

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER KHORSANDI, M.D.;
CHRISTOPHER KHORSANDI, M.D., PLLC;
and CATHERINE LE KHORSANDI

Appellants,

vs.

SMITH PLASTIC SURGERY, INC., and
LANE F. SMITH, M.D.,

Respondents.

Case No.: 80957

District Court

Case No. A-19-804819-C

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Elizabeth A. Brown
Clerk of Supreme Court

MOTION TO STRIKE

I. INTRODUCTION

Smith Plastic Surgery, Inc. and Lane F. Smith, M.D.'s ("Dr. Smith") (collectively the "Smith Parties") hereby move to strike portions of Christopher Khorsandi and Catherine Le (collectively the "Khorsandi Parties") Notice of Supplemental Authorities filed on December 28, 2021, which contains improper argument, or in the alternative request to provide supplemental briefing in response thereto.

Objections to a brief should generally be raised by motion. *See Jones v. Suntrust Mortg., Inc.* 128 Nev. 188, 274 P.3d 762 (2012). Possible bases of a motion to strike all or a portion of a brief are that the brief: (1) fails to cite to the appendix or transcripts; (2) refers to matters or events outside the record; (3) raises an issue not raised in the district court; (4) contains scandalous accusations; or (5) otherwise

fails to comply with NRAP 28. *See, e.g., Cuzdey v. State* , 103 Nev. 575, 747 P.2d 233 (1987). *See also* NRAP 28(j) ("All briefs . . . must be . . . free from burdensome, irrelevant, immaterial or scandalous matters.")

Here, the Khorsandi Parties' Notice of Supplemental Authorities improperly contains legal arguments in an attempt to illegitimately place additional arguments before this Court in support of their position on appeal in violation of NRAP 31(e). The arguments set forth on pages three ("3") and four ("4") of the Khorsandi Parties' Notice of Supplemental Authorities should therefore be stricken, or in the alternative the Smith Parties should be afforded the opportunity to submit briefing in response.

II. ARGUMENT

The purpose of NRAP 31(e) is to notify this Court of supplemental authorities which are pertinent and significant to this Court's consideration which take place after the party's brief has been filed, but before a decision has been rendered. NRAP 31(e) states "the notice may not raise new points or issues."

The briefing in this matter is now closed. As such, no more arguments may be introduced. Nonetheless, the Khorsandi Parties improperly attempted to bolster the fully briefed matter by characterizing their legal arguments as "supplemental authority."

NRAP 31(e) sets forth each party's obligation to provide the Court with notice of supplemental authorities. This rule does not authorize parties the unfettered ability

to supplement their arguments on appeal and submit incomplete and incompetent arguments pertaining to the salient issue under consideration by this Court. As such, the Khorsandi Parties' supplemental filing is inconsistent with the NRAP and should be stricken from the record. If the Court declines to strike the portions of the Khorsandi Parties' Notice of Supplemental Authorities that contain argument, the Smith Parties should be afforded a reasonable opportunity to submit additional briefing.

III. CONCLUSION

The Khorsandi Parties supplemental briefing disguised as a Notice of Supplemental Authorities is a blatant attempt to circumvent the Nevada Rules of Appellate Procedure. It is for this reason The Smith Parties' respectfully request this Court to strike the Appellants Notice of Supplemental Authorities, or in the alternative, permit the Smith Parties the ability to respond to the substantive legal arguments raised within the Khorsandi Parties' Notice.

DATED this 4th day of January, 2022

/s/ Anthony P. Sgro
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of SGRO & ROGER, and that on this 4th day of January, 2022, I caused to be e-filed/e-served through the Court's website true and correct copies of the above and foregoing **RESPONDENTS' MOTION TO STRIKE** to the following:

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