

IN THE SUPREME COURT OF THE STATE OF NEVADA

SANDRA CAMACHO; AND ANTHONY  
CAMACHO,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
NADIA KRALL, DISTRICT JUDGE,

Respondents,

and

PHILIP MORRIS USA, INC., a foreign  
corporation; R.J. REYNOLDS  
TOBACCO COMPANY, a foreign  
corporation, individually, and as  
successor-by-merger to LORILLARD  
TOBACCO COMPANY and as  
successor-in-interest to the United  
States tobacco business of BROWN &  
WILLIAMSON TOBACCO  
CORPORATION, which is the successor-  
by-merger to THE AMERICAN  
TOBACCO COMPANY; LIGGETT  
GROUP, LLC., a foreign corporation;  
and ASM NATIONWIDE  
CORPORATION d/b/a SILVERADO  
SMOKES & CIGARS, a domestic  
corporation; LV SINGHS NC. d/b/a  
SMOKES & VAPORS, a domestic  
corporation,

Real Parties in Interest.

No. 86501

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*REPLY IN SUPPORT OF MOTION  
TO EXCEED WORD LIMIT FOR  
PETITION FOR WRIT OF  
MANDAMUS*

Sean K. Claggett, Esq.  
Nevada Bar No. 8407  
Micah S. Echols, Esq.  
Nevada Bar No. 8437  
Matthew S. Granda, Esq.  
Nevada Bar No. 12753  
David P. Snyder, Esq.  
Nevada Bar No. 15333  
Charles L. Finlayson, Esq.  
Nevada Bar No. 13685  
CLAGGETT & SYKES LAW FIRM  
4101 Meadows Ln., Ste. 100  
Las Vegas, Nevada 89107  
(702) 655-2346 – Telephone  
[micah@claggettlaw.com](mailto:micah@claggettlaw.com)  
[david@claggettlaw.com](mailto:david@claggettlaw.com)

Fan Li, Esq.  
Nevada Bar No. 15771  
KELLEY | UUSTAL  
500 N. Federal Hwy., Ste. 200  
Fort Lauderdale, Florida 33301  
(954) 522-6601 – Telephone  
[klw@kulaw.com](mailto:klw@kulaw.com)

*Attorneys for Petitioners, Sandra Camacho and Anthony Camacho*

## *INTRODUCTION*

Petitioners Sandra and Anthony Camacho moved this court for leave to file a mandamus petition that exceeds NRAP 21(d)'s word-limit, arguing that, despite their diligence, they could not draft a mandamus petition under the word limit given the petition's robust factual background and given the district court's numerous erroneous decisions. Real parties in interest Philip Morris USA, Inc. and Liggett Group, LLC (collectively "Cigarette Manufacturers") summarily urge this court to deny the motion. Given that the Cigarette Manufacturers do not contest the Camachos' arguments regarding diligence and good cause, the Camachos urge this court to grant their motion to exceed page limit.

## *ARGUMENT*

This court may grant a motion to exceed word-limit upon a showing of diligence and good cause. *See* NRAP 21(d); NRAP 32(a)(7)(D)(i). In seeking such relief, the Camachos demonstrated that, despite their diligence, the district court's numerous erroneous decisions required a longer petition.

Specifically, the Camachos demonstrated that they had to address the district court's application of either implied preemption or

conflict preemption, application of the *Restatement (Second) of Torts* § 402A comment i (Am. L. Inst. 1965), conclusion that the Cigarette Manufacturers did not owe a duty of care to Sandra, resolution of four questions of material fact against the nonmovant on a motion for summary judgment, application of claim preclusion under an adequate representation theory, application of claim preclusion under a parens patriae theory, and construction of the Master Settlement Agreement’s (“MSA”) express terms. *See Hung v. Berhad*, 138 Nev., Adv. Op. 50, 513 P.3d 1285, 1287 (Ct. App. 2022); *see also Mortimer v. Pac. States Sav. & Loan Co.*, 62 Nev. 147, 160, 145 P.2d 733, 738 (1944). This, in turn, required the Camachos to present facts demonstrating that genuine issues of material fact remained regarding their negligence claims, which included the Cigarette Manufacturers’ decades-long manufacturing and advertising conduct. The Camachos further had to present facts regarding the Attorney General of Nevada’s prior complaint against the Cigarette Manufacturers, the resulting MSA, the Camachos’ complaint, the parties’ moving papers, and the district court’s orders. *See* NRAP 21(a)(3)(D). Finally, the Camachos argued that considerations of judicial economy militated in favor of granting the motion to exceed word count,

as a longer mandamus petition is more economical than multiple smaller mandamus petitions with duplicative facts.

The Cigarette Manufacturers did not contest the Camachos' argument.<sup>1</sup> Indeed, the Cigarette Manufacturers did not identify any portion of the Camachos' mandamus petition that contains "burdensome, irrelevant, immaterial or scandalous matters," NRAP 28(j), nor did the Cigarette Manufacturers identify any portion of the same that includes "extraneous facts and information" or any "impertinent opinion," *Blandino v. Eighth Jud. Dist. Ct.*, No. 81431, 2020 Nev. Unpub. LEXIS 679 at \*2 (Nev. July 8, 2020). The Cigarette Manufacturers also did not contest the Camachos' arguments regarding judicial economy. Rather, the Cigarette Manufacturers merely state the obvious—that the Camachos' mandamus petition is long.

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<sup>1</sup>The Cigarette Manufacturers seemingly suggest that the Camachos were not diligent in drafting their mandamus petition by referencing the time between the district court's initial order granting summary judgment, the district court's order denying reconsideration, and the Camachos' petition's filing date. First, the time the Camachos spent drafting their petition is not relevant as to whether their petition is unduly long. Second, the Camachos submit that spending nearly three months reviewing the entire relevant record, reading all the parties' proffered caselaw, and drafting a complete mandamus petition was reasonable. The court need only review the petition to so confirm.

Alternatively, the Cigarette Manufacturers arbitrarily demand a 10,000-word limit.<sup>2</sup> As the Camachos demonstrated in their motion to exceed word limit, the imposition of a 10,000-word limit would either require the Camachos to omit key facts relevant to the issues before this court, or require the Camachos to submit 2 separate mandamus petitions with duplicative facts, 1 petition addressing the district court's grant of summary judgment as to the Camachos' negligence claims, and 1 petition addressing the district court's grant of summary judgment as to the Camachos' punitive damages request. Choosing this option would unnecessarily double the number of briefs the parties must file, unnecessarily double the number of law clerks and staff attorneys that must work up bench memoranda. Thus, considerations of judicial economy do not support the Cigarette Manufacturers' arbitrary request.

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<sup>2</sup>Judicial estoppel precludes the Cigarette Manufacturers' suggestion that this court should summarily deny the Camachos' mandamus petition, *see In re Frei Irrevocable Tr.*, 133 Nev. 50, 56-57, 390 P.3d 646, 652-53 (2017), as the Cigarette Manufacturers agreed in the district court that this court's intervention was appropriate, *see* 61 PA 9556.

## CONCLUSION

The district court's numerous erroneous decisions and the petition's robust factual background prevented the Camachos, notwithstanding their diligence, from drafting a mandamus petition under NRAP 21(d)'s word-limit. Good cause exists for this court to allow a longer mandamus petition. The Camachos' mandamus petition does not stray from a methodical presentation of the necessary facts, carefully presents the relevant caselaw, and thoroughly analyzes the Cigarette Manufacturers' averments and the district court's orders. Furthermore, considerations of judicial economy weigh in favor of reviewing a single mandamus petition than multiple mandamus petitions. Given that the Cigarette Manufacturers failed to contest the Camachos' arguments, the Camachos urge this court to grant their motion to exceed word-limit.

Dated this 15th day of May 2023.

CLAGGETT & SYKES LAW FIRM

*/s/ David P. Snyder*

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David P. Snyder, Esq.  
Nevada Bar No. 15333

*Attorney for Petitioners,  
Sandra Camacho and  
Anthony Camacho*

*CERTIFICATE OF SERVICE*

I hereby certify that I electronically filed the foregoing *REPLY*  
*IN SUPPORT OF MOTION TO EXCEED WORD LIMIT FOR PETITION FOR WRIT OF*  
*MANDAMUS* with Supreme Court of Nevada on the 15th day of May 2023.  
I shall make electronic service of the foregoing documents in accordance  
with the Master Service List as follows:

**KELLEY | UUSTAL**

Fan Li, Esq.

fli@kulaw.com

500 N. Federal Hwy., Ste. 200

Fort Lauderdale, Florida 33301

(305) 444-7675 – Telephone

*Attorney for Petitioners, Sandra Camacho and Anthony Camacho*

**BAILEY KENNEDY**

Dennis L. Kennedy, Esq.

dkennedy@baileykennedy.com

Joseph A. Liebman, Esq.

jliebman@baileykennedy.com

8984 Spanish Ridge Ave., Las Vegas, Nevada 89148

(702) 562-8820 – Telephone

*Attorneys for Real Party in Interest, R.J. Reynolds Tobacco Company*



**WEINBERG, WHEELER, HUDGINS, GUNN & DIAL**

D. Lee Roberts, Jr., Esq.

lroberts@wwhgd.com

Phillip N. Smith, Jr., Esq.

psmithjr@wwhgd.com

Daniela LaBounty, Esq.

dlabounty@wwhgd.com

6385 S. Rainbow Blvd., Ste. 400, Las Vegas, Nevada 89118

(702) 938-3809 – Telephone

*Attorneys for Real Parties in Interest, Philip Morris USA, Inc., and  
ASM Nationwide Corporation*

**SHOOK, HARDY & BACON**

Jennifer Blues Kenyon, Esq.

jbkenyon@shb.com

Brian A. Jackson, Esq.

bjackson@shb.com

Bruce R. Tepikian, Esq.

btepikian@shb.com

2555 Grand Blvd., Kansas City, Missouri 64108

(816) 474-6550 – Telephone

*Attorneys for Real Party in Interest, Philip Morris USA, Inc.*

**FASI & DIBELLO**

Joseph M. Fasi, II, Esq.

fasi@fasidibellolaw.com

150 SE 2d Ave., Ste. 1010, Miami, Florida 33131

(305) 537-0469 – Telephone

*Attorney for Real Party in Interest, Philip Morris USA, Inc.*

**LEWIS ROCA ROTHGERBER CHRISTIE LLP**

Daniel F. Polsenberg, Esq.

dpolsenberg@lrrc.com

J. Christopher Jorgensen, Esq.

cjorgensen@lrrc.com

3993 Howard Hughes Pkwy., Ste. 600, Las Vegas, Nevada 89169

(702) 949-8200 – Telephone

*Attorneys for Real Party in Interest, Liggett Group, LLC*

**KASOWITZ BENSON TORRES LLP**

Kelly Anne Luther, Esq.

kluther@kasowitz.com

Maria H. Ruiz, Esq.

mruiz@kasowitz.com

Giselle Gonzalez Manseur, Esq.

gmanseur@kasowitz.com

1441 Brickell Ave., Ste. 1420, Miami, Florida 33131

(786) 587-1045 – Telephone

*Attorneys for Real Party in Interest, Liggett Group, LLC*

I further certify that I served a copy of the foregoing  
documents by e-mail to the following:

Hon. Nadia Krall, D.J.

dept04lc@clarkcountycourts.us

*Respondents*

/s/ Anna Gresl

Anna Gresl, an employee of  
CLAGGETT & SYKES LAW FIRM