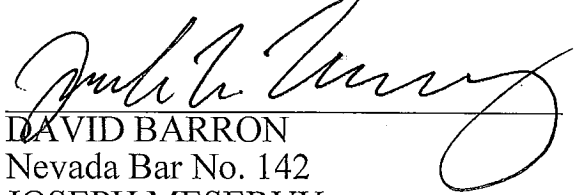
1 or to delay the proceedings. Additionally, counsel for the Appellee, Heather Hall,
2 Esq., has emailed that she has no objection to the proposed extension in light of Mr.
3 Barron's illness. On that basis, Appellant respectfully requests an extension of 3
4 weeks until Monday, January 6, 2020 to submit its Opening Brief and Appendix.

5 **III. CONCLUSION**

6 Based on the foregoing, Appellant respectfully requests that this Court extend the
7 time for Appellant to submit its Opening Brief and Appendix by 3 weeks to Monday,
8 January 6, 2020.

9 DATED this 16th day of December, 2019.

10 BARRON & PRUITT, LLP

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23 *State Disposal, Inc.*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of December, 2019, I served a copy of the foregoing **APPELLANT REPUBLIC SILVER STATE DISPOSAL, INC.'S MOTION TO EXTEND TIME TO SUBMIT OPENING BRIEF AND APPENDIX (THIRD REQUEST)** upon all counsel of record:

☐ US MAIL: by mailing it by first class mail with sufficient postage prepaid to the following address(es):

☐ BY FAX: by transmitting the document(s) listed above via facsimile transmission to the fax number(s) set forth below.

☐ BY HAND-DELIVERY: by hand-delivering the document(s) listed above to the address(es) set forth below.

☐ BY EMAIL: by emailing the document(s) listed above to the email address(es) set forth below.

X BY ELECTRONIC SERVICE: by electronically serving the document(s) listed above with the Court's electronic filing system upon the following:

Robert C. McBride, Esq.
Heather S. Hall, Esq.
CARROLL, KELLY, TROTTER, FRANZEN, McBRIDE & PEABODY
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Attorney for Respondents

/s/ MaryAnn Dillard
An Employee of BARRON & PRUITT, LLP