

IN THE SUPREME COURT OF THE

STATE OF NEVADA

CLARK NMSD, LLC,
Appellant,

vs

JENNIFER GOLDSTEIN,
Respondent,

NUVEDA, LLC, Interested Party.

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Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No. 84623

District Court Case No. A-15-728510-B

**OPPOSITION TO MOTION TO EXTEND TIME TO RESPOND TO
APPELLANT'S EMERGENCY MOTION FOR STAY OR INJUNCTION**

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DATED this 19th day of December, 2022.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. Respondent's Request Retroactively to Extend the Deadline after Filing her Opposition without Leave should be Denied.

This appeal concerns the post-judgment collection activity of Jennifer Goldstein ("Respondent") in District Court Case No. A-15-728510-B pursuant to which Respondent is the judgment creditor and Interested Party, NuVeda, LLC ("NuVeda"), is the judgment debtor. Appellant filed its emergency motion for a stay or injunction on December 5, 2022. See Dkt. No. 22-38207 through Dkt. No. 22-38211. In response, Respondent filed a motion to extend the time to respond and to exceed the page limits (Dkt. No. 22-39589) on December 16, 2022. The time period for providing a response to Appellant's motion is set forth in NRAP 27(a)(3)(A). *Id.* ("The response must be filed within 7 days after service of the motion unless the court shortens or extends the time) (emphasis added). NRAP 27 does not set forth a different timeframe if the motion is filed on an emergency basis. Here, Appellant requested relief under NRCP 27(e) on or before December 9, 2022 at 5pm. When relief was not needed by this deadline for the reasons set forth in Dkt. No. 22-38631, Appellant notified the Nevada Supreme Court that the motion could be heard in the ordinary course (but that Appellant would file a status report after the hearing before the district court on December 13, 2022). At no time did Appellant withdraw its motion or request for relief set forth in the motion. At no time did Respondent object to the supplement (Dkt. 22-38631) or the status report (Dkt. 22-39525). Nothing in the supplement or the status report changes the relief requested by Appellant in its motion. Appellant updated the court on the

proceedings before the district court on December 13, 2022, offered a cash bond for the relief requested by the motion (when no bond was previously offered), and identified the deadline by which Appellant has requested a response from the Nevada Supreme Court (since the district court set a hearing on the appointment of a receiver). Otherwise, the relief requested by the motion remains the same.

Respondent did not seek leave to file her response to the motion. Respondent opposed the motion without waiting for the decision by the Nevada Supreme Court on her request. See Dkt. No. 22-39590 and 22-39591. Therefore, the response and appendix filed in support should be stricken. Respondent also has not offered any “good cause” for missing the deadline. Instead, Respondent wrongly blames Appellant. First, this appeal would not exist if Respondent did not seek to execute on property, which did not belong to NuVeda.¹ Second, Respondent asked the district court to reset a hearing on her request for a receiver over “NuVeda and its subsidiaries and affiliates” notwithstanding the findings made by the bankruptcy court in NuVeda’s bankruptcy and the provisions of an indemnification agreement, which the district court refuses to address. See Status Report, Dkt. No. 22-39525, pages 3-4; see also **Exhibits 14-16** to Appendix, Volume I, Dkt. No. 22-39531. “Good cause” generally is established when it is shown that the circumstances causing the failure to act are beyond the individual's control. See *State v. Williams*, 120 Nev. 473, 477, 93 P.3d 1258, 1260 (2004). **Absolutely nothing prevented Respondent from filing a response to the motion on or before December 12, 2022.**

¹ Respondent’s counsel, Brian Irvine, freely admits to the district court at the hearing on December 13, 2022 that the appeal concerns Respondent’s execution on property at a dispensary owned by Appellant. See **Exhibit 20** to Appendix, Volume II, 22-39532 (page 12 of Transcript).

Therefore, without good cause, there is no basis to extend any deadline retroactively to consider Respondent's opposition. Appellant's motion should be granted as unopposed.

II. Respondent's Request to Exceed the Page Limitations for her Opposition to the Motion should also be denied.

If the Nevada Supreme Court grants the request retroactively to extend the deadline to file Respondent's response to the motion, Respondent contends the resolution of Appellant's motion requires briefing that exceeds the 10 page limitation set forth in NRAP 27(d)(2). Here, without leave, Respondent filed an opposition, which is almost two (2) times the number of pages permitted by NRAP 27(d)(2). Respondent has not demonstrated diligence or good cause to file an opposition without leave constituting 18 pages. Blandino v. Eighth Judicial Dist. Court of State, 466 P.3d 539 (Nev. 2020) (requiring diligence and good cause for motions to exceed page limits). Respondent simply contends her response to the motion requires "significant legal analysis and explanation" without more. Respondent received notice of the motion on December 5, 2022 and Appellant's supplement on December 8, 2022. Respondent waited until after Appellant filed its status report on December 16, 2022 to file its motion and has not offered any specific explanation for filing an 18 page opposition other than general conclusions about the need for legal analysis and explanation (which is the case with every response to a motion). Respondent's motion is the exact opposite of diligence and offers no specific explanation on these facts for exceeding the page limitations by 8 pages.

Therefore, even if the Nevada Supreme Court grants the request retroactively to file an opposition, it should be limited to 10 pages as required by NRAP 27(d)(2).

DATED this 19th day of December, 2022.

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DECLARATION OF MITCHELL STIPP

The undersigned, Mitchell Stipp, Attorney for Appellant and NuVeda, declares under penalty of perjury as follows:

1. The facts set forth in the opposition are true and accurate to the best of my knowledge and belief.

2. I have personal knowledge of the facts contained in the opposition unless otherwise qualified by information and belief or such knowledge is based on the record in this case, I am competent to testify thereto, and such facts are true and accurate to the best of my knowledge and belief.

DATED this 19th day of December, 2022.

LAW OFFICE OF MITCHELL STIPP

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of December, 2022, I filed the foregoing **OPPOSITION**, using the court's electronic filing system.

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