

IN THE SUPREME COURT OF NEVADA

MOTOR COACH INDUSTRIES, INC.,

Appellant,

vs.

KEON KHIABANI; ARIA KHIABANI,
minors, by and through their
guardian MARIE-CLAUDE RIGAUD;
SIAMAK BARIN, as executor of the
ESTATE OF KAYVAN KHIABANI, M.D.
(decedent); THE ESTATE OF KAYVAN
KHIABANI, M.D. (decedent); SIAMAK
BARIN, as executor of the ESTATE OF
KATAYOUN BARIN, DDS (decedent);
and the ESTATE OF KATAYOUN BARIN,
DDS (decedent),

Respondents.

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Elizabeth A. Brown
Clerk of Supreme Court

**RESPONDENTS' MOTION FOR EXTENSION OF TIME TO FILE
ANSWERING BRIEF (FIRST REQUEST)**

After being afforded no less than ninety additional days beyond the initial deadline, Appellant's 108-page Opening Brief was electronically filed at 8:40 p.m. on December 4, 2019. On that same date, Appellant filed a procedurally deficient Motion to Exceed Word Limit (by an additional 4,638 words). Calculating thirty days from December 4, 2019, technically would have made Respondents' Answering Brief due on January 3, 2020. *See* NRAP 31. However, on December 11, 2019, Respondents filed an Opposition to Motion to Exceed Word Limit for

Opening Brief and Countermotion to Dismiss the Appeal, which has now been fully briefed but has not yet been ruled upon.¹

A dismissal of the appeal would obviate the need for filing any answering brief, but Respondents also requested alternatively, that Appellant be required to file an amended opening brief within the 14,000 word-limit. Unless and until this Court determines whether Appellant's grossly oversized brief is permitted, there is no procedurally proper opening brief to which Respondents must answer. Thus, the technical January 3, 2020 deadline should not apply. Nevertheless, Respondents are filing the instant Motion for Extension of Time out of an abundance of caution. This is Respondents' first request for an extension and no prior extensions have been denied, in whole or in part. *See* NRAP 31(b)(A).

Pursuant to NRAP 26(b)(1)(A), good cause exists to extend the time for filing Respondents' Answering Brief for several reasons. First and foremost, Respondents' Countermotion to Dismiss the Appeal seeks dispositive relief that would end this Appeal entirely and avoid the need to file any answering brief. Additionally, even in the event this Court denies Respondents' request for dismissal,

¹ Appellant's Reply on Opposition to Motion to Exceed Word Limit and Opposition to Countermotion to Dismiss was filed on December 18, 2019. On December 26, 2019, Respondents filed their Reply in Support of Countermotion to Dismiss Appeal. Appellant moved to strike that Reply on December 27, 2019. That same day, Respondents filed their Opposition to the Motion to Strike Reply and Countermotion to Submit Five Page Reply.

Respondents have requested that Appellant be required to file an amended opening brief that is within the applicable 14,000 word limit.

Under either scenario, additional time would be required to sufficiently respond to Appellant's contentions. Considering Appellant had no less than 21 months from the time of the verdict in which to craft its exceedingly long Opening Brief, it would be unreasonable to not allow Respondents additional time as well. In the event Appellant's 108-page Opening Brief is permitted, then an extension of time is certainly warranted to allow Respondents sufficient time to meaningfully respond to the numerous contentions raised by Appellant. The fact that Appellant's Opening Brief was filed on December 4, 2019, at the virtual onset of the holiday season, demonstrates further good cause to extend time.

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CONCLUSION AND RELIEF REQUESTED

Respondents respectfully request, pursuant to NRAP 26(b)(1)(A), that their Answering Brief be due sixty days from the date of this Court's ruling on Respondents' Opposition to Motion to Exceed Word Limit for Opening Brief and Countermotion to Dismiss the Appeal. Alternatively, Respondents request that their Answering Brief be due no sooner than March 3, 2020, which is sixty-days from the filing of Appellant's 108-page Opening Brief. A sixty-day extension is warranted given the length of the Opening Brief and numerous issues raised therein.

Dated this 6th day of January, 2020.

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CERTIFICATE OF SERVICE

I certify that on January 6, 2020, I submitted the foregoing *Respondents'* *Motion for Extension of Time to File Answering Brief (First Request)*, for filing via the Court's eFlex electronic filing system. Electronic notification will be sent to the following:

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