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Elizabeth A. Brown
Clerk of Supreme Court

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

10 TROY MOATS, an individual,
11
12 Petitioner,

Docket No. 81912

13 vs.

14 THE EIGHTH JUDICIAL
DISTRICT COURT OF THE STATE
15 OF NEVADA IN AND FOR THE
COUNTY OF CLARK AND THE
16 HONORABLE JUDGE ADRIANA
ESCOBAR,

17 Respondents,

18 TROY BURGESS,

19 Real Party in Interest
20

21 **REAL PARTY IN INTEREST'S MOTION TO EXTEND THE**
22 **ANSWERING BRIEF DEADLINE**

23 **(Third Request)**

24 Real Party in Interest Troy Burgess, by and through his attorneys of record,
25 Thomas E. Winner, Caitlin J. Lorelli and Andrew D. Smith of the law firm Winner
26 & Sherrod, hereby moves to extend the deadline for the filing of the Real Party in
27 Interest's Answering Brief by 7 days, until March 5, 2021, pursuant to NRAP
28 31(b)(3).

1 The Real Party in Interest's Answering Brief was initially due January 13,
2 2021. That was moved to February 12, 2021, pursuant to an order granting the
3 Respondent's first request for an extension. The due date was moved to February
4 26, 2021, in response to the Respondent's second request.

5 Under the extension sought by this motion, the Answering Brief will be due
6 Friday, March 5, 2021.

7 This is the third extension sought by the Real Party in Interest. No previous
8 requests for extensions have been denied.

9 NRAP 31(b)(3) states, "A motion for the extension of time for the filing of a
10 brief may be made no later than the due date for the brief and must comply with
11 the provisions of this Rule and Rule 27." NRAP 26(b)(1) further requires a
12 showing of good cause for the extension.

13 An extension is sought because after the first extension had requested, one of
14 the lead attorneys working on Mr. Burgess' Answering Brief suffered a death in
15 the family. It was anticipated on February 12 that a 14-day extension would be
16 sufficient to compensate for the resulting leave of absence. Mr. Burgess' attorneys
17 have been diligently working since requesting the second extension, but additional
18 time is needed to complete the brief due to the complexity and importance of the
19 issues presented.

20 The petition in this case asks the court to resolve a direct conflict between a
21 statute and a rule of civil procedure. Two parties have filed briefs supporting the
22 petitioner's position – the petitioner, and an amicus party.

23 The issue presented to the court involves issues of constitutional law, and the
24 amicus party has presented a non-comprehensive survey of other states' handling
25 of the issue. Responding to that requires a significant investment of time. This
26 issue is important because it will clarify the manner in which Rule 35 exams may
27 be conducted in the future in Nevada state courts.

28 Significant progress has been made on the Respondent's brief, and seven

1 additional days will be sufficient.

2 If this extension is granted, the sum of all extensions granted to the
3 Respondent will be 51 days.

4 DATED this 26th day of February, 2021.

6 WINNER & SHERROD

7 
8

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16 *Attorneys for Real Party in*
17 *Interest Troy Burgess*
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1 **CERTIFICATE OF SERVICE**

2 I certify that on this 26th day of February, 2021, I electronically served the
3 foregoing REAL PARTY IN INTEREST'S MOTION TO EXTEND THE
4 ANSWERING BRIEF DEADLINE (Second Request) via the Nevada Supreme
5 Court's Eflex electronic filing and service system, addressed as follows:

6 Marjorie L. Hauf, Esq.
7 Matthew G. Pfau, Esq.
8 *For the Petitioner*

Tom W. Stewart, Esq.
Micah S. Echols, Esq.
*For Amicus Party The Nevada Justice
Association*

9
10 I further certify that on this 12th day of February, 2021, I served a copy of
11 this document on the following via U.S. Mail, postage prepaid:

12
13 Honorable Adrianna Escobar, District Court Judge
14 Eighth Judicial District Court, Department XIV
15 200 Lewis Ave.
16 Las Vegas, NV 89155
dept14lc@clarkcountycourts.us

17
18
19 /s/ Andrew D. Smith

20 An employee of WINNER & SHERROD
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