

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDUCATION FREEDOM PAC,
Appellant,

vs.

RORY REID, AN INDIVIDUAL;
BEVERLY ROGERS, AN
INDIVIDUAL; AND BARBARA
K. CEVASKE, IN HER OFFICIAL
CAPACITY AS NEVADA
SECRETARY OF STATE,
Respondents.

Electronically Filed
May 26, 2022 12:35 a.m.
Supreme Court Case No. 84736
District Court Case No. Elizabeth A. Brown
22OC000281B Clerk of Supreme Court

EMERGENCY MOTION TO EXPEDITE APPEAL

ON ORDER SHORTENING TIME

Appellant EDUCATION FREEDOM PAC (“Appellant”), pursuant to NRAP 2 and NRAP 27(e) hereby requests that this Court: (1) expedite the briefing schedule and (2) expedite the resolution of the appeal as this Court’s docket permits. It submits this request on an order shortening time because insufficient time exists for this Court to hear the instant motion and grant its requested relief in the normal course.

The issue before this Court is a ballot initiative. There are rigid timelines on ballot initiatives. If this Court is unable to address the issue in a timely fashion, Appellant will be unable to submit the ballot initiative to the public and it will not be on the ballot in November. This will leave voters disenfranchised, without the opportunity to vote for a change in their children's' education. The district court and Respondents have already significantly delayed Appellant's ability to seek judicial review. This Motion, and the accompanying request for an order shortening time, is the only way to ensure this Court can consider the merits of Appellant's appeal.

///

///

///

///

///

///

///

///

///

///

DECLARATION OF COUNSEL IN SUPPORT OF MOTION TO
EXPEDITE APPEAL ON ORDER SHORTENING TIME

I, Jason D. Guinasso, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of Nevada, and I am a partner with the law firm of Hutchison & Steffen, PLLC.
2. I have personal knowledge of the facts stated in this Declaration. If called upon to attest to or testify to the same, I am competent to do so.
3. In the instant appeal, Appellant seeks appellate review by the Nevada Supreme Court of a district court order enjoining an Initiative Petition and declaring it invalid. This extraordinary relief was granted without regard to Nevada law.
4. Actions taken by Respondents in the lower court made it difficult for the court to make a swift decision. As a result, the district court did not comply with its own statutory requirement to hold a hearing within 15 days.
5. In light of the significant importance of allowing voters, not courts, to decide the merits of Initiative Petitions for Constitutional Amendments and knowing the district court failed to apply existing Nevada law in making its decision on the merits of the petition.
6. Further, as insufficient time exists for this Court to decide the instant motion and grant the relief requested therein in the normal course, where the Court's decision is necessary to address an important issue in a timely manner,

Appellant respectfully requests this Court provide clarification on the Order Shortening Time at the earliest convenient opportunity.

7. Concurrently with submitting this Motion, I have served via email to counsel for Respondents and the Secretary of State's office.
8. This Order Shortening Time is made in good faith and without dilatory motive.

I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045) that the foregoing is true and correct.

Dates this 25th day of May, 2022.

By: /s/ Jason D. Guinasso

Jason D. Guinasso, Esq.
Nevada Bar No. 8478
Alex R. Velto, Esq.
Nevada Bar No. 14961
Astrid A Perez, Esq.
Nevada Bar No. 15977
5371 Kietzke Ln
Reno, Nevada 89511
jguinasso@hutchlegal.com
avelto@hutchlegal.com
aperez@hutchlegal.com
Tel.: 775-853-8746
Fax: 775-201-9611
Attorneys for Appellant

MEMORANDUM OF POINTS AND AUTHORITIES

1. Procedural history.

Appellant is in dire need of an answer as to the legality of its Initiative Petition. Actions in the district court have already delayed the account. On February 22, 2022, Respondents filed a complaint for Declaratory and Injunctive relief Challenging the Petition pursuant to NRS 295.061(1), alleging that the description of effect was not compliant with statute; that the Petition was an impermissible use of the initiative process; and that the Petition was an unfunded expenditure in violation of Nev. Const. Art 19, Sec. 6. Education Freedom filed a motion to intervene and on March 1, 2022, a Stipulation and Order Regarding Intervention was filed. On March 15, 2022, Education Freedom filed an answering brief in response to the Respondents Rogers and Reid's memorandum of points and authorities in support of their complaint. On March 24, 2022, Respondent Barbara Cegavski filed a limited response to Respondent's memorandum of points and authorities in support of their complaint. That same day, Respondents Rogers and Reid filed its reply in support of their complaint. After significant delay, and a motion filed by Education Freedom requesting a hearing, a hearing was set and Oral Arguments were heard before the District Court on March 29, 2022.

On April 12, 2022, the District Court issued its Decision Invalidating Petition to Amend the Nevada Constitution to Offer Sequestered funding

Alternatives Going Outside School Districts to Parents of School Age Children and an Order Enjoining Petition. On April 20, 2022, the Court Ordered the joinder of case number 22 OC 0027 IB and 22 OC 000441B. The Court's final Decision and consequential holding is now the subject of this appeal. Appellant filed its notice of appeal on April 18, 2022, and opening brief April 25, 2022.

2. Expedited review is necessary to resolve this appeal so that Appellant has an opportunity to acquire signatures for verification.

This Court is committed to the proposition that “justice delayed is justice denied.” *Dougan v. Gustaveson*, 108 Nev. 517, 523, 835 P.2d 795, 799 (1992). Pursuant to NRAP 2, “[o]n its own or a party’s motion, the Supreme Court may – to expedite its decisions or for other good cause – suspend any provisions of these Rules in a particular case and order proceedings as it directs, except as otherwise provided in Rule 26(b).” Further, NRAP 27(e) permits an emergency motion when there is a compelling need.

Good cause exists in this case to expedite the proceedings. Time is of the essence in ballot question litigation. *See Coal. for Nevada’s Future v. RIP Commerce Tax, Inc.*, 132 Nev. 956 (2016) (unpublished) (Nev. R. App. P. 36(c)(3)) (“In light of the nature and urgency of this matter, we suspend NRAP 41(a) and direct the clerk of this court to issue the remittitur forthwith.”). Furthermore, NRS 295.061(1) requires that ballot question cases receive “priority

. . . over all other matters pending with the court, except for criminal proceedings.”

Pursuant to Article 19, Section 2(4) of the Nevada Constitution, statutory initiative petitions to appear on the 2023 Legislature may be filed on or after January 1, 2022. To qualify for the ballot, petitioners must obtain the signatures of registered voters that equal at least ten percent (10%) of the voters who voted at the last preceding General Election. Only registered voters of the county and petition district where the petition is circulated may sign the petition. Appellants timeline is the end of June to gather enough signatures.

Ultimately, the outcome of this appeal will affect whether Education Freedom can move forward on its Initiative Petition and obtain signatures from Nevada registered voters. This case directly impacts the rights of eligible voters to decide whether they want to move forward on the process and, by extension, the rights of voters to vote for the petition. The voters will be prejudiced if the case cannot be timely resolved. Therefore, Appellant respectfully requests that this Court expedite the disposition of this appeal to resolve the issue as swiftly as possible. To assist the Court in reaching a timely resolution of this matter, Appellant proposes the following briefing schedule:

Opening Briefs due: May 25, 2022

Answering Brief due: June 1, 2022

Reply Briefs due: June 7, 2022

Of course, the parties will always defer to the Court's timing, and counsel will comply with any briefing schedule the Court may order.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court expedite review of this appeal, and that the Court order that: opening briefs shall be due May 25, 2022; answering briefs be due June 1, 2022; and reply briefs shall be due June 7, 2022. This Motion has been served electronically to opposing counsel and to the Secretary of State's representative.

DATED this 25th day of May 2022.

HUTCHINSON & STEFFEN, PLLC

By: /s/ Jason D. Guinasso

Jason D. Guinasso, Esq.
Nevada Bar No. 8478
Alex R. Velto, Esq.
Nevada Bar No. 14961
Astrid A Perez, Esq.
Nevada Bar No. 15977
5371 Kietzke Ln
Reno, Nevada 89511

*Attorneys for Intervenor, aligned as
Defendant,
EDUCATION FREEDOM PAC*

CERTIFICATE OF SERVICE

Pursuant to NRAP 25(c), I certify that I am an employee of Hutchison & Steffen, PLLC and that on this date I caused to be served a true and correct copy of **MOTION TO EXPEDITE APPEAL** on the following as indicated below:

Bradley Schrager, Esq.
Nevada Bar No.10217
Samberg, Esq.
Daniel Bravo, Esq.
3773 Howard Hughes Parkway, Suite 590 South
Las Vegas, NV 89169
bschrager@wrslawyers.com
jsamberg@wrslawyers.com
dbravo@wrslawyers.com

Aaron Ford
Attorney General
Craig Newby, Esq.
Laena St. Jules, Esq.
Office of the Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101
cnewby@ag.nv.gov
lstjules@ag.nv.gov

///

///

///

///

///

///

///

(Via Electronic service through the Nevada Supreme Court's Eflex system)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 25, 2022, at Reno, Nevada.

/s/ Bernadette Francis-Neimeyer

Bernadette Francis-Neimeyer