

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

IN THE MATTER OF DISCIPLINE OF ) Case No. 83245

TODD M. LEVENTHAL, )

BAR NO. 8543 )

Electronically Filed  
Aug 18 2021 04:00 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**RESPONDENT'S MOTION FOR EXTENSION OF TIME  
TO FILE OPENING BRIEF, OR IN THE ALTERNATIVE, STAY IN  
BRIEFING PENDING OUTCOME OF MOTION FOR NEW TRIAL  
(First Request)**

Respondent, Todd M. Leventhal by and through his attorney, David A. Clark, of the Law Firm Lipson Neilson P.C. and hereby moves this Court pursuant to NRAP 26(b)(1)(A) and NRAP 31(b)(3) for a 31-day extension of time, through and including Monday, September 20, 2021, to file his Opening Brief. Respondent's Opening Brief is currently due Friday, August 20, 2021.

Good cause exists for this extension of the deadline. Respondent has filed a Motion for New Trial that is scheduled for hearing before the Hearing Panel Chair on September 9, 2021. Alternatively, Respondent would request a stay in the briefing schedule until such time as the Panel Chair decides the pending Motion for New Trial.

The Formal Hearing in this matter took place on May 25, 2021. The Panel Chair filed the Findings of Fact, Conclusions of Law and Recommendation on July

1 12, 2021.<sup>1</sup> On July 21, 2021, eight days later, Respondent filed a Motion for New  
2 Trial pursuant to NRCP 59(a)(1)(D) or, alternatively, to amend the judgment under  
3 NRCP 59(e) or to take additional testimony under NRCP 59(a)(2). After some  
4 confusion in the service of the pleadings (*See, Exhibit A, Declaration of Counsel*),  
5 the State Bar filed its Opposition on August 17, 2021, and Respondent's Reply to the  
6 opposition is due on September 2, 2021 the Chair has set the matter for hearing on  
7 September 9, 2021, at 1:00 pm. The 31-day extension should be sufficient time for  
8 the Chair to rule on the motion prior to the new briefing deadline.

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12 Alternatively, because Respondent's motion for new trial is an enumerated  
13 tolling motion under NRAP 4(a)(2), the Court should stay further briefing until the  
14 post-judgment motion is resolved. *See, NRAP 4(a)(2); Moran v. Bonneville Square*  
15 *Assocs.*, 117 Nev. 525, 529, 25 P.3d 898, 900 (2001) (A timely-filed tolling motion  
16 terminates the running of the time for filing a notice of appeal).<sup>2</sup>

17  
18 For the reasons foregoing, Respondent respectfully requests a 31-day extension  
19 of time, through and including Monday, September 20, 2021, to file his Opening  
20 Brief. In the alternative, Respondent requests a stay of the briefing schedule pending  
21 a written decision from the Panel Chair on Respondent's Motion for New Trial, filed  
22  
23

24  
25 <sup>1</sup> Although SCR 105(2)(e) mandates "The hearing panel **shall** render a written  
26 decision within 30 days of the conclusion of the hearing," times limits are  
administrative, not jurisdictional. *See, SCR 119(2).*

27 <sup>2</sup> The State Bar's position in its *Opposition* is that because it transmitted the Record  
28 on Appeal July 20, 2021, the Chair no longer has jurisdiction to hear a motion for  
new trial. Hence, it declined to stipulate to a stay. **Exh. A.**

July 21, 2021. This request is made in good faith and not intended to prejudice or cause delay.

Dated this 18<sup>th</sup> day of August, 2021.

LIPSON NEILSON P.C.

/s/ David A. Clark

DAVID A. CLARK  
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*Attorney for Todd M. Leventhal*

**CERTIFICATE OF SERVICE**

Pursuant to NRAP 25, I certify that I am an employee of LIPSON NEILSON P.C. and that on the 18<sup>th</sup> day of August, 2021, a true and correct copy of the foregoing **MOTION FOR EXTENSION OF TIME TO FILE OPENEING BRIEF, OR ALTERNATIVELY, MOTION FOR STAY OF BRIEFING** was filed and served electronically with the Clerk of the Nevada Supreme Court in accordance with the master service list as follows:

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/s/ Debra Marquez

An employee of LIPSON NEILSON P.C.