

IN THE SUPREME COURT OF THE STATE OF NEVADA

CAPRIATI CONSTRUCTION
CORP., INC., a Nevada corporation,

Appellant,

vs.

BAHRAM YAHYAVI, an individual,

Respondent.

Case No. 80107
Electronically Filed
Nov 25 2020 08:20 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

CAPRIATI CONSTRUCTION
CORP., INC., a Nevada corporation,

Appellant,

vs.

BAHRAM YAHYAVI, an individual,

Respondent.

Case No. 80821

**RESPONDENT BAHRAM YAHYAVI'S MOTION TO EXCEED TYPE-
VOLUME LIMITATION FOR ANSWERING BRIEF**

Respondent Bahram Yahyavi (“Yahyavi”), by and through his counsel of record, Dennis M. Prince and Kevin T. Strong of PRINCE LAW GROUP, hereby respectfully requests leave pursuant to NRAP 28(g) and NRAP 32(a)(7)(D)(ii) to file an answering brief that exceeds the 14,000 type-volume limitation in NRAP 32(a)(7)(A)(ii). Yahyavi’s Answering Brief is

1,433 words above the type-volume limit. While Yahyavi's counsel does not typically move this Court to exceed the type-volume limitation, extenuating circumstances support Yahyavi's request.

As this Court is aware, Appellant Capriati Construction Corp., Inc. ("Capriati") was granted leave to file its Opening Brief in excess of the type-volume limitation by 1,103 words. *See* Capriati's Opening Brief, at Attorney's Certificate, ix. Capriati sets forth several factual assertions throughout its brief that Yahyavi believes are inconsistent with the underlying record. It was necessary for Yahyavi to correct these factual discrepancies, particularly given the substantial factual record before this Court. This will ensure the Court relies upon an accurate recitation of the factual record when evaluating the parties' respective arguments.

Separate and apart from the corrections regarding the factual record, the legal issues on appeal are both novel and complex. This necessarily required a more detailed discussion regarding other jurisdictions' view of these issues to assist Yahyavi with presenting his legal analysis to this Court. Yahyavi's arguments, particularly regarding the curative instruction and the attorney's fee issue, necessitated a more detailed and accurate recitation of the factual record to illustrate the absence of the trial court's abuse of discretion or other errors.

Yahyavi's counsel spent numerous hours to satisfy the 14,000 type-volume limitation. However, it is apparent that for Yahyavi to effectively articulate his legal arguments and the supporting factual bases, he must submit a brief that exceeds the type-volume limitation. Yahyavi's request to exceed the type-volume limitation by 1,433 words is not excessive when compared to the length of Capriati's Opening Brief. Although above the type-volume limitation, Yahyavi's Answering Brief sets forth his arguments in the most detailed and concise manner possible. As this is Yahyavi's only opportunity to address the issues before this Court, he respectfully requests this Court to grant his Motion.

DATED this 25th day of November, 2020

Respectfully Submitted,

PRINCE LAW GROUP

/s/ Kevin T. Strong
DENNIS M. PRINCE
Nevada Bar No. 5092
KEVIN T. STRONG
Nevada Bar No. 12107
10801 W. Charleston Boulevard
Suite 560
Las Vegas, Nevada 89135
Attorneys for Respondent
Bahram Yahyavi

STATE OF NEVADA)
) ss.:
COUNTY OF CLARK)

1. I, Kevin T. Strong, declare, under penalty of perjury, that I am an attorney duly licensed to practice law in the State of Nevada and an attorney with Prince Law Group, counsel for Respondent Bahram Yahyavi (“Yahyavi”).

2. Yahyavi moves this Court to exceed the type-volume limitation for his Answering Brief pursuant to NRAP 28(g) and NRAP 32(a)(7)(D)(ii). I believe good cause and diligence supports Yahyavi's request.

3. In response to Capriati's Opening Brief, which is 15,103 words, Yahyavi requests to submit an answering brief that contains 15,433 words.

4. Capriati sets forth several factual assertions throughout its brief that Yahyavi believes are inconsistent with the underlying record. It was necessary for Yahyavi to correct these factual discrepancies, particularly given the substantial factual record before this Court. I believe this will ensure the Court relies upon an accurate recitation of the factual record when evaluating the parties' respective arguments.

5. The legal issues on appeal are both novel and complex, which necessarily required a more detailed discussion regarding other jurisdictions' view of these issues to assist Yahyavi with presenting his legal analysis to this Court.

6. Yahyavi's arguments, particularly regarding the curative instruction and the attorney's fee issue, necessitated a more detailed and accurate recitation of the factual record to illustrate the absence of the trial court's abuse of discretion or other errors.

7. Attorney Dennis Prince and I spent numerous hours to satisfy the 14,000 type-volume limitation. However, it is apparent that for Yahyavi to effectively articulate his legal arguments and the supporting factual bases, he must submit a brief that exceeds the type-volume limitation.

8. Yahyavi's request to exceed the type-volume limit by 1,433 words is not excessive when compared to the length of Capriati's Opening Brief.

...

...

...

...

...

9. Although above the type-volume limitation, Yahyavi's Answering Brief sets forth his arguments in the most detailed and concise manner possible. As this is Yahyavi's only opportunity to address the issues before this Court, he respectfully requests this Court to grant his Motion.

DATED this 25th day of November, 2020.

/s/ Kevin T. Strong
KEVIN T. STRONG
Nevada Bar No. 12107
PRINCE LAW GROUP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this document was filed electronically with the Supreme Court of Nevada on the 25th day of November, 2020. Electronic service of the foregoing document entitled **RESPONDENT BAHRAM YAHYAVI'S MOTION TO EXCEED TYPE-VOLUME LIMITATION FOR ANSWERING BRIEF** shall be made in accordance with the Master Service List as follows:

Michael K. Wall
HUTCHISON & STEFFEN, PLLC
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
Attorney for Appellant
Capriati Construction Corp., Inc.

/s/ Kevin T. Strong
An Employee of PRINCE LAW GROUP