

IN THE SUPREME COURT OF THE STATE OF NEVADA

Fred Kraus, an individual registered to vote in Clark County, Nevada, DONALD J. TRUMP FOR PRESIDENT, INC.; the NEVADA REPUBLICAN PARTY,

Appellants,

vs.

BARBARA CEGAVSKE, in her official capacity as Nevada Secretary of State, JOSEPH P. GLORIA, in his official capacity as Registrar of Voters for Clark County, Nevada, DEMOCRATIC NATIONAL COMMITTEE and NEVADA STATE DEMOCRATIC PARTY,

Respondents.

Electronically Filed
Nov 05 2020 01:46 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No.: 82018

Appeal from the First Judicial District Court, The Honorable Judge James E. Wilson Presiding

EMERGENCY MOTION UNDER NRAP 27(e)
FOR EXTENSION OF BRIEFING SCHEDULE PENDING SETTLEMENT
(Immediate Relief Required – 11/5/2020)

Marquis Aurbach Coffing

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Attorneys for Appellants

Appellants, Fred Kraus; Donald J. Trump for President, Inc.; the Nevada Republican Party (collectively “Appellants”), by and through their counsel of record, Marquis Aurbach Coffing; Harvey & Binnall, PLLC; and The O’Mara Law Firm, P.C., hereby move this Court pursuant to NRAP 31(b) and NRAP 27(e) for a 7-day extension of time to file their docketing statement, opening brief, and appendix pending settlement.

On November 3, 2020, this Court issued an order granting in part and denying part Appellants’ emergency motion for stay and to expedite appeal, setting an expedited briefing schedule. Appellants’ docketing statement, opening brief, and appendix is currently due by 4pm today, November 5, 2020. No previous extensions have been requested. If this Court grants this request for a 7-day extension, Appellants’ docketing statement, opening brief, and appendix will be due on November 12, 2020 by 4 pm. Good cause exists for allowing Appellants’ to extend the filing deadline until November 12, 2020 as follows:

1. On November 4, 2020, Appellants and Respondents Barbara Cegavske and Joseph Gloria were able to reach a settlement agreement.

2. On Wednesday evening, counsel for Appellants circulated a proposed stipulation and order containing the terms agreed upon to counsel for all Respondents including the District Court Intervenor Parties, Respondents Democratic National Committee and Nevada State Democratic Party

(“Intervenors”), who asserted no claims and had no claims asserted against them in the District Court.

3. Counsel for Respondent Joseph Gloria responded with a suggested change on the morning of November 5, 2020, which was accepted by Petitioners, and the revised stipulation and order was sent out for approval and subsequently approved and/or signed by Appellants and Respondents Barbara Cegavske and Joseph Gloria.¹

4. The stipulation and order is simple and contains the following terms:

The Registrar shall allow the public to have additional observation access to the ballot duplication in the Greystone Facility such that all tables where the duplication process is occurring shall be visible to public observers; and

Petitioners shall voluntarily dismiss the pending appeal in the Nevada Supreme Court, Case No. 82018.

Based upon the foregoing, the parties hereto agree to dismissal of all claims brought in this action and any appeal hereof with each party to bear its own fees and costs.

5. Intervenors acknowledged receipt of the stipulation and order on October 4, 2020 but, despite multiple requests, have been unable to approve the two-

¹ The stipulation and order as approved by Appellants and Respondents Barbara Cegavske and Joseph Gloria is attached as **Exhibit 1**. Counsel for Respondent Joseph Gloria has executed the attached exhibit whereas Counsel for Respondent Barbara Cegavske sent an email approving use of his electronic signature on the same via an email sent on November 5, 2020 at 8:27 a.m.

page stipulation and order which affords the public additional observation access during this election.

6. Once all signatures have been obtained, Appellants will file a motion for voluntary dismissal of the instant appeal to return jurisdiction to the District Court in order to complete the settlement of the case below.

7. Appellants' will dismiss the instant appeal or, if a fully executed stipulation and order for settlement is not obtained, will determine how it intends to proceed no later than November 11, 2020 at 4 pm.

This motion is submitted in good faith and not for purposes of delay. Appellants wish to avoid any unnecessary expenditure of this Court's valuable resources as well as to avoid incurring additional costs to their clients in preparing unnecessary documents. Appellants, therefore, respectfully request that this Court grant the instant motion and extend the briefing schedule by 7 days to allow the parties the opportunity to reach a complete settlement in this matter and dismiss this appeal.

Dated this 5th day of November, 2020.

MARQUIS AURBACH COFFING

By /s/ Brian R. Hardy

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Attorneys for Appellants

NRAP 27(e) CERTIFICATE

I hereby certify that this Emergency Motion for Relief Under NRAP 27(e) relies upon issues raised by Appellants in the District Court, and otherwise complies with the provisions of NRAP 27(e).

As set forth in the body of this motion, emergency relief is needed immediately given the current election or on or before **November 5, 2020**. The telephone numbers and office addresses of the attorneys for the parties are as follows:

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Attorney for Respondent Barbara Cegavske

Clark County District Attorney

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Attorney for Respondent Joseph Gloria

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*Attorneys for Intervenor-Respondents, DNC Services Corporation/Democratic
National Committee and Nevada State Democratic Party*

According to the attached certificate of service, all parties through their counsel of record have been served electronically through this Court's electronic filing system, and by email as indicated. Furthermore, the undersigned notified the parties by email and/or telephone on November 5, 2020 of the instant emergency motion and the basis for the same. The undersigned's office also informed the Clerk of the emergency motion on the same day.

Dated this 5th day of November, 2020.

MARQUIS AURBACH COFFING

By /s/ Brian R. Hardy

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Alexandria, Virginia 22314

Attorneys for Appellants

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **EMERGENCY MOTION FOR RELIEF UNDER NRAP 27(e) FOR EXTENDED BRIEFING SCHEDULE PENDING SETTLEMENT** was filed electronically with the Nevada Supreme Court on the 5th day of November, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

Office of the Attorney General
Gregory L. Zunino, Esq.
gzunino@ag.nv.gov
Attorney for Respondent Barbara Cegavske

Clark County District Attorney
Mary Anne Miller, Esq.
Mary-anne.miller@clarkcountyda.com
Attorney for Respondent Joseph Gloria

Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP
Bradley S. Schrage, Esq.
bschrager@wrslawyers.com
Attorneys for Intervenor-Respondents, DNC Services Corporation/Democratic National Committee and Nevada State Democratic Party

I further certify that I served a copy of this document by emailing a true and correct copy thereof due to the exigency of the requested relief:

Office of the Attorney General
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*Attorneys for Intervenor-Respondents, DNC Services Corporation/Democratic
National Committee and Nevada State Democratic Party*

/s/ Leah Dell
Leah Dell, an employee of
Marquis Aurbach Coffing

Exhibit 1

1 **Marquis Aurbach Coffing**
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Telephone: (703) 888-1943
13 jbinnall@harveybinnall.com
14 *Attorneys for Petitioners*

15 **IN THE FIRST JUDICIAL DISTRICT COURT**
16 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

17 Fred Kraus, an individual registered to vote in Clark
County, Nevada, DONALD J. TRUMP FOR
18 PRESIDENT, INC.; the NEVADA REPUBLICAN
PARTY,

19 Petitioners,

20 v.

21 BARBARA CEGAVSKE, in her official capacity as
Nevada Secretary of State, JOSEPH P. GLORIA, in
22 his official capacity as Registrar of Voters for Clark
County, Nevada,

23 Respondents

24 and

25 Intervenor Respondents DEMOCRATIC
NATIONAL COMMITTEE and NEVADA STATE
26 DEMOCRATIC PARTY,

27 Intervenor-Respondents.
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Case No.: 20 OC 00142 1B
Dept. No.: 2

**STIPULATION AND ORDER
FOR DISMISSAL OF ALL CLAIMS**

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STIPLUATION AND ORDER FOR DISMISSAL

Petitioners, Fred Kraus, Donald J. Trump for President, Inc. and the Nevada Republican Party (herein "Petitioners"), by and through their attorney of record, Brian R, Hardy, Esq. and Barbara Cegavske, in her official capacity as Nevada Secretary of State through her attorney of record, Gregory L. Zunino, Esq.; Joseph P. Gloria, in his official capacity as Registrar of Voters for Clark County (the "Registrar") through his attorney of record, Mary-Anne Miller, Esq. and Intervenor Respondents Democratic National Committee and Nevada State Democratic Party through its attorney, Daniel Bravo, Esq. hereby stipulate and agree as follows:

1. The Registrar shall allow the public to have additional observation access to the ballot duplication in the Greystone Facility such that all tables where the duplication process is occurring shall be visible to public observers; and
2. Petitioners shall voluntarily dismiss the pending appeal in the Nevada Supreme Court, Case No. 82018
3. Based upon the foregoing, the parties hereto agree to dismissal of all claims brought in this action and any appeal hereof with each party to bear its own fees and costs.

AFFIRMATION

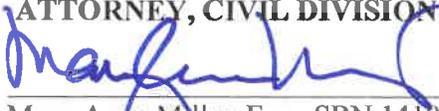
The undersigned does hereby affirm that the preceding document does not contain the Social Security number of any person.

Dated this 5th day of Nov., 2020

Dated this ___th day of October, 2020

**OFFICE OF THE DISTRICT
ATTORNEY, CIVIL DIVISION**

MARQUIS AURBACH COFFING

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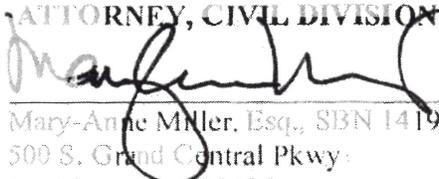
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