

IN THE SUPREME COURT OF THE STATE OF NEVADA

DARIA HARPER, an individual; and
DANIEL WININGER, an individual,

Appellants,

vs.

COPPERPOINT MUTUAL INSURANCE
HOLDING COMPANY, an Arizona
corporation; COPPERPOINT GENERAL
INSURANCE COMPANY, an Arizona
corporation; LAW OFFICES OF
MARSHALL SILBERBERG, P.C., a
California Corporation; KENNETH
MARSHALL SILBERBERG aka
MARSHALL SILBERBERG aka K.
MARSHALL SILBERBERG, an individual,

Respondents.

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Elizabeth A. Brown
Clerk of Supreme Court

Case No.: 82158

**RESPONDENTS' RESPONSE TO APPELLANTS' MOTION FOR
EXTENSION TO FILE APPELLANTS' REPLY BRIEF**

COMES NOW Respondents, CopperPoint Mutual Insurance Holding Company and CopperPoint General Insurance Company ("Respondents"), by and through their attorneys, Dalton L. Hooks, Jr., Esq., and Sami Randolph, Esq., of Hooks Meng & Clement, and hereby files their Response to Appellants' Motion for Extension to File Appellants' Reply Brief filed August 18, 2021. This Response is filed pursuant to NRAP 27.

I. INTRODUCTION

Appellants filed their Notice of Appeal on November 24, 2020, regarding the district court's October 26, 2020, order. On June 18, 2021, the Clerk of the Supreme Court granted Appellants' telephonic request for an extension received June 17, 2021. The June 18, 2021, Order gave Appellants until July 1, 2021, to file their Opening Brief. Appellants filed their Opening Brief on June 21, 2021.

Respondents telephonically requested an extension on July 19, 2021. The Clerk of the Supreme Court granted an extension until August 4, 2021, for Respondents to file their Answering Brief. Respondents filed their Answering Brief on August 4, 2021.

On August 18, 2021, Appellants filed their Motion for Extension to File Appellants' Reply Brief. Appellants requested a thirty-one (31) day extension through October 4, 2021, to file their Reply Brief. In support of their Motion, Appellants stated:

Good cause exists to extend the deadline because this appeal presents multiple complex issues including two of first impression: (a) does NRCP 42.021 [*sic*] apply to settlements of medical malpractice actions and (b) when a conflict of laws arises involving a worker initially injured and treated in Arizona who is subsequently treated in Nevada and further injured by the medical malpractice of Nevada medical providers, does Nevada apply the conflicting [*sic*] of Arizona or Nevada?

Respondents now submit their Response to Appellants' Motion for Extension to File Appellants' Reply Brief.

II. ARGUMENT

I. The Supreme Court Should Deny Appellants' Motion Because No Good Cause Exists for a Thirty-One (31) Day Extension.

In this matter, NRAP 26(b)(1)(A) and NRAP 31(b)(3)(A) are relevant. NRAP 26(b)(1)(A) states that:

RULE 26. COMPUTING AND EXTENDING TIME

(b) Extending Time.

(1) By Court Order.

(A) For good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time to file a notice of appeal except as provided in Rule 4(c).

NRAP 26(b)(1)(A). Further, NRAP 31(b)(3)(A) provides that:

RULE 31. FILING AND SERVICE OF BRIEFS

(b) Extensions of Time for Filing Briefs.

(3) Motions for Extensions of Time. A motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27.

(A) Contents of Motion. A motion for extension of time for filing a brief shall include the following:

- (i) The date when the brief is due;

(ii) The number of extensions of time previously granted (including a 14-day telephonic extension), and if extensions were granted, the original date when the brief was due;

(iii) Whether any previous requests for extensions of time have been denied or denied in part;

(iv) The reasons or grounds why an extension is necessary (including demonstrating extraordinary and compelling circumstances under Rule 26(b)(1)(B), if required); and

(v) The length of the extension requested and the date on which the brief would become due.

...

NRAP 31(b)(3)(A).

Here, the instant motion should be denied because Appellants' have not shown the good cause necessary to obtain an extension. Appellants' assert "multiple complex issues" as good cause for an extension. However, the issues presented are identical to the issues litigated before the district court when it granted Respondents' motion to dismiss. Further, NRAP 28(c) limits the contents of Appellants' Reply Brief to new matter set forth in Respondents' Answering Brief. Accordingly, complexity of the issues regarding the contents of Appellants' Reply Brief does not amount to good cause for a thirty-one (31) day extension to October 4, 2021.

Additionally, a thirty-one (31) day extension is excessive. At the time Appellants filed their motion, they had over two (2) weeks to complete their Reply Brief. An extension to October 4, 2021, is unwarranted and will only serve to delay this Court's disposition of the appeal.

Further, Appellants have not complied with NRAP 31(b)(3)(A) in requesting an extension because they have inaccurately stated the number of previously granted extensions. While Appellants represented to this Court that “[t]his is the first request for an extension of time,” this request is actually Appellants’ second request for an extension in this matter. The Appellants requested and were granted a two (2) week extension to file their Opening Brief. Accordingly, the instant motion is deficient as Appellants have not complied with NRAP 31(b)(3)(A).

III. CONCLUSION

The Court should deny Appellants’ second request for an extension in this matter. Appellants have not shown good cause for a thirty-one (31) day extension and have not complied with the requirements of NRAP 31(b)(3)(A).

Dated this 25th day of August 2021.

Respectfully Submitted,
By:

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CERTIFICATE OF SERVICE

The undersigned, an employee of the law firm of HOOKS MENG & CLEMENT, hereby certifies that on this 25th day of August 2021, a true and correct copy of **RESPONDENTS' RESPONSE TO APPELLANTS' MOTION FOR EXTENSION TO FILE APPELLANTS' REPLY BRIEF** was served on the party set forth below by Notice of Electronic Filing via the CM/ECF system as maintained by the Court Clerk's Office as follows:

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Dated this 25th day of August 2021.

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