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Case No. 78572
Dist. Court Case No. A-78123
Mar 12 2020 09:55 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

5 DATED: March 11, 2020

CARROLL, KELLY, TROTTER,
FRANZEN & MCBRIDE

7 */s/ Heather S. Hall*

8
9 _____
10 ROBERT C. MCBRIDE, ESQ.
11 Nevada Bar No. 7082
12 HEATHER S. HALL, ESQ.
13 Nevada Bar No. 10608
14 8329 W. Sunset Road, Suite 260
15 Las Vegas, Nevada 89113
16 Telephone No. (702) 792-5855
17 Attorneys for Respondents/Cross-
18 Appellants
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1 I.

2 **INTRODUCTION**

3 Appellant filed its Notice of Appeal with the district court on April 10, 2019
4 and with the Supreme Court of Nevada on April 15, 2019. On April 15, 2019, the
5 Supreme Court of Nevada referred the case to the Settlement Program. The parties
6 participated in an in-person settlement conference on July 12, 2019. The
7 Settlement Program judge notified this Court of the unsuccessful conference and
8 this Court ordered on July 18, 2019 that Appellant's Opening Brief and Appendix
9 were due on October 16, 2019.

10 Beginning on October 15, 2019, Appellant filed a series of requests for
11 extension of time to submit its opening brief. Appellant filed a total of four
12 requests, none of which were denied or denied in part. After Appellants' Opening
13 Brief was filed on February 5, 2020 Respondents/Cross-Appellants' Answering
14 Brief was due to be filed on March 6, 2020. Due to counsels' presence in two
15 trials in the month of February, Respondents/Cross-Appellants requested one
16 telephonic extension of time on February 12, 2020. Respondents/Cross-
17 Appellants' request was granted, thus extending the due date for
18 Respondents/Cross-Appellants' Answering Brief to March 20, 2020. To date, no
19 request for extension has been denied or denied in part.

20 Despite the best efforts of Respondents/Cross-Appellants' counsel,
21 Respondents/Cross-Appellants require additional time to file its Answering Brief
22 and Appendix, and requests and extension of 30 days, until April 20, 2020, to do
23 so. This motion is unopposed by Appellant and Appellant has agreed to a 30 day
24 extension given the circumstances. Effective April 1, 2020, Carroll, Kelly, Trotter,
25 Franzen & McBride will no longer be in Las Vegas and counsel for
26 Respondents/Cross-Appellants' office will now be McBride Hall. Given the
27 transitional period for the new law firm, Respondents/Cross-Appellants' counsel is
28 facing extraordinary circumstances justifying an extension of time. A short 30 day

1 extension is requested to allow counsel to address the transitioning of law firms.

2 II.

3 LEGAL ARGUMENT

4 Pursuant to NRAP 26(b)(1), the Court may upon motion enlarge the time
5 prescribed “to perform any act” by its order on a showing of good cause. NRAP
6 31(b), the rule governing extensions of time for filing briefs, requires that the
7 request be made no later than the due date of the brief. Respondents/Cross-
8 Appellants request an extension of 30 days, through April 20, 2020, to file the
9 Answering Brief. NRAP31(b)(3). The original March 6, 2020 deadline was
10 extended by telephonic request made to this Court. Respondents/Cross-Appellants
11 have requested no other extensions. Without the requested extension, the brief
12 would be due March 20, 2020.

13 Respondents/Cross-Appellants are unable to meet the March 20, 2020
14 deadline due and good cause exists for granting a 30 day extension. The
15 transitional period as a result of Carroll, Kelly, Trotter, Franzen & McBride closing
16 its Las Vegas office and the formation of McBride Hall as the new law firm for
17 defense counsel has placed significant hardships on counsel during this transition
18 period. The transition is effective April 1, 2020 and a 30 day extension would
19 permit Respondents/Cross-Appellants’ counsel the necessary time to adjust to
20 these extraordinary circumstances and necessary, additional time to prepare the
21 appropriate substitution of counsel on or around April 1st, review the record and
22 prepare the Answering Brief. Additionally, counsel for Respondents/Cross-
23 Appellants involved in overlapping trials for two and a half weeks during the
24 month of February, which further created circumstances necessitating the brief
25 extension.

26 Respondents/Cross-Appellants do not seek this extension in bad faith or to
27 delay the proceedings. Additionally, counsel for the Appellant, Dave Barron, Esq.,
28 has advised that he has no objection to the proposed extension in light of the

1 internal transitions within the office of counsel for Respondents/Cross-Appellants.
2 On that basis, Respondents/Cross-Appellants respectfully request an extension of
3 30 days until April 20, 2020, to submit its Answering Brief and Appendix as the
4 reason for the requested extension constitutes good cause for an extension of time
5 under NRAP 26(b) and 31(b).

6 **IV.**

7 **CONCLUSION**

8 For the reasons stated herein, Respondents/Cross-Appellants respectfully
9 request an additional 30 days to submit its Answering Brief due to these
10 extraordinary circumstances.

11
12 DATED this 11th day of March, 2020.

13
14 CARROLL, KELLY, TROTTER,
15 FRANZEN & McBRIDE

16 */s/ Heather S. Hall*

17 _____
18 ROBERT C. McBRIDE, ESQ.

19 Nevada Bar No.: 7082

20 HEATHER S. HALL, ESQ.

21 Nevada Bar No.: 10608

22 8329 W. Sunset Road, Suite 260

23 Las Vegas, Nevada 89113

24 *Attorneys for Respondents/Cross-*
25 *Appellants, Andrew M. Cash, M.D.; Andrew*
26 *M. Cash, M.D., P.C. aka Andrew Miller*
27 *Cash, M.D., P.C.; & Desert Institute of*
28 *Spine Care, LLC*

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 12th day of March 2020, service of the
3 foregoing **RESPONDENTS/CROSS-APPELLANTS, ANDREW M. CASH,**
4 **M.D.; ANDREW M. CASH, M.D., P.C., aka ANDREW MILLER CASH,**
5 **M.D., P.C.; and DESERT INSTITUTE OF SPINE CARE, LLC'S MOTION**
6 **TO EXTEND TIME TO SUBMIT ANSWERING BRIEF AND APPENDIX**
7 **(SECOND REQUEST)** addressed to the following counsel of record at the
8 following address(es):

9 ☒ VIA ELECTRONIC SERVICE: by mandatory electronic service
10 (CM/ECF) system, proof of e-service attached to any copy filed with the Court; or

11 ☒ VIA U.S. MAIL: By placing a true copy thereof enclosed in a sealed
12 envelope with postage thereon fully prepaid, addressed as indicated on the service
13 list below in the United States mail at Las Vegas, Nevada;

14 ☐ VIA FACSIMILE: By causing a true copy thereof to be telecopied to
15 the number indicated on the service list below.

16 David Barron, Esq.
17 Joseph Meservy, Esq.
18 BARRON & PRUITT, LLP
19 3890 West Ann Road
20 North Las Vegas, NV 89031

21 Joel D. Henriod, Esq.
22 Daniel F. Polsenberg, Esq.
23 Abraham G. Smith, Esq.
24 LEWIS ROCA ROTHGERBER CHRISTIE LLP
25 3993 Howard Hughes Pkwy., Ste. 600
26 Las Vegas, Nevada 89169
27 *Attorneys for Appellant*

28 */s/Candace Cullina*

An employee of
CARROLL, KELLY, TROTTER
FRANZEN & McBRIDE