

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

DAVID GARVEY, M.D., an individual,

Petitioner,

vs.

THE FOURTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA  
ex rel. THE COUNTY OF ELKO, AND  
THE HONORABLE KRISTIN N.  
HILL,

Respondent,

and

DIANE SCHWARTZ, individually and  
as Special Administrator of the Estate of  
DOUGLAS R. SCHWARTZ, deceased,

Real Party In Interest.

Electronically Filed  
Nov 19 2021 01:21 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court Case No.: 83533

District Court No.: CV-C-17-439

**MOTION FOR EXTENSION OF TIME TO FILE BRIEF, AND  
TO FILE MOTION FOR LEAVE TO FILE AMICUS BRIEF  
(FIRST REQUEST)**

Proposed amici curiae, HCA Healthcare, Inc., Sunrise Hospital, Mountain View Hospital, Southern Hills Hospital, Nevada Hospital Association, Renown Regional Medical Center, Renown South Meadows Medical Center, CommonSpirit Health, St. Rose Dominican - Rose de Lima, St. and Rose Dominican – Siena, St. Rose Dominican - San Martin (collectively, “Proposed

Amici”), through their counsel of record, Jacob D. Bundick, Esq. and Tami D. Cowden, Esq., of the law firm of Greenberg Traurig, LLP, move this Court pursuant to NRAP 26(1)(a) for an extension of time to thirty (30) days from the Court’s Order to file their motion for leave to file an amicus brief and to file the proposed amicus brief.

Under this Court’s rules, a non-governmental amicus curiae “may file a brief only by leave of court granted on motion . . . .” *See* NRAP 29(a). Both the proposed amicus brief and the motion for leave must be filed within seven (7) days of the brief of the party being supported. *See* NRAP 29(f). However, “[t]he Court may grant leave for later filing, specifying the time within which the opposing party may answer.” *Id.* This Court further requires proposed amici to state its interest in the case and why “an amicus brief is desirable.” NRAP 29(c).

Here, good cause exists to extend the timing requirements, which have come and gone. Petitioner David Garvey, M.D., filed his Petition for Writ of Mandamus on September 23, 2021. A proposed supporting amicus brief (accompanied by its motion for leave) would have been due September 30, 2021. But good cause exists for allowing the extension of the filing deadline for both the motion for leave and proposed amicus brief until thirty (30) days after this Court’s order. And no request for additional time has been denied or denied

in part. Proposed Amici just recently became aware of the Petition before the Court. As such, the law firm of Greenberg Traurig was retained to present the Proposed Amici on November 11, 2021 and will need time to familiarize itself with the record, the legal arguments, and the Petition currently before the Court.

An amicus brief would assist this Court. First, Proposed Amici have a clear interest: all operate or represent major Nevada hospitals. As such, the district court's clear refusal to apply NRS 41.503—Nevada's "trauma cap statute"—interests it. The district court's order could result in a decision adverse to Proposed Amici's interests. Second, given the stakes to Nevada's health care system, this Court should "desire" additional briefing. Nevada's health care system still weathers the COVID-19 pandemic. A decision unfavorable to Proposed Amici could conceivably open the damages floodgates, burdening Nevada's health care system at a critical time. At the very least, this Court should have full confidence in any eventual decision, refined by additional briefing.

This motion is submitted in good faith and for good cause shown in accordance with NRAP 26 (1)(a). For the foregoing reasons, the Proposed Amici respectfully move this Court for an extension of time to file their motion

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for leave to file an amicus brief and their proposed brief to no later than thirty (30) days after this Court's order.

Dated this 19<sup>th</sup> day of November, 2021.

**GREENBERG TRAURIG, LLP**

/s/ Jacob D. Bundick

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CommonSpirit Health, St. Rose Dominican -  
Rose de Lima, St. and Rose Dominican –  
Siena, St. Rose Dominican - San Martin*

### **CERTIFICATE OF SERVICE**

Pursuant to NRAP 25, I certify that I am an employee of GREENBERG TRAURIG, LLP, that in accordance therewith, on 19<sup>th</sup> day of November, 2021, I caused a copy of the foregoing ***Motion for Extension of Time to File Brief, and to File Motion for Leave to File Amicus Brief (First Request)*** to be served via electronic means through the Court's eFlex filing system.

/s/ Andrea Lee Rosehill  
An Employee of Greenberg Traurig LLP