

IN THE SUPREME COURT OF THE STATE OF NEVADA

<p>CLARK NMSD, LLC, D/B/A THE SANCTUARY</p> <p>Appellant,</p> <p>vs.</p> <p>JENNIFER M. GOLDSTEIN, AN INDIVIDUAL,</p> <p>Respondent,</p>	<p>Supreme Court No. 84623</p> <p>District Court Case No. A738510</p> <p>Electronically Filed Dec 16 2022 04:23 PM Elizabeth A. Brown Clerk of Supreme Court</p>
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RESPONDENT’S MOTION TO EXTEND TIME TO RESPOND TO
APPELLANT’S EMERGENCY MOTION FOR STAY OR INJUNCTION
AND TO EXCEED PAGE LIMITS

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Comes now Respondent, Jennifer M. Goldstein (“Goldstein”), by and through her attorneys of record, Dickinson Wright PLLC, and hereby files her Motion to Extend Time to Respond to Appellant Clark NMSD, LLC, d/b/a The Sanctuary’s (“Clark”) Emergency Motion for Stay or Injunction (the “Motion”) and to Exceed Page Limits.

MEMORANDUM OF POINTS AND AUTHORITIES

I. REQUEST FOR EXTENSION OF TIME

Under NRAP 26(b)(1)(A), “[f]or 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.” Here, Clark filed its Motion on December 5, 2022, and subsequently filed a Supplement to its Motion (the “Supplement”) on December 8, 2022. In its Supplement, Clark “request[ed] that the motion for a stay or injunction be heard in the normal course and will update the Nevada Supreme Court after the hearing on December 13, 2022.” (Supp. at 4). Then, on December 15, 2022, non-party NuVeda, LLC filed a Joinder to Clark’s Motion, and, on December 16, 2022, Clark and NuVeda filed a “Status Report,” primarily regarding a status check held in the district court proceedings on December 13, 2022. (*See* Status Report, on file herein). In the Status Report, NuVeda and Clark

argue that because Respondent did not file a response to the Motion within seven (7) days as prescribed by NRAP 21(a)(3)(A), their Motion “should be granted as unopposed.” (Status Report at 6).

While the Nevada Rules of Appellate Procedure do not provide for a timeline to respond to emergency motions, *see* NRAP 27(e), if the Motion were not filed on an emergency basis, responses would have been due December 12, 2022. (*See* NRAP 27(a)(3)(A)). However, Clark’s (and now NuVeda’s) unorthodox briefing have thrust the Motion into a procedural quagmire. Moreover, as explained in Respondent’s Opposition to Clark’s Motion, filed concurrently herewith, Clark’s Motion itself suffers from procedural infirmities and should not be granted on the merits.

Additionally, Clark will not be prejudiced if the requested extension is granted. As explained in Clark’s and NuVeda’s Status Report, the District Court set the hearing to consider Respondent’s Motion to Appoint Receiver for January 12, 2022. Clark will have ample time to file a reply to Respondent’s opposition before the Motion to Appoint Receiver is heard.

Finally, while styled as a “Status Report,” Clark’s most recent filing seeks affirmative action from this Court. Specifically, the Status Report appears to be yet another emergency motion, as it states “Action Required on or Before January 6, 2023 at 5PM” just below the title of the document. (*See* Status Report, Cover

Page). This is a requirement under the Rules applicable to emergency motions, not what Clark and NuVeda have dubbed a “Status Report.” NRAP 27(e)(2) (“A motion filed under this subdivision shall include the title ‘Emergency Motion Under NRAP 27(e)’ immediately below the caption of the case and *a statement immediately below the title of the motion that states the date or event by which action is necessary.*”) (emphasis added). Moreover, NuVeda and Clark request that, in the event the Motion is granted in some capacity, this Court either order NuVeda to post a cash bond between \$1,000,000.000 and \$2,565,276.41, or order Clark to post a cash bond not to exceed \$250,000.000. (Status Report at 7). This is affirmative relief that must be made by a noticed motion. NRAP 27(a)(1).

Given the unusual procedural history associated with the Motion and subsequent filings, to the extent the time has passed for Respondent to file a response, Respondent submits that good cause exists to extend the deadline to respond to the Motion until and including December 16, 2022. *See* NRAP 26(b)(1)(A).

II. REQUEST TO EXCEED PAGE LIMITS

As expressed in Respondent’s Opposition to Clark’s Motion, resolution of the Motion requires significant legal analysis and explanation of the factual and procedural background in this case. With respect to the procedural and factual history, the district court proceedings concerning the instant appeal, the events

below that have transpired since Clark filed its Notice of Appeal, and the proceedings in the United States Bankruptcy Court are all germane to this Court's consideration of Clark's Motion. Therefore, a procedural and factual history more complete than what was offered by Clark is necessary. Additionally, the legal issues implicated in Clark's Motion require significant analysis, which is also necessary for a full and fair consideration of Clark's Motion. As such, good cause exists for this Court to allow briefing in excess of the 10-page limit pursuant to NRAP 27(d)(2).

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III. CONCLUSION

Based on the foregoing, Respondent respectfully request that this Court grant her request for extension of time to respond to Clark's motion, and to exceed page limits for such a response.

DATED this 16th day of December, 2022.

DICKINSON WRIGHT, PLLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of December, 2022, I filed the foregoing document using the court's electronic filing system.

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