

1 **1520**  
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10 *Counsel for Plaintiff, Nevada Osteopathic*  
11 *Medical Association*

12 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
13 **IN AND FOR WASHOE COUNTY**

14 NEVADA OSTEOPATHIC MEDICAL  
15 ASSOCIATION, Nevada Domestic  
16 Nonprofit Cooperative Corporation; and  
17 BRUCE FONG, DO, HMD, an individual;

18 Plaintiffs/Petitioners,

19 vs.

20 THE HONORABLE STEPHEN F.  
21 SISOLAK, as Governor of the State of  
22 Nevada; STATE OF NEVADA, NEVADA  
23 STATE BOARD OF PHARMACY, an  
24 administrative agency of the State of  
25 Nevada; and STATE OF NEVADA, CHIEF  
26 MEDICAL OFFICER, IHSAN AZZAM,  
27 Ph.D., M.D.,

28 Defendants/Respondents.

Case No.: CV20-00653

Dept. No.: 9

**DECLARATION OF JOSEPH S.**  
**GILBERT, ESQ., IN SUPPORT OF**  
**REPLY TO OPPOSITION OF MOTION**  
**FOR LIMITED EXPEDITED**  
**DISCOVERY AND EX PARTE**  
**REQUEST FOR SHORTENED TIME**

I, Joseph S. Gilbert, Esq., make this Declaration pursuant to NRS. 53.045

1. I am an attorney duly licensed to practice law in the State of Nevada and I represent Plaintiffs in the action entitled *N.O.M.A vs Sisolak, et al*, which is pending in Department 9 of the Second Judicial District Court of the State of Nevada as Case No. CV20-00653.

2. I make this Declaration in support of Plaintiff's Reply to Opposition of Motion

1 for Limited Expedited Discovery and *Ex Parte* Request for Shortened Time.

2 3. This Declaration is made upon my own personal knowledge, some of which has  
3 been gained through my participation as Counsel for NOMA, including in this action.

4 4. During my conference call with the BOP, I stated that Chapter 233B provides  
5 that an emergency regulation may be effective for a period not longer than 120 days, and that  
6 the Emergency Regulation is inconsistent with and directly violates those statutory provisions  
7 because it is made effective for 180 days. Mr. Kandt responded by stating that there was a typo  
8 on the regulation that was filed with the Secretary of State, which says the regulation is in effect  
9 until September 23<sup>rd</sup> and it should have stated July 23<sup>rd</sup>.


10 5. Regarding the Emergency Regulation conflict with NRS 441A.200, Mr. Kandt  
11 stated that the BOP does not believe that the emergency regulation directly conflicts with their  
12 statutory authority with passing any regulation restricting the dispensing of a “dangerous  
13 drug”. Plaintiffs asked Mr. Wuest if he thought there is a way to get more of a supply of the  
14 drugs, when, and how, to which Mr. Wuest responded that he is currently the person working  
15 on the supply and that the hospital supply is unrelated to the stockpile.

16 6. Mr. Wuest stated that the hospital supply is unrelated to the stockpile.

17 7. Mr. Wuest and Mr. Kandt made it very clear on our call that there would be no  
18 change to the Emergency Regulation, disagreeing with my conclusion that it was invalid, and  
19 that it conflicted with constitutional and statutory provisions.

20 8. Attached to the Reply Motion for Expedited Discovery are Exhibits 1 through 9.  
21 I hereby affirm under penalty of perjury that the assertions of this Declaration are true.

22 EXECUTED on May 12, 2020.

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Joseph S. Gilbert, Esq.,

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**AFFIRMATION**

The undersigned does hereby affirm that this document does not contain the social security number of any person.

DATED: May 12, 2020.

**JOEY GILBERT LAW**

By: /s Joseph S. Gilbert  
Joseph S. Gilbert, Esq.  
Roger O'Donnell, Esq  
*Attorneys for Plaintiffs/Petitioners*

**CERTIFICATE OF SERVICE**

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Pursuant to NRC 5(b), I hereby certify I am an employee of JOEY GILBERT LAW,  
and on the below date, I served the foregoing document on the parties set forth below by:

- via the Court's Electronic Filing Service;
- by placing the original, or a true copy thereof, in a sealed envelope placed for mailing in the USPS, in Reno, NV, postage prepaid, following ordinary business practices;
- via facsimile (Fax) to \_\_\_\_\_
- via email to \_\_\_\_\_
- via overnight delivery
- personal delivery

to the following:

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DATED this 12<sup>th</sup> day of May 2020.

JOEY GILBERT LAW

/s/ Stacey Sampson  
Stacey Sampson, Legal Assistant