

IN THE SUPREME COURT OF THE STATE OF NEVADA

STATE OF NEVADA ex rel. NICOLE J. CANNIZZARO, in her official capacity as Senate Majority Leader of the Senate of the State of Nevada; CLAIRE J. CLIFT, in her official capacity as Secretary of the Senate of the State of Nevada; LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION, in its official capacity as the legal agency of the Legislative Department of the State of Nevada; BRENDA J. ERDOES, Esq., in her official capacity as Legislative Counsel and Chief of the Legislative Counsel Bureau, Legal Division, and in her professional capacity as an attorney and licensed member of the State Bar of Nevada; and KEVIN C. POWERS, Esq., in his official capacity as Chief Litigation Counsel of the Legislative Counsel Bureau, Legal Division, and in his professional capacity as an attorney and licensed member of the State Bar of Nevada,

Petitioners,

vs.

THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, in and for CARSON CITY; and THE HONORABLE JAMES TODD RUSSELL, District Judge,

Respondents, and

JAMES A. SETTELMAYER, JOSEPH P. HARDY, HEIDI SEEVERS GANSERT,

Electronically Filed
Jan 08 2020 11:57 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 80313

Original Action for Writ to
First Judicial District Court,
Carson City, Nevada,
Case No. 19 OC 00127 1B

**PETITIONERS' MOTION
TO EXCEED PAGE LIMIT
FOR REPLY IN SUPPORT
OF EMERGENCY
MOTION UNDER NRAP
8(a)(2) AND NRAP 27(e)
FOR STAY OF ALL
DISTRICT COURT
PROCEEDINGS
PENDING RESOLUTION
OF PETITION FOR
WRIT OF MANDAMUS**

SCOTT T. HAMMOND, PETE
GOICOECHEA, BEN KIECKHEFER,
IRA D. HANSEN, and KEITH F.
PICKARD, in their official capacities as
members of the Senate of the State of
Nevada and individually,

Real Parties in Interest.

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IN SUPPORT OF EMERGENCY MOTION UNDER NRAP 8(a)(2)
AND NRAP 27(e) FOR STAY OF ALL DISTRICT COURT
PROCEEDINGS PENDING RESOLUTION OF
PETITION FOR WRIT OF MANDAMUS**

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MOTION TO EXCEED PAGE LIMIT

Petitioners State of Nevada ex rel. Senate Majority Leader Nicole Cannizzaro and Secretary of the Senate Claire Clift (“Legislative Defendants”), by and through their counsel the Legal Division of the Legislative Counsel Bureau (“LCB Legal”) under NRS 218F.720; and LCB Legal, in its official capacity as the legal agency of the Legislative Department of the State of Nevada; Brenda J. Erdoes, Esq., in her official capacity as Legislative Counsel and Chief of LCB Legal and in her professional capacity as an attorney and licensed member of the State Bar of Nevada; and Kevin C. Powers, Esq., in his official capacity as Chief Litigation Counsel of LCB Legal and in his professional capacity as an attorney and licensed member of the State Bar of Nevada, hereby file this motion to exceed the page limit for their reply in support of their emergency motion under NRAP 8(a)(2) and NRAP 27(e) for a stay of all district court proceedings pending resolution of their petition for writ of mandamus (“writ petition”).

The Petitioners ask this Court under NRAP 2 to suspend the 5-page limit under NRAP 27(d)(2) and allow the Petitioners to file a 10-page reply in support of their emergency motion for a stay. The Petitioners want to stress that they are requesting the additional 5 pages solely because the Real Parties in Interest (“Plaintiff Senators”) included jurisdictional arguments in their opposition to the emergency motion for a stay. (Opp’n at 4-5.) In those jurisdictional arguments,

the Plaintiff Senators suggest that LCB Legal was not given authorization by the Legislative Commission at its meeting on December 30, 2019, to commence and prosecute the writ petition on behalf of the Petitioners. Id. (citing Comm’n on Ethics v. Hansen, 134 Nev. 304, 308 (2018)).

Because jurisdictional arguments typically may be raised at any stage of the proceedings, the Petitioners could not ignore the Plaintiff Senators’ jurisdictional arguments even though those arguments were not directly related to the emergency motion for a stay. Consequently, the Petitioners were required to devote the first 5 pages of their reply to addressing the Plaintiff Senators’ jurisdictional arguments in a cogent manner with citation to adequate supporting law—including several well-established rules of parliamentary procedure—to demonstrate that those jurisdictional arguments have no merit. However, after devoting those first 5 pages to addressing the Plaintiff Senators’ jurisdictional arguments, the Petitioners needed an additional 5 pages to make their arguments in support of their emergency motion for a stay.

Finally, LCB Legal wants to stress that it takes no pleasure in asking the Court for permission to exceed the page limits or in preparing briefs that exceed the page limits. Nevertheless, when confronted with the Plaintiff Senators’ jurisdictional arguments, LCB Legal was compelled to address those arguments in a comprehensive manner that meets this Court’s high standards of appellate

practice in which this Court “expects all appeals to be pursued with high standards of diligence, professionalism, and competence.” Barry v. Lindner, 119 Nev. 661, 671 (2003); Polk v. State, 126 Nev. 180, 184 (2010).

For these reasons, the Petitioners ask this Court to grant their motion to exceed the page limit under NRAP 27(d)(2) and file a 10-page reply in support of their emergency motion for a stay.

CONCLUSION

Based on the foregoing, the Petitioners ask this Court to grant their motion to exceed the page limit for their reply in support of their emergency motion for a stay of all district court proceedings pending resolution of the writ petition.

DATED: This 8th day of January, 2020.

Respectfully submitted,

BRENDA J. ERDOES
Legislative Counsel

By: /s/ Kevin C. Powers
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Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Nevada Legislative Counsel Bureau, Legal Division, and that on the 8th day of January, 2020, pursuant to NRAP 25 and the parties' stipulation and consent to service by electronic mail, I served a true and correct copy of this Motion to Exceed Page Limit for Reply in Support of Emergency Motion for Stay of All District Court Proceedings Pending Resolution of Petition for Writ of Mandamus, as follows:

By means of the Nevada Supreme Court's electronic filing system and electronic mail directed to:
KAREN A. PETERSON, ESQ.
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Attorneys for All Real Parties in Interest and All Other Plaintiffs in the District Court Proceedings

By United States Mail, postage prepaid, directed to:
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Respondent District Judge

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/s/ Kevin C. Powers
An Employee of the Legislative Counsel Bureau