

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAURA PURKETT, INDIVIDUALLY
AND AS PERSONAL
REPRESENTATIVE OF THE ESTATE
OF SANDRA CAMACHO, AND
ANTHONY CAMACHO,
INDIVIDUALLY,

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.

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

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Attorneys for Petitioners, Laura Purkett, individually and as personal representative of the estate of Sandra Camacho, and Anthony Camacho, individually

INTRODUCTION

Petitioners, Laura Purkett and Anthony Camacho (collectively “the Camachos”), have drafted a reply in support of their mandamus petition, seeking this court’s intervention to correct the district court’s manifest legal errors in granting Philip Morris USA, Inc.’s (“PM”) and Liggett Group, LLC’s (“LG”) (collectively “Cigarette Manufacturers”) motions for summary judgment regarding the Camachos’ negligence claim and punitive damages request. Given that the Camachos’ mandamus petition contained 88 pages of analysis, *see* Pet. at 1-88, and given that the Cigarette Manufacturers answers contained a combined total of 121 pages, *see* PM Answer at 1-86; LG Answer at 1-35, the Camachos cannot, despite exercising due diligence, comply with NRAP 21(d)’s word requirement. Accordingly, the Camachos urge this court to grant their motion to exceed NRAP 21(d) and file their reply in support of their mandamus petition containing 20,527 words.

ARGUMENT

I. *Legal standard*

NRAP 21(d) provides that replies in support of a mandamus petitions are subject to a 7,000-word limit unless this court grants leave to file a longer petition. In moving to exceed the word limit, a petitioner must demonstrate diligence and good cause. *See* NRAP 21(d); NRAP 32(a)(7)(D)(i). Diligence is “[t]he attention and care required from a person in a given situation; care; heedfulness.” *Diligence, Black’s Law Dictionary* 573 (11th ed. 2019). Good cause ordinarily means “[a] ground for legal action,” “[a] legally sufficient reason,” or the showing a litigant must make for a court to act. *Good Cause, Black’s Law Dictionary* 274 (11th ed. 2019).

II. *This court’s previous orders granting the parties leave to exceed the presumptive word limit*

To date, this court granted the Camachos’ motion to exceed word limit over PM’s opposition. *Camacho v. Eighth Jud. Dist. Ct.*, No. 86501 (Nev. May 26, 2023). This court also granted PM’s motion to exceed word limit, which the Camachos did not oppose. *Camacho v. Eighth Jud. Dist. Ct.*, No. 86501 (Nev. Aug. 25, 2023).

III. *The Camachos exercised diligence*

To reply in support of their mandamus petition, the Camachos had to address all the arguments and caselaw that the Cigarette Manufacturers proffered to avoid confessing error. *See Ozawa v. Vision Airlines, Inc.*, 125 Nev. 556, 563, 216 P.3d 788, 793 (2009). The Cigarette Manufacturers devoted approximately five pages to contesting the Camachos' arguments in favor of writ relief, *see* PM Answer at 13-16; LG Answer at 8-9, and The Camachos devoted approximately nine pages to their reply in support, *see* Pet. at 3-12. The Cigarette Manufacturers devoted approximately 52 pages to contesting the Camachos' arguments regarding their negligence claims, *see* PM Answer at 51-86; LG Answer at 9-26, and the Camachos devoted approximately 45 pages to their reply in support, *see* Pet. at 12-57. Finally, the Cigarette Manufacturers devoted approximately 40 pages to contesting the Camachos' arguments regarding their punitive damages request, *see* PM Answer at 18-50; LG Answer at 26-34, and the Camachos devoted approximately 39 pages to their reply in support, *see* Pet. at 57-93. In each section, the Camachos meticulously identified that arguments that the Cigarette Manufacturers

failed to contest and the caselaw that the Cigarette Manufacturers abandoned in this court.

The Camachos undertook this presentation with attention and care. Each factual statement contains a correct citation to the record. The Camachos did not present any “burdensome, irrelevant, immaterial or scandalous matters,” NRAP 28(j), nor did they include “extraneous facts and information” or “impertinent opinion,” *Blandino v. Eight Jud. Dist. Ct.*, No. 81431, 2020 Nev. Unpub. LEXIS 679 at *2 (Nev. July 8, 2020). Moreover, the Camachos were careful and attentive in summarizing and distinguishing all the at-issue caselaw to assist this court in resolving the merits that the petition contains.

IV. *Good cause exists to grant the motion*

Denying the Camachos’ request to file a longer reply in support of their mandamus petition would unfairly prejudice the Camachos’ ability to seek extraordinary relief, particularly given that this court already allowed the Camachos to file a longer petition and allowed PM to file a longer answer. Moreover, removing any portions of the Camachos’ reply in support will hinder this court’s ability to reach a just and proper decision on the merits, as the Camachos’ reply in support

succinctly summarizes and distinguishes all the Cigarette Manufacturers' proffered caselaw. Thus, good cause exists to grant the Camachos' motion.

CONCLUSION

Despite their diligence, the number of legal issues that the underlying mandamus petition and corresponding answers contained prevents the Camachos from complying with NRAP 21(d). The Camachos are confident that this court will agree upon reviewing their reply in support of their mandamus petition and they urge this court to grant their motion, and allow them to file their reply in support of their mandamus petition containing 20,527 words.

Dated this 13th day of November 2023.

CLAGGETT & SYKES LAW FIRM

/s/ David P. Snyder

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*DECLARATION OF DAVID P. SNYDER, ESQ. IN SUPPORT MOTION TO EXCEED
WORD LIMIT FOR REPLY IN SUPPORT OF WRIT OF MANDAMUS*

David P. Snyder, Esq. being first duly sworn, states:

I am attorney with Claggett & Sykes Law Firm and attorney of record for petitioners Laura Purkett and Anthony Camacho in the instant matter. Despite my best efforts, I cannot present the merits of the underlying reply in support within NRAP 21(d)'s word limit due to the numerous legal issues that it challenges and the voluminous caselaw that the Cigarette Manufacturers proffered in the district court and in their answering briefs. A casual review of the underlying reply in support will so demonstrate. I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Dated this 13th day of November 2023.

/s/ David P. Snyder

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

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing *MOTION TO EXCEED WORD LIMIT FOR REPLY IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS* with Supreme Court of Nevada on the 13th day of November 2023. I shall make electronic service of the foregoing documents in accordance with the Master Service List as follows:

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

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Respondent

/s/ Anna Gresl
Anna Gresl, an employee of
CLAGGETT & SYKES LAW FIRM