

Case No. 19-10754

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

RICHARD W. DEOTTE, on behalf of himself and others similarly situated;
YVETTE DEOTTE; JOHN KELLEY; ALISON KELLEY; HOTZE HEALTH &
WELLNESS CENTER; BRAIDWOOD MANAGEMENT, INCORPORATED,
ON BEHALF OF ITSELF AND OTHERS SIMILARLY SITUATED,

PLAINTIFFS- APPELLEES

V.

STATE OF NEVADA,

MOVANT-APPELLANT.

On Appeal from the United States District Court
for the Northern District of Texas
Case No. 4:18-CV-825-O

**STATE OF NEVADA'S UNOPPOSED MOTION FOR
EXTENSION OF REPLY BRIEF DEADLINE**

HEIDI PARRY STERN
Solicitor General
Office of the Nevada Attorney General
555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
702-486-3594

hstern@ag.nv.gov

Counsel for the State of Nevada

**STATE OF NEVADA’S UNOPPOSED MOTION FOR
EXTENSION OF REPLY BRIEF DEADLINE**

Pursuant to Federal Rule of Appellate Procedure 26(b), Federal Rule of Appellate Procedure 31(a)(1), and Fifth Circuit Rule 31.4, Movant-Appellant State of Nevada seeks an **unopposed** fourteen-day extension of the reply brief deadline from Monday, November 2, 2020 until **Monday, November 16, 2020**. Plaintiffs-Appellees do not oppose this extension.

Movant-Appellant acknowledges Fifth Circuit Rule 31.4.4, which “greatly disfavors all extensions of time for filing reply briefs.” However, under the unique circumstances of the current COVID-19 pandemic, good cause exists for this Court to grant the proposed extension for multiple reasons outside of Nevada’s control. First, yesterday afternoon, Nevada’s lead attorney for this case learned that his two elementary school aged boys will revert to remote learning at home the week of October 26, due to a potential COVID-19 outbreak.¹ This necessarily limits his ability to work on all matters while attending to remote learning during business hours next week. Second, Nevada’s lead attorney for this case is also a lead attorney defending Nevada’s Secretary of State regarding the conduct of the 2020 election. By its very nature, resolving election disputes

¹ Should it be deemed necessary, a copy of the school communication with counsel can be provided.

is time-sensitive and outside the control of any party this close to Election Day.² Third, Nevada's lead attorney for this case is also Nevada's lead counsel defending challenges to the Governor's COVID-19 response, including an active motion for temporary restraining order scheduled for hearing November 5, 2020.³ While existing case work would not itself necessarily constitute good cause, Nevada's lead attorney cannot reschedule that work and conduct remote school next week for his sons.

Nevada seeks this extension in good faith and not for the purpose of delay. Nevada seeks this extension for the sole purpose of being able to provide this Court with an adequate argument on the merits of this matter. Lead counsel has been working diligently to complete the reply brief and requests this brief extension due strictly to the constraints enumerated above.

Under such circumstances, good cause exists for this Court to grant the requested fourteen-day continuance of the reply brief deadline from Monday, November 2, 2020 until Monday, November 16, 2020.

² See *Kraus et al. v. Cegavske et al.* Case No. 20 OC 00142 1B (Nev. Dist. Ct. Oct. 23, 2020) (seeking emergency writ of mandamus and temporary restraining order); *see also*, <https://thenevadaindependent.com/article/trump-campaign-accuses-clark-county-of-restricting-observers-calls-for-changes-to-vote-counting-process> (article describing the challenged provisions at issue in the now-filed litigation).

³ See *300 W. Sahara, LLC v. The State of Nevada, et al.*, Case No. A-20-820072-W (Nev. Dist. Ct., Nov. 5, 2020) (hearing on motion for temporary restraining order).

CONCLUSION

The State of Nevada requests that the Court grant this Unopposed Motion for Extension of Reply Brief Deadline.

s/Heidi Parry Stern
Office of the Nevada Attorney General
555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
702-486-3594
hstern@ag.nv.gov
Counsel for the State of Nevada

CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF System on DATE. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: October 23, 2020

/s/ Kristalei Wolfe

An employee of the Office of the Nevada
Attorney General

CERTIFICATE OF COMPLIANCE

1. This document complies with the word limit of FED. R. APP. P. 32(a)(7)(B) because, excluding the parts of the document exempted by FED. R. APP. P. 32(f): this document contains 385 words.

2. This document complies with the typeface requirements of FED. R. APP. P. 32(a)(5) and the type-style requirements of FED. R. APP. P. 32(a)(6) because: this document has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in Times New Roman, 14 point font.

Dated: October 23, 2020

s/Heidi Parry Stern
Office of the Nevada Attorney General
555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
Office of the Nevada Attorney General
702-486-3594
hstern@ag.nv.gov
Counsel for the State of Nevada