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IN THE SUPREME COURT OF THE STATE OF NEVADA

FRANCHISE TAX BOARD OF THE STATE  
OF CALIFORNIA,

Appellant/Cross Respondent,

v.

GILBERT P. HYATT,

Respondent/Cross Appellant

Supreme Court Case No. 53264

District Court Case No. A38799  
**Electronically Filed**  
**Jun 28 2010 04:03 p.m.**  
Notice of Appeal filed March 4, 2010  
Tracie K. Lindeman

**MOTION TO EXTEND TIME FOR  
RESPONDENT'S REPLY BRIEF ON  
CROSS-APPEAL**

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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 Reply Brief on his Cross-Appeal 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”) Reply Brief and  
10 Cross-Respondent’s Answering Brief was served by mail on June 1, 2010, but it was not filed  
11 until this Court’s Order on June 11, 2010, permitting the filing of the FTB’s brief in excess of  
12 30 pages. Hyatt hereby requests an extension for filing his Reply Brief on Cross-Appeal, from  
13 the current due date of his Reply on July 1, 2010, to and including September 13, 2010, which is  
14 an additional 75 days from the current due date based on the date of service (and 60 additional  
15 days based on the date of filing) of the FTB’s Answering Brief.<sup>1</sup> Respondent has worked  
16 diligently to review the FTB’s Reply Brief and Answering Brief, consisting of 158 pages (the  
17 last 13 pages constitute the Answering Brief) and prepare his Reply on Cross-Appeal. Because  
18 of the size and scope of this case, and the additional work on Hyatt’s responding brief regarding  
19 costs, Hyatt respectfully requests the additional time to finalize and file his Reply Brief on Cross  
20 Appeal.  
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27 <sup>1</sup> As the Court is aware, the FTB obtained extensions totaling 94 days for filing its Answering Brief, and it obtained  
28 extensions totaling 14 days for filing its Supplemental Opening Brief Regarding Costs. The Supplemental Opening  
Brief was filed June 8, 2010, and Hyatt is also preparing his responding brief regarding costs. Simultaneously with  
submitting this motion, Hyatt is submitting a similar motion to extend his time to file his responding brief regarding  
costs, also requesting an extension through September 13, 2010, for that brief.

1 For the Court's reference, the FTB's 118-page Opening Brief was served on July 20,  
2 2009, and accepted for filing as a brief in excess of thirty (30) pages on August 7, 2009.<sup>2</sup> Hyatt  
3 filed a motion on August 6, 2009, requesting additional time and extended pages, in the event  
4 the Court permitted Appellant's extended brief to be filed. On August 21, 2009, this Court  
5 granted Respondent's motion in part, giving Respondent 90 days from August 7, 2009  
6 (November 5, 2009), as the due date for Respondent's Answering Brief and allowed  
7 Respondent's Answering Brief to be 20 pages longer than the Appellant's Opening Brief.

8  
9 On October 14, 2009, Respondent requested an additional 45 days for Respondent's  
10 Answering Brief to be served and filed, or through December 21, 2009. On November 6, 2009,  
11 the Court granted Respondent's motion, indicating that no further extensions would be allowed  
12 except for extreme and unforeseeable circumstances. Respondent filed a motion for an  
13 additional 15-day extension on December 21, 2009, which was granted by Order dated  
14 December 28, 2009. Respondent's Answering Brief was served on January 5, 2010, and on  
15 January 26, 2009, this Court permitted it to be filed with more than 30 pages. The FTB then  
16 filed two motions to extend time for filing its Reply Brief and Answering Brief on Cross  
17 Appeal, and Hyatt filed his Notice of Non-Opposition to both requests.

18  
19 This extension is sought solely because of the requirements of this case, including the  
20 complexity of the issues and length of the trial, and not because of any other caseload of  
21 counsel.

## 22 23 **II. LEGAL DISCUSSION**

24 Pursuant to NRAP 26(b), "[t]he court for good cause shown may upon motion enlarge  
25 the time prescribed by these rules or by its order for doing any act, or may permit an act to be  
26 done after the expiration of such time..." Respondent submits that good cause exists to extend  
27 the due date for Respondent's Reply Brief on Cross-Appeal, as requested in this motion.

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<sup>2</sup> On June 8, 2009, the FTB filed a motion to extend the time for filing its Opening Brief,

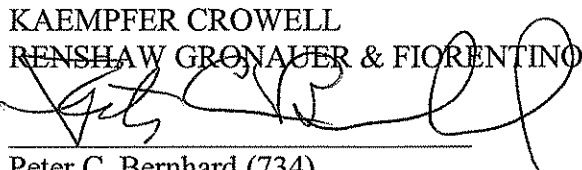
1 This is the first requested extension for Respondent's Reply Brief. However, previous  
2 extensions have been granted to both Appellant and Respondent, recognizing the complexity of  
3 this case and the volume of materials to be reviewed and evaluated for possible use in the briefs.

4 **III. CONCLUSION**

5 For the foregoing reasons, Hyatt respectfully requests that the Court grant his Motion to  
6 Extend Time for Respondent's Reply Brief on Cross-Appeal and order that it be due seventy-  
7 five (75) days after its current due date, moving the due date from July 1, 2010, to September  
8 13, 2010.

9  
10 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 REPLY BRIEF ON CROSS-APPEAL**, and to the best of my knowledge,  
4 information, and belief, it is not frivolous or interposed for any improper purpose. I further  
5 certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, and in  
6 particular NRAP 28(e), which requires every assertion in the brief regarding matters in the  
7 record to be supported by a reference to the page of the transcript or appendix where the matter  
8 relied on is to be found. I understand that I may be subject to sanctions in the event that the  
9 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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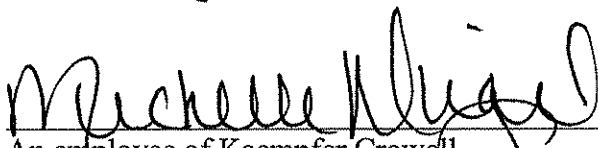
1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRAP 25, I certify that I am an employee of **KAEMPFER CROWELL**  
3 **RENSHAW GRONAUER & FIORENTINO** and that on this <sup>20th</sup> day of June, 2010, I caused  
4 the above and foregoing document entitled **MOTION TO EXTEND TIME FOR**  
5 **RESPONDENT'S REPLY BRIEF ON CROSS-APPEAL** to be served by the method(s)  
6 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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