

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellants,

v.

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

Respondents.

Case No.: 80957

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Elizabeth A. Brown
Clerk of Supreme Court

**OPPOSITION TO MOTION
TO STRIKE NOTICE OF
SUPPLEMENTAL
AUTHORITIES**

I. INTRODUCTION

Following this Court's opinion in *Spirtos v. Yemenidjian*, 137 Nev. Adv. Op. 73 (Dec. 2, 2021), Appellants Christopher Khorsandi, M.D., Christopher Khorsandi, M.D., PLLC, and Catherine Le Khorsandi (collectively, the "Khorsandi Parties") submitted a Notice of Supplemental Authorities (the "Notice") providing this Court pertinent authority relevant to the anti-SLAPP analysis in the instant case under NRAP 31(e). Despite the Khorsandi Parties' Notice complying with all requirements set forth in NRAP 31(e), Smith Plastic Surgery, Inc. and Lane F. Smith, M.D. (collectively, the "Respondents") attempt once again to misconstrue the Rules of Appellate Procedure in their favor by filing a Motion to Strike the Notice on the grounds that the pleading contained improper legal arguments. However, because the Khorsandi Parties' Notice of Supplemental

Authorities does not contain legal arguments, but instead restates only issues which are already before this Court and the legal propositions for which the authority is cited, the Respondents' Motion to Strike should be denied.

II. ARGUMENT

Under Nevada Rule of Appellate Procedure 31(e), litigants are entitled to the opportunity to supplement their briefs and provide this Court notification of pertinent and significant authorities which come to their attention after briefing is closed, but before the Court has entered its decision. In addition to requiring "references to the page(s) of the brief that is being supplemented," this rule stipulates that the supplementing party must state "the legal proposition for which each supplemental authority is cited." NRAP 31(e).

After the initial briefing on this case was concluded, this Court rendered its opinion in *Spirto v. Yemenidjian*, 137 Nev. Adv. Op. 73 (Dec. 2, 2021). The Court's clarification of the anti-SLAPP analytical framework in the *Spirto* decision (especially regarding the second component of step one of the analysis) provided direct support to the ***already existing*** arguments made in the briefs of the instant case by Khorsandi Parties. As such, the Khorsandi Parties submitted their Notice of Supplemental Authorities providing the Court the supplemental authorities, the relevant pages being supplemented, and the legal propositions for which the authority was cited.

The Khorsandi Parties' Notice complied with all obligations put forth by the Nevada Appellate Rules. Simply put, the Notice provided citations to the section of the Khorsandi Parties' briefing which was to be supplemented and, as required, provided the legal propositions for which the decision was being cited.

Recognizing their claims have only become continually more tenuous as this litigation has progressed, Respondents have once again attempted the colloquial appellate "Hail Mary" – this time filing a motion to strike the Khorsandi Parties' properly-submitted Notice. Respondent's ill-laid arguments attempt to deny the Khorsandi Parties their right to notify this Court of relevant authority absent a discussion of the legal propositions for which the authority stood.

Alternatively, Respondents argue they are entitled to respond to the Notice. But, as Respondents' themselves noted, briefing is closed. The Notice simply references prior arguments made in the Khorsandi Parties' Opening Brief and Reply Brief. Respondents' failure to adequately respond to arguments raised during briefing is not a basis to reopen briefing. The Court should allow the Khorsandi Parties' Notice to stand, and deny Respondents' request to reopen briefing.

III. CONCLUSION

As a result of the foregoing, and because the Khorsandi Parties' Notice of Supplemental Authorities comported with all requirements of NRAP 31(e), Respondents' Motion to Strike should be denied.

DATED this 11th day of January, 2022.

PISANELLI BICE PLLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 11th day of January, 2022, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **OPPOSITION TO MOTION TO STRIKE NOTICE OF SUPPLEMENTAL AUTHORITIES** to the following:

Anthony P. Sgro, Esq.
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/s/ Kimberly Peets
An employee of Pisanelli Bice PLLC