

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

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| <p>CLARK NMSD, LLC, D/B/A THE<br/>SANCTUARY</p> <p>Appellant,</p> <p>vs.</p> <p>JENNIFER M. GOLDSTEIN, AN<br/>INDIVIDUAL,</p> <p>Respondent,</p> | <p>Supreme Court No. 84623</p> <p>District Court Case No. A738510</p> <p>Electronically Filed<br/>Dec 23 2022 12:04 PM<br/>Elizabeth A. Brown<br/>Clerk of Supreme Court</p> |
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**RESPONDENT’S REPLY IN SUPPORT OF 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 (“Respondent”), by and through her attorneys of record, Dickinson Wright PLLC, and hereby files her Reply in Support of 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 “Emergency Motion”) and to Exceed Page Limits.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. REQUEST FOR EXTENSION OF TIME**

In Motion to Extend Time and Exceed Page Limits (the “Motion to Extend”), Respondent argued that, under NRAP 26(b)(1)(A), good cause exists to extend time for Respondent to file a pleading responsive to Clark’s Emergency Motion. Respondent argued that Clark’s unorthodox and voluminous briefing practices created a situation wherein the actual briefing schedule on the Emergency Motion was far from clear, and good cause exists to extend the deadline, to the extent the deadline had already passed. (*See generally* Mot. to Extend).

In response, Clark first argues that “NRAP 27 does not set forth a different timeframe” to respond to a motion “if the motion is filed on an emergency basis.” (Opp’n to Motion to Extend at 3). However, this argument is based on a clear misreading of NRAP 27. NRAP 27(a) governs the contents of and timelines related to regularly-noticed motions that do not request emergency or expedited relief. *See* NRAP 27(a)(1)-(4). NRAP 27(e), by contrast, governs the requirements for

motions requesting emergency relief, and provides no timeline filing responses or replies. *See* NRAP 27(e)(1)-(5). In fact, while NRAP 27(e) provides that an emergency “***motion*** shall otherwise comply with the provisions of” NRAP 27(e), the Rule does not explicitly incorporate the rules related to responses and replies contained in NRAP 27(a)(3)-(4). NRAP 27(e)(5) (emphasis added).

Clark also argues that Respondent’s Opposition to the Emergency Motion “should be stricken” because “respondent did not seek leave to file her response to the [Emergency] [M]otion.” (Opp’n to Mot. to Extend at 4). Clark cites no authority in support of its request, and ignores that 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.***” (emphasis added). Thus, under the plain language of NRAP 26(b)(1)(A) a party may seek an extension of time to “perform any act” after the time prescribed for that act to be done has expired, and parties are not required to seek leave of court before filing such a request.

Finally, Clark ignores that, by filing its Emergency Motion under NRAP 27(e), and then withdrawing its request for emergency relief and requesting that the Emergency Motion be heard in the ordinary course, and then filing its Status Report seeking affirmative relief, Clark unilaterally attempted to alter the briefing deadlines associated with those filings. Clearly, Clark’s practice of requesting,

withdrawing, and adding to the various relief it seeks in its Emergency Motion and associated briefing was well outside of Respondent's control.

For all these reasons, and the reasons articulated in the Motion to Extend, Respondent submits that good cause exists for this Court to extend the time for Respondent to file her Opposition to Clark's Emergency Motion, and the Emergency Motion should not be summarily granted as unopposed as Clark requests.

## **II. REQUEST TO EXCEED PAGE LIMITS**

Clark also opposes Respondent's request to exceed page limits only on the basis the Respondent has failed to show "diligence or good cause" justifying the request. Clark's argument is wrong for two reasons. First, Respondent is not required to show "diligence or good cause" to exceed page limits under NRAP 27(d)(2). In fact, NRAP 27(d)(2) **only** provides that "[a] motion or a response to a motion shall not exceed 10 pages, unless the court permits or directs otherwise." The case Clark cites in support of its argument did not involve an application to exceed page limits under NRAP 27(d)(2), but instead involved a motion for permission to file a writ petition in excess of the page limits under NRAP 32(a)(7)(D)(i). *Blandino v. Eighth Jud. Dist. Ct. in & for Cnty. of Clark*, 466 P.3d 539 (Nev. 2020); *see also* NRAP32(a)(7)(D)(i) ("A motion to file a **brief** that exceeds the applicable page limit or type-volume limitation will be granted only

upon a showing of diligence and good cause.”) (emphasis added).

Second, as made clear from the substance of Respondent’s Opposition to the Emergency Motion, additional pages of briefing are necessary to correct the procedural and factual inaccuracies contained in the Emergency Motion, and to provide a full legal analysis of the legal arguments contained therein.

### **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 23<sup>rd</sup> day of December, 2022.

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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 23<sup>rd</sup> day of December, 2022, I filed the foregoing document using the court's electronic filing system.

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