

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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3 FRANCHISE TAX BOARD OF THE  
4 STATE OF CALIFORNIA,

Case No. 53264

5 Appellant/Cross-Respondent,  
6 vs.

6 GILBERT P. HYATT,

7 Respondent/Cross-Appellant.

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Electronically Filed  
Oct 19 2009 03:35 p.m.  
Tracie K. Lindeman

9 **LIMITED OPPOSITION TO HYATT'S MOTION FOR AN EXTENSION OF**  
10 **TIME FOR RESPONENT'S ANSWERING BRIEF**

11 Pursuant to NRAP 27, appellant/cross-respondent Franchise Tax Board of the  
12 State of California ("FTB") submits this limited opposition to respondent/cross-appellant  
13 Gilbert P. Hyatt's ("Hyatt") motion for an extension of time to file his Answering Brief  
14 filed on October 14, 2009.

15 FTB would prefer that Hyatt not be granted an extension. However, FTB  
16 acknowledges the enormity of this case, the record on appeal, and the Court's possible  
17 willingness to provide Hyatt the requested extension. Therefore, FTB files this limited  
18 opposition to request that the Court condition any extension granted to Hyatt in two  
19 ways. First, FTB requests that the Court order that this is the last extension that will be  
20 provided to Hyatt, absent extreme or unforeseeable circumstances. Second, FTB also  
21 requests that this Court entertain and extend FTB a similar extension relative to its Reply  
22 Brief, should FTB need to make a similar request. The reasons for these requests are as  
23 follows.

24 On August 7, 2009, this Court granted Hyatt the full extension he requested to file  
25 his Answering Brief, from September 5, 2009 to November 5, 2009. In reliance upon  
26 this Order, FTB and its counsel specifically arranged calendars to ensure sufficient  
27 availability to respond to Hyatt's Answering Brief. If the current request for extension is  
28 granted, FTB and its counsel will be forced to reschedule many work and personal

1 matters, including trials. In order to ensure that FTB and its counsel can properly  
2 reschedule these matters for later months, without fear that these same matters may have  
3 to be rescheduled again, FTB requests that this extension be Hyatt's last.

4         Moreover, Hyatt has previously engaged in a course of conduct in the ongoing  
5 Administrative Proceedings between Hyatt and FTB in California that has resulted in  
6 delay. In those proceedings, Hyatt filed his Notices of Appeal in January, 2008. At  
7 Hyatt's request, his Opening Briefs were ordered to be filed on July 31, 2008, several  
8 months later. Hyatt then requested, and was granted, repeated additional extensions of  
9 time to ensure his Opening Briefs were not due until well after conclusion of the trial  
10 below, even though he has separate counsel handling those proceedings. Ultimately,  
11 Hyatt was not required to file his Opening Briefs until December, 2008 -- almost one-  
12 year after filed his Notices of Appeal and several months after his briefs were originally  
13 due. FTB fears that Hyatt may now be engaging in a similar course of conduct in these  
14 proceedings in an effort to strategically posture resolution of these two proceedings  
15 against one another.

16         Second, this Court previously permitted Hyatt leave to file a brief with an  
17 extended page limitation from 30 to 138 pages. Replying to Hyatt's Answering Brief  
18 may be complicated and time consuming. If the Court's grants Hyatt's motion for

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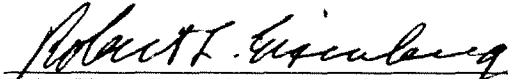
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1 extension, FTB respectfully requests that it be given equal consideration for a similar  
2 extension request that it may need with respect to its Reply Brief.

3 Dated this 19th day of October, 2009.

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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRAP 25, I hereby certify that I am an employee of Lemons, Grundy  
3 & Eisenberg, and that I served true and correct copies of the foregoing **LIMITED**  
4 **OPPOSITION TO HYATT'S MOTION FOR AN EXTENSION OF TIME FOR**  
5 **RESPONENT'S ANSWERING BRIEF** on October 19, 2009, by mailing copies from  
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