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Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF NEVADA

SCOTT VINH DUONG, M.D., ANNIE LYNN
PENACO DUONG, M.D., DUONG
ANESTHESIA, PLLC

Case No. 79460

Appellants,

District Court No. A-19-789110-B

vs.

FIELDEN HANSON ISAACS MIYADA
ROBINSON YEH, LTD.

Respondent.

**APPELLANTS' EMERGENCY MOTION UNDER NRAP 27(e)
TO EXTEND TIME TO FILE REPLY BRIEF**

Date by Which Action is Necessary: June 9, 2020

Pursuant to NRAP 26(b)(1)(A) and 27(e), Appellants Scott Vinh Duong, M.D. and Annie Lynn Panaco Duong, M.D. and Duong Anesthesia, PLLC (together, "Appellants") respectfully move the Court, on an emergency basis, for a 30-day extension of time to file their reply brief in this matter.

Although Appellants have been working diligently on their reply brief, more time is needed to complete it. Appellants' attorney with principal drafting responsibility for the reply brief, Ryan O'Malley, recently and unexpectedly resigned from Howard & Howard Attorneys PLLC. The undersigned agreed to take over Mr. O'Malley's responsibilities.

In addition, this case involves two complex issues of first impression under Nevada Law: (1) whether a non-competition agreement is overbroad when it lacks

1 any geographic limitation; and (2) whether NRS § 613.195(5) operates retroactively
2 to modify the terms of a non-competition agreement that was executed before the
3 statute's enactment. The Court's disposition of these issues is likely to have lasting
4 implications for future litigants, particularly with respect to the retroactivity of NRS
5 § 613.195(5). These issues are important, and Appellants are briefing them fully
6 and thoroughly.

7 Although a telephonic extension was requested on May 21, 2020 and granted
8 by the Court on May 22, 2020, extending the deadline for filing and serving the
9 reply brief to June 9, 2020, Appellants' undersigned counsel, who is completely
10 brand new to this case, requires additional time to review the facts, evidence,
11 procedural history, record, and law, and to research and draft the reply brief.
12 However, due to the press of business in this and several other matters for which
13 the undersigned has primary responsibility, Appellant will not be able to meet the
14 current June 9, 2020 deadline. If granted, no further extensions will be necessary.
15 Appellants, therefore, respectfully request that the Court grant the requested
16 extension and enter an order extending the deadline for Appellants to file and serve
17 their reply brief from June 9, 2020 to **July 9, 2020**.

18 DATED this 29th day of May, 2020.

19 HOWARD & HOWARD ATTORNEYS PLLC

20
21 By: /s/Jonathan W. Fountain
22 Martin A. Little (#7067)
23 Jonathan W. Fountain (#10351)
24 3800 Howard Hughes Pkwy, #1000
25 Las Vegas, Nevada 89169
26 *Attorneys for Appellants*
27
28

NRAP 27(e) CERTIFICATE

1. I am an attorney duly licensed to practice law in the State of Nevada.

2. I am counsel for Appellants Scott Vinh Duong, M.D. and Annie Lynn Panaco Duong, M.D. and Duong Anesthesia, PLLC (together, "Appellants"). I am brand new to this case.

3. I hereby certify that I have read the foregoing Appellants' Emergency Motion Under NRAP 27(e) For Extension of Time to File Reply Brief, and the motion is not frivolous or interposed for any improper purpose.

4. The office addresses and telephone numbers of the attorneys for the parties are as follows:

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Attorneys for Appellants

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Telephone: (702) 550-4400

Attorneys for Appellees

5. The facts relating to the existence and nature of the emergency include that, Appellants' attorney with principal drafting responsibility for the reply brief, Ryan O'Malley, recently and unexpectedly resigned from Howard & Howard Attorneys PLLC. The undersigned agreed to take over Mr. O'Malley's responsibilities. Although a telephonic extension was requested on May 21, 2020 and granted by the Court on May 22, 2020, extending the deadline for filing and serving the reply brief to June 9, 2020, Appellants' undersigned counsel, who is completely brand new to this case, requires additional time to review the facts, evidence, procedural history, record, and law, and to research and draft the reply brief. However, due to the press of business in this and several other matters for which the undersigned has primary responsibility, Appellant will not be able to meet the current June 9, 2020 deadline. Accordingly, action on this motion is required by June 9, 2020 to avoid irreparable harm.

DATED this 29th day of May, 2020.

By: /s/Jonathan W. Fountain
 Martin A. Little (#7067)
 Jonathan W. Fountain (#10351)
 3800 Howard Hughes Pkwy, #1000
 Las Vegas, Nevada 89169
Attorneys for Appellants

CERTIFICATE OF SERVICE

I hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is that of Howard & Howard Attorneys PLLC, 3800 Howard Hughes Parkway, Suite 1000, Las Vegas, Nevada, 89169.

I served the foregoing **APPELLANTS' EMERGENCY MOTION PURSUANT TO NRAP 27(e) TO EXTEND TIME TO FILE REPLY BRIEF** in this action or proceeding electronically with the Clerk of the Court via the E-Flex system, which will cause this document to be served upon the following counsel of record:

Michel N. Feder (#7332)
Gabriel A. Blumberg (#12332)
DICKINSON WRIGHT PLLC
8363 West Sunset Road, Suite 200
Las Vegas, Nevada 89113
Attorneys for Appellants

I certify under penalty of perjury that the foregoing is true and correct, and that this Certificate of Service was executed by me on May, 2020 at Las Vegas, Nevada.

/s/ Jonathan W. Fountain

An Employee of HOWARD & HOWARD ATTORNEYS PLLC