

1 THOMAS E. WINNER
Nevada Bar No. 5168
2 CAITLIN J. LORELLI
Nevada Bar No. 14571
3 ANDREW D. SMITH
Nevada Bar No. 8890
4 WINNER & SHERROD
1117 South Rancho Drive
5 Las Vegas, Nevada 89102
Phone (702) 243-7000
6 twinner@winnerfirm.com
7 clorelli@winnerfirm.com
8 asmith@winnerfirm.com
*Attorneys for Real Party
in Interest Troy Burgess*

Electronically Filed
Mar 06 2021 04:32 a.m.
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 **(Fourth 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 and Appendix by ten days from the existing deadline,
28 until March 8, 2021, pursuant to NRAP 31(b)(3). In practical terms, this motion

1 seeks an extension of one judicial day from the last-requested deadline.

2 Date that the Response Brief Is Due

3 The Real Party in interest's Answering Brief is currently due February 26,
4 2021. However, a motion was filed of February 26 to extend that deadline.

5 Number of Extensions Previously Sought

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

8 The Real Party in Interest's Answering Brief was initially due January 13,
9 2021. That was moved to February 12, 2021, pursuant to an order granting the Real
10 Party in Interest's first request for an extension. The due date was moved to
11 February 26, 2021, in response to the Real Party in Interest's second request.

12 The Real Party in interest filed a third motion, asking to extend the deadline
13 to March 5, 2021. That motion has not yet been granted or denied.

14 This motion is intended to amend or replace the third request for an
15 extension, filed on February 26, 2020, which is still pending a decision.

16 Under the extension sought by this motion, the Answering Brief will be due
17 Monday, March 10, 2021.

18 Good Cause Exists for Granting the Continuance

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

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

1 issues presented.

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

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

10 The Real Party in Interest's Answering Brief and Appendix are completed
11 and are filed contemporaneously herewith.

12 If this extension is granted, the sum of all extensions granted to the
13 Respondent will be 54 days.

14 DATED this 6th day of March, 2021.

15
16 WINNER & SHERROD

17 /s/ Andrew D. Smith

18 Thomas E. Winner

19 Nevada Bar No. 5168

20 Caitlin J. Lorelli

21 Nevada Bar No. 14571

22 Andrew D. Smith

23 Nevada Bar No. 8890

24 1117 South Rancho Drive

25 Las Vegas, Nevada 89102

26 Tel: (702) 243-7000

27 *Attorneys for Real Party in*
28 *Interest Troy Burgess*

WINNER & SHERROD
A NEVADA LAW FIRM

Marjorie L. Hauf, Esq.
Matthew G. Pfau, Esq.
For the Petitioner

Page 4 of 4