

IN THE SUPREME COURT OF THE STATE OF NEVADA

NEVADA POLICY RESEARCH
INSTITUTE, INC., A NEVADA
DOMESTIC NON-PROFIT
CORPORATION,
Appellant,

vs.

BRITTNEY MILLER, AN INDIVIDUAL
ENGAGING IN DUAL EMPLOYMENT
WITH THE NEVADA STATE
ASSEMBLY AND CLARK COUNTY
SCHOOL DISTRICT; DINA NEAL, AN
INDIVIDUAL ENGAGING IN DUAL
EMPLOYMENT WITH THE NEVADA
STATE SENATE AND NEVADA STATE
COLLEGE AND COLLEGE OF
SOUTHERN NEVADA; JAMES
OHRENSCHALL, AN INDIVIDUAL
ENGAGING IN DUAL EMPLOYMENT
WITH THE NEVADA STATE SENATE
AND CLARK COUNTY PUBLIC
DEFENDER; AND SELENA TORRES,
AN INDIVIDUAL ENGAGING IN DUAL
EMPLOYMENT WITH THE NEVADA
STATE ASSEMBLY AND A CLARK
COUNTY PUBLIC CHARTER SCHOOL;
AND THE LEGISLATURE OF THE
STATE OF NEVADA,
Respondents.

No. 85935

FILED

FEB 09 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER

Appellant has filed a motion requesting that this court suspend the rules pursuant to NRAP 2 and expedite the briefing of this appeal. Respondent Legislators have filed a joint opposition to the motion and a counterclaim for a legislative continuance pursuant to NRS 1.310. The Legislature has filed an opposition to appellant's motion and a joinder to

respondent Legislators' countermotion. Appellant has filed a reply in support of its motion and an opposition to the countermotion for legislative continuance. The Legislature has filed a reply in support of the countermotion.

NRS 1.310 provides, in relevant part, that if a person is a member of the Legislature and, during any regular or special session, that person is a party to an action or proceeding in any court and files a motion for continuance of the action pursuant to this section, the court shall grant the continuance for the duration of the session and for an additional 7 days following the session. *Id.* at 1(a), (b)(1), (c); 2(a)(1). The court shall not deny the requested continuance, in whole or in part, unless the objecting party can prove that, as a direct result of emergency or extraordinary circumstance, it "(a) [h]as a substantial existing right or interest that will be defeated or abridged if the requested continuance is granted; and (b) [w]ill suffer substantial and immediate irreparable harm if the requested continuance is granted." *Id.* at 3.

Appellant argues that because the district court has ruled on the issue of whether respondent Legislators can constitutionally engage in dual employment in the Legislature and the executive branch, the issue is ripe for review and, unless this appeal is expedited, serious public injury could occur. Respondents counter that because public employees have been serving in the Legislature for over 100 years, appellant has not demonstrated an emergency or extraordinary circumstance or that it will suffer substantial and immediate irreparable harm that would warrant denial of the request for legislative continuance under NRS 1.310. Respondents ask this court to continue all aspects of this appeal until June

12, 2023, but notes it does not object to this court setting appellant's opening brief to be due on June 12, 2023.

This court concludes that appellant has failed to demonstrate that as a direct result of emergency or extraordinary circumstance, it "(a) [h]as a substantial existing right or interest that will be defeated or abridged if the requested continuance is granted; and (b) [w]ill suffer substantial and immediate irreparable harm if the requested continuance is granted." NRS 1.310(3). Therefore, appellant has failed to carry the burden placed upon it by NRS 1.310. As a continuance is mandatory under these circumstances, absent the required showing from appellant, respondent Legislators' countermotion is granted. The proceedings in this appeal shall be suspended for the duration of the legislative session.

The clerk of this court shall exempt this appeal from the settlement program. Appellant shall file and serve the opening brief and appendix on June 12, 2023. In the event appellant files its opening brief and appendix prior to that date, respondents' time to file the answering brief under NRAP 31(a)(1) will not commence until June 12, 2023. Appellant's motion to expedite briefing is denied as moot.

It is so ORDERED.

Stiglich, C.J.
Stiglich

cc: Fox Rothschild, LLP/Las Vegas
Berna L. Rhodes-Ford
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP/Las Vegas
Wiley Petersen
Legislative Counsel Bureau Legal Division