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IN THE SUPREME COURT OF THE STATE OF NEVADA

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FRANCHISE TAX BOARD OF THE
STATE OF CALIFORNIA,

Appellant/Cross-Respondent,

vs.

GILBERT P. HYATT,

Respondent/Cross-Appellant.

Case No.: 53264

Electronically Filed
Apr 08 2010 11:21 a.m.
Tracie K. Lindeman

**FTB'S SECOND MOTION TO EXTEND TIME FOR REPLY BRIEF ON
APPEAL AND ANSWERING BRIEF ON CROSS-APPEAL**

Appellant/Cross-Respondent Franchise Tax Board of the State of California (FTB) hereby moves for a second extension of time in which to file its combined reply brief on the appeal and answering brief on the cross-appeal. The brief is currently due on April 30, 2010. Thus, FTB requests an extension until May 31, 2010.

This is an appeal from a judgment of approximately \$490 million. This complex case has been litigated since 1998. There are multiple issues on appeal that involve complex legal doctrines. FTB's opening brief was 119 pages in length, raising numerous contentions of error. Hyatt filed and received four extensions of time for his combined answering brief on the appeal and opening brief on his cross-appeal. As a result of these multiple extensions, Hyatt had 169 days in which to prepare and file his brief, measured from the date of service of FTB's opening brief.

Hyatt's combined brief is 198 pages in length, with 720 footnotes, containing extensive legal and factual citations. FTB has been studying and analyzing these legal and factual citations, in order to respond to Hyatt's arguments and contentions.

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2 In addition, Hyatt's brief contains numerous legal issues and sub-issues which must be
3 analyzed, and to which responses must be prepared.

4 Hyatt also filed a Respondent's Appendix consisting of 101 volumes, which was
5 in addition to the 93-volume appendix already filed by FTB. As noted in FTB's
6 previous motion for an extension, Hyatt's brief contains hundreds of factual citations to
7 the two appendixes. These citations are being studied and verified for accuracy and
8 completeness. Furthermore, Hyatt's combined brief includes an extensive section
9 dealing with his cross-appeal contentions. This section contains numerous factual and
10 legal citations dealing with complex and unusual issues.

11 Preparing FTB's reply brief, which will include our answering brief on the cross-
12 appeal, has been a monumental task. This task has been particularly difficult because
13 most of Hyatt's trial transcript citations do not provide references to appendix volumes
14 or pages; instead, his citations are to "RT" (reporter's transcript). In order to locate these
15 pages, the dates and pages of Hyatt's "RT" citations need to be extrapolated to the
16 corresponding volumes and pages of the appendix. This laborious task has added to the
17 time needed for preparation of FTB's reply brief.

18 Finally, the court should note that one of the attorneys who has been extensively
19 involved in this litigation for years, and who was very involved in the briefing of this
20 case for FTB in the district court and on appeal, has recently left FTB's defense firm and
21 is now working for the United States Department of Justice. Her absence from FTB's
22 defense team has resulted in the need for additional time for preparation of FTB's reply
23 brief.

24 An extension of time may be granted upon a showing of good cause. NRAP
25 26(b). FTB respectfully contends that good cause exists for an additional 30 days for the
26 reply brief. Even with this additional time, FTB will still have less time than the
27 extensions granted to Hyatt for his answering brief. Moreover, given the scope, size and
28 complexity of this case, FTB submits that the additional time is warranted to ensure that

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FTB can provide this court with a top-quality brief that assists the court in deciding this case correctly.

FTB's attorneys have been diligently working on Hyatt's brief since its receipt in early January. Nonetheless, FTB needs additional time to prepare and file its reply brief. This motion is made in good faith and without intent to delay this appeal unnecessarily.

Accordingly, FTB requests and extension until May 31, 2010, for filing of the combined reply brief on the appeal and answering brief on the cross-appeal.

Dated: April 8, 2010

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CERTIFICATE OF MAILING

Pursuant to NRAP 25, I certify that on this date I caused to be deposited for mailing at Reno, Nevada, a true copy of the foregoing addressed to:

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