

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

KEVIN PAUL DEBIPARSHAD, M.D., an individual; KEVIN P. DEBIPARSHAD PLLC, d/b/a SYNERGY SPINE AND ORTHOPEDICS; DEBIPARSHAD PROFESSIONAL SERVICES, LLC, d/b/a SYNERGY SPINE AND ORTHOPEDICS; ALLEGIANT INSTITUTE INC., a Nevada domestic professional corporation doing business as ALLEGIANT SPINE INSTITUTE; JASWINDER S. GROVER, M.D., an individual; JASWINDER S. GROVER, M.D., Ltd., d/b/a NEVADA SPINE CLINIC,

Petitioners,

v.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, COUNTY OF CLARK, AND THE HONORABLE JUDGE KERRY EARLEY

Respondents,

and

JASON GEORGE LANDESS a.k.a. KAY GEORGE LANDESS

Real Party In Interest.

Supreme Court No.: 81596

Electronically Filed  
Oct 15 2020 01:03 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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**Response to Motion to Exceed Word Limit for Answering Brief**

### **Response to Motion to Exceed Word Limit for Answering Brief**

Petitioners hereby respond to Real Party in Interest's (Landess) motion to exceed the limit of 7,000 words for the answer. Petitioners do not necessarily oppose the motion, because the court's decision on the motion will ultimately be a matter within the court's discretion—whether the court wants an answer that roughly doubles the word limit. Petitioners' lack of opposition, however, is conditioned on Petitioners' ability to file a reply that similarly exceeds the word-count limit by approximately 100 percent, if Petitioners determine that they need the extra words (which is likely).

Additionally, Petitioners' lack of opposition to the motion should not be construed as a concession that arguments and factual statements in the motion are accurate. They are not. Petitioners are concerned that the court might accept the motion's factual statements as true, and that this might ultimately influence the court's decision on the merits of the writ petition.

For example, the motion repeatedly accuses Petitioners of injecting race into the trial. The accusation is false. The subject of race was actually injected into the trial by a witness who was testifying for Landess, and by an email authored by Landess himself and stipulated into evidence by Landess. In deciding whether to grant the motion, this court should ignore the motion's emotionally charged false statements about race.

The motion also argues that the answer needs to be long because it must address the merits of the mistrial. This is also false. Judge Bare orally granted a mistrial and discharged the jury after the tenth trial day. Once the jury was discharged, the mistrial could not be undone. Consequently, the writ petition does not—and cannot—challenge Judge Bare’s in-trial oral decision granting a mistrial and discharging the jury.

On the other hand, the writ petition **does** challenge Judge Bare’s subsequent actions, including his issuance of a written order (prepared by Landess’ counsel) that purported to contain findings and conclusions the judge had made at trial regarding the mistrial. The order went far beyond the judge’s rulings at trial. And importantly, Judge Bare issued the written order while a motion to disqualify him from the case was pending before another district judge. The other judge subsequently determined that Judge Bare **was** disqualified, not because of anything Petitioners said or did, but because of statements that Judge Bare himself made on the record at trial—statements the other district judge expressly found to indicate Judge Bare’s bias in favor of Landess’ counsel at trial.

The writ petition also challenges other district court orders entered subsequent to Judge Bare’s declaration of a mistrial at trial. None of these challenges request this court to grant any extraordinary relief for Judge Bare’s oral decision to grant the mistrial.

In any event, Petitioners hope the court will not be influenced by the false statements in the motion, despite Petitioners' decision not to oppose the motion. And Petitioners request that if the motion is granted, Petitioners will be allowed to file a reply of equal size.

Dated: October 15, 2020

/s/ S. Brent Vogel

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**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of LEMONS, GRUNDY & EISENBERG, and on this date, the foregoing **Response to Motion to Exceed Word Limit for Answering Brief** was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

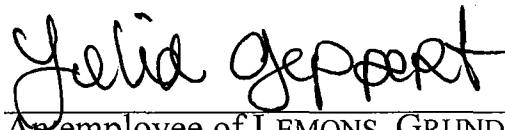
Alexander Villamar  
Martin Little  
S. Vogel  
James Jimmerson

I further certify that on this date I served a copy of the foregoing by depositing a true and correct copy, postage prepaid, via U.S. mail to:

Honorable Judge Kerry Early  
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DATED this 15 day of October, 2020.



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