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1 Respondent/Cross-Appellant Gilbert P. Hyatt (“Hyatt”), by and through his attorneys of  
2 record, respectfully moves this Court for an order extending the due date for filing Respondent’s  
3 Answering Brief Regarding Costs to and including September 13, 2010. This Motion is based  
4 upon NRAP 26(b), on the points and authorities attached hereto, and on all other papers and  
5 pleadings on file herein.  
6

## 7 POINTS AND AUTHORITIES

### 8 I. INTRODUCTION

9 Appellant Franchise Tax Board of the State of California’s (“FTB”) Supplemental  
10 Opening Brief Regarding Costs was served by mail and filed on June 8, 2010. Hyatt’s  
11 Answering Brief is therefore due on July 8, 2010, and Hyatt hereby requests an extension for  
12 filing his Answering Brief Regarding Costs, from the current due date to and including  
13 September 13, 2010, which is an additional 67 days.<sup>1</sup> Respondent has worked diligently since  
14 June 9 to review the FTB’s Supplemental Opening Brief Regarding Costs and its 26 volumes of  
15 exhibits. Because of the size and scope of this case, including the volume of materials relating  
16 to costs, and the additional work on Hyatt’s reply brief on his cross-appeal, Hyatt respectfully  
17 requests the additional time to finalize and file his Answering Brief Regarding Costs.<sup>2</sup>  
18  
19

20 For the Court’s reference, the district court appointed a special master to review Hyatt’s  
21 Memorandum of Costs and the FTB’s objections thereto, and the district court adopted the final  
22 report of the Special Master on January 4, 2010. The FTB filed its Second Supplemental and/or  
23

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24 <sup>1</sup> From the date of filing of FTB’s Notice of Appeal Regarding Costs on January 19, 2010, the FTB had 140 days to  
25 prepare its Supplemental Opening Brief and its 26 volumes of exhibits. This includes an extra 14 days in addition  
26 to the 75 days allowed by this Court in its March 12, 2010, Order. The March 12 Order gave Hyatt 30 days from  
27 service of FTB’s Supplemental Opening Brief to submit his Answering Brief Regarding Costs. Therefore, this  
28 request will give Hyatt a total of 97 days to respond to FTB’s Supplemental Opening Brief.

<sup>2</sup> The FTB served its Answering Brief to Hyatt’s Opening Cross-Appeal Brief on June 1, and it was ordered filed  
by this Court on June 11. Therefore, Hyatt is also working on his reply to FTB’s Answering Brief on his Cross-  
Appeal, in addition to his Answering Brief regarding costs. Hyatt is filing a similar motion to extend the due date  
for his Reply Brief on his Cross-Appeal, requesting the same September 13 due date for both of his pending briefs.

1 Amended Notice of Appeal Regarding Costs on January 19, 2010, and on March 12, this Court  
2 entered its order setting a briefing schedule for the Supplemental Appeal Regarding Costs.  
3 Under the March 12 Order, the FTB's supplemental opening brief was due May 25, 2010. The  
4 FTB filed a motion for an extension of time to file its supplemental opening brief on May 6,  
5 2010, which Hyatt did not oppose, and the Court granted the extension of time on May 21,  
6 2010, giving the FTB until June 8, 2010, to file its brief. Therefore, the FTB had 140 days from  
7 the date of its Supplemental Notice of Appeal to file its Supplemental Opening Brief Regarding  
8 Costs.  
9

10 This extension is sought solely because of the requirements of this case, including the  
11 complexity of the issues and length of the trial, and not because of any other caseload of  
12 counsel. With respect to the FTB's Supplemental Opening Brief Regarding Costs, the FTB  
13 submitted 26 volumes of exhibits, which Hyatt is reviewing along with other exhibits related to  
14 the cost determination which were not included with the FTB's exhibits. As the Court is aware,  
15 previous briefing in this case has also required extensions of time for both sides, and Hyatt  
16 submits that granting him this additional requested time will provide a more complete record for  
17 this Court to consider these issues.  
18

19 **II. LEGAL DISCUSSION**

20 Pursuant to NRAP 26(b), "[t]he court for good cause shown may upon motion enlarge  
21 the time prescribed by these rules or by its order for doing any act, or may permit an act to be  
22 done after the expiration of such time..." Respondent submits that good cause exists to extend  
23 the due date for Respondent's Answering Brief Regarding Costs, as requested in this motion.  
24 This is the first requested extension for Respondent's Answering Brief. However, previous  
25 extensions have been granted to both Appellant and Respondent on other pleadings, recognizing  
26  
27  
28

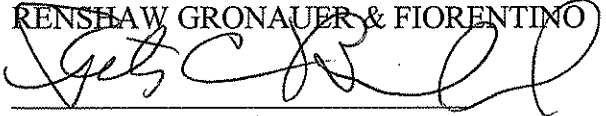
1 the complexity of this case and the volume of materials to be reviewed and evaluated for  
2 possible use in the briefs.

3 **III. CONCLUSION**

4 For the foregoing reasons, Hyatt respectfully requests that the Court grant his Motion to  
5 Extend Time for Respondent's Answering Brief Regarding Costs and order that it be due sixty-  
6 seven (67) days after its current due date, moving the due date from July 8, 2010, to September  
7 13, 2010.

8  
9 DATED: June <sup>28</sup> \_\_, 2010

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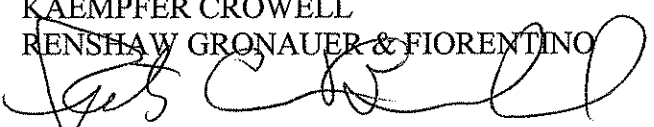
1 **CERTIFICATE OF COMPLIANCE**

2 I hereby certify that I have read this **MOTION TO EXTEND TIME FOR**  
3 **RESPONDENT’S ANSWERING BRIEF REGARDING COSTS**, and to the best of my  
4 knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I  
5 further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure,  
6 and in particular NRAP 28(e), which requires every assertion in the brief regarding matters in  
7 the record to be supported by a reference to the page of the transcript or appendix where the  
8 matter relied on is to be found. I understand that I may be subject to sanctions in the event that  
9 the accompanying brief is not in conformity with the requirements of the Nevada Rules of  
10 Appellate Procedure.  
11

12 DATED: June 28, 2010.

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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRAP 25, I certify that I am an employee of **KAEMPFER CROWELL**  
3 **RENSHAW GRONAUER & FIORENTINO** and that on this 28<sup>th</sup> day of June, 2010, I caused  
4 the above and foregoing document entitled **MOTION TO EXTEND TIME FOR**  
5 **RESPONDENT'S ANSWERING BRIEF REGARDING COSTS** to be served by the  
6 method(s) indicated below:  
7


- 8 \_\_\_\_\_ via U.S. mail, postage prepaid;
- 9     X     via Federal Express;
- 10 \_\_\_\_\_ via hand-delivery;
- 11 \_\_\_\_\_ via Facsimile;

12 upon the following person(s):  
13 to the attorney(s) listed below at the address and/or facsimile number indicated below:

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