

IN THE SUPREME COURT OF THE STATE OF NEVADA

FLOR MORENCY; KEYSHE  
NEWELL; BONNIE YBARRA; AAA  
SCHOLARSHIP FOUNDATION, INC;  
SKYLAR WILLIAMS PLLC;  
ENVIROMENTAL DESIGN GROUP,  
LLC,

Appellants,

vs.

STATE OF NEADA ex rel, the  
DEPARTMENT OF EDUCATION;  
JHONE EBERT, in her official  
capacity as executive head of the  
Department of Education; the  
DEPARTMENT OF TAXATION;  
JAMES DEVOLLD, in his capacity as  
member of the Nevada Tax  
Commission; SHARON RIGBY, in her  
official capacity as a member of the  
Nevada Tax Commission; CRAIG  
WITT, in his official capacity as a  
member of the Nevada Tax  
Commission; GEORGE KELESIS, in  
his official capacity as a member of the  
Nevada Tax Commission; ANN BERSI,  
in her official capacity as a member of  
the Nevada Tax Commission; RANDY  
BROWN, in his official capacity as a  
member of the Nevada Tax  
Commission; FRANCINE LIPMAN, in  
her official capacity as member of the  
Nevada Tax Commission; ANTHONY  
WREN, in his official capacity as a  
member of the Nevada Tax

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Elizabeth A. Brown  
Clerk of Supreme Court

Case No. 81281

District Court Case No.  
A-19-800267-C

Commission; MELANIE YOUNG, in  
here official capacity as the Executive  
Director and Chief Administrative  
Officer of the Department of Taxation

Respondents,

and

THE LEGISLATURE OF THE STATE  
OF NEVADA,

Respondent-Intervenors.

AARON D. FORD  
ATTORNEY GENERAL  
CRAIG A. NEWBY  
DEPUTY SOLICITOR GENERAL  
555 E. WASHINGTON AVE., SUITE 3900  
LAS VEGAS, NEVADA 89101  
(702) 486-3420  
cnewby@ag.nv.gov

*Counsel for Respondents  
State of Nevada*

KEVIN C. POWERS, ESQ.  
GENERAL COUNSEL  
LEGISLATIVE COUNSEL BUREAU, LEGAL DIVISION  
401 S. CARSON ST.  
CARSON CITY, NV 89701  
(775) 684-6830  
kpowers@lcb.state.nv.us

*Counsel for The Legislature*

**JOINT MOTION FOR EXTENSION OF TIME TO FILE  
ANSWERING BRIEFS**

Pursuant to Nevada Rule of Appellate Practice 31(b)(3), Respondents State of Nevada, *ex rel.* DEPARTMENT OF EDUCATION; JHONE EBERT, in her official capacity as executive head of the DEPARTMENT OF EDUCATION; DEPARTMENT OF TAXATION; JAMES DEVOLLD, in his official capacity as a member of the Nevada Tax Commission; SHARON RIGBY, in her official capacity as a member of the Nevada Tax Commission, GEORGE KELESIS, in his official capacity as a member of the Nevada Tax Commission; ANN BERSI, in her official capacity as a member of the Nevada Tax Commission; RANDY BROWN, in his official capacity as a member of the Nevada Tax Commission; FRANCINE LIPMAN, in her official capacity as a member of the Nevada Tax Commission; ANTHONY WREN, in his official capacity as a member of the Nevada Tax Commission, and MELANIE YOUNG, in her official capacity as the Executive Director and Chief Administrative Officer of the DEPARTMENT OF TAXATION (collectively the “Executive Respondents”) and THE LEGISLATURE OF THE STATE OF NEVADA (collectively, with the Executive Respondents, the “Respondents”) respectfully request a forty-five day extension of time to file their answering brief, from Monday, August 10, 2020, until Thursday, September 24, 2020. No prior request for extension of time has been made, granted, or denied.

Good cause exists for the extension, based on unique responsibilities for Appellees’ counsel tied to the COVID-19 pandemic. Specifically, on June 8, 2020, Appellants timely filed their notice of

appeal. Thirty-two days later, much less than the standard deadline of one hundred twenty days, Appellants filed their opening brief.

Undersigned counsel for the Executive Respondents, Craig Newby, is lead counsel for the Attorney General's Office defending litigation against the Governor's emergency COVID-19 directives. A minimum of two federal court challenges have been made to the Governor's directives as they pertain to the exercise of religion. The United States District Court for the District of Nevada denied motions for injunctive relief in both cases. *See Calvary Chapel Lone Mountain v. Sisolak et al.*, Case No. 2:20-cv-00907-RFB-VCF, 2020 WL 3108716 (D. Nev. Jun. 11, 2020); *Calvary Chapel Dayton Valley v. Sisolak et al.*, Case No. 3:20-cv-00303-RFB-VCF, 2020 WL 4260438 (D. Nev. June 11, 2020). In addition to appeals filed by both churches, Calvary Chapel Dayton Valley unsuccessfully sought emergency relief from the Ninth Circuit and the United States Supreme Court. *Calvary Chapel Dayton Valley v. Sisolak et al.*, 591 U.S. \_\_\_, 2020 WL 4251360 (July 24, 2020); *Calvary Chapel Dayton Valley v. Sisolak et al.*, Case No. 20-16169, 2020 WL 4274901 (9th Cir. July 2, 2020). Answering briefs for the two Ninth Circuit cases appealing the lower court's denial of injunctive relief are due Monday, August 10 and Monday, August 24. To the extent both involve appeals from injunctive relief, it is unlikely that the Ninth Circuit would provide an extension of time for either directive case.

Undersigned counsel for the Legislature, Kevin Powers, has had significant responsibilities leading up to and through the 31<sup>st</sup> Special Session of the Nevada Legislature, which was called to address fiscal issues associated with the COVID-19 pandemic. The 31<sup>st</sup> Special Session began Wednesday, July 8th, prior to Appellants' opening brief, and

concluded Sunday, July 19th. These responsibilities have not ended, as the 32<sup>nd</sup> Special Session of the Nevada Legislature began on Friday, July 31st, and may not end until after Appellees' answering briefs are due.

Under such circumstances, Respondents cannot devote sufficient time to this significant state constitutional challenge while also having to address COVID-19 emergencies. Respectfully, Respondents submit that there is a clear showing of good cause, as required by NRAP 31(b)(3)(B), for an extension of longer than thirty days.

Under these circumstances, Respondents jointly request a forty-five day extension of the answering brief deadline, from Monday, August 10, 2020 until Thursday, September 24, 2020.

DATED this 3rd day of August, 2020.

AARON D. FORD  
Attorney General

By: /s/ Craig Newby  
**CRAIG A. NEWBY**  
Deputy Solicitor General  
Nevada Bar No. 8591  
OFFICE OF THE ATTORNEY  
GENERAL  
100 N. Carson St.  
Carson City, NV 89701  
Tel: (775) 684-1100  
Fax: (775) 684-1108  
Email: CNewby@ag.nv.gov

*Attorneys for State Defendants  
State of Nevada ex rel.  
Department of Education, et al.*

By: /s/ Kevin Powers  
**KEVIN C. POWERS**  
General Counsel  
Nevada Bar No. 6781  
LEGISLATIVE COUNSEL  
BUREAU, LEGAL DIVISION  
401 S. Carson St.  
Carson City, NV 89701  
Tel: (775) 684-6830  
Fax: (775) 684-6761  
E-mail: kpowers@lcb.state.nv.us

*Attorneys for Intervenor-  
Defendant Legislature*

## **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing in accordance with this Court's electronic filing system and consistent with NEFCR 9 on August 3, 2020.

Participants in the case who are registered with this Court's electronic filing system will receive notice that the document has been filed and is available on the court's electronic filing system.

I further certify that any of the participants in the case that are not registered as electronic users will be mailed the foregoing document by First-Class Mail, postage prepaid.

### **INSTITUTE FOR JUSTICE**

**JOSHUA A. HOUSE**

Nevada Bar No. 12979

901 N. Glebe Rd., Suite 900

Arlington, VA 22203

jhouse@ij.org

### **TIMOTHY D. KELLER**

Arizona Bar No. 019844

*Admitted Pro Hac Vice*

398 S. Mill Ave., Suite 301

Tempe, AZ 85281

tkeller@ij.org

**SALTZMAN MUGAN DUSHOFF**

**MATTHEW T. DUSHOFF, ESQ**

Nevada Bar No. 004975

1835 Village Center Circle

Las Vegas, NV 89134

mdushoff@nvbusinesslaw.com

/s/ Kristalei Wolfe

An Employee of the State of Nevada

Attorney General's Office