

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

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3 FRANCHISE TAX BOARD OF THE
4 STATE OF CALIFORNIA,

5 Appellant/Cross-Respondent,

6 vs.

7 GILBERT P. HYATT,

8 Respondent/Cross-Appellant.
9

Case No.: 53264
Electronically Filed
May 06 2010 04:57 p.m.
Tracie K. Lindeman

10 **FTB’S MOTION TO EXTEND TIME TO FILE APPELLANT’S**
11 **SUPPLEMENTAL OPENING BRIEF REGARDING AWARD OF COSTS**

12 Appellant/Cross-Respondent Franchise Tax Board of the State of California
13 (“FTB”) moves this Court for an extension of time in which to file its supplemental
14 opening brief regarding the district court’s award of costs, which is currently due on
15 May 25, 2010. Specifically, FTB requests an extension of time **until June 8, 2010**,
16 fourteen (14) days after the brief would otherwise be due.

17 This case is an appeal of a judgment in favor of Hyatt, against FTB, in the total
18 amount of approximately \$490 million. FTB has also filed a supplemental appeal
19 regarding the district court’s January 4, 2010 order awarding respondent/cross-appellant
20 Gilbert Hyatt \$2,539,068.65 in costs. This is a complex case that has been litigated for
21 years. There are an overwhelming number of documents regarding over twelve years
22 worth of costs—almost 6,300 pages of motion pages and exhibits. In addition, FTB is
23 currently working on its reply/answering brief in the underlying case, which is due May
24 31, 2010.

25 NRAP 26(b) states that, “[t]he court for good cause shown may upon motion
26 enlarge the time prescribed by these rules or by its order for doing any act.” Good cause
27 exists to grant FTB’s current request. Given the scope, size and complexity of this case,
28 the size of the cost award, the sheer volume of documents involved in the cost

1 calculations, the issues surrounding delegation of the cost award from the district court
2 to a special master and the supplemental briefing before the special master, FTB submits
3 that the additional time requested is both necessary and warranted to ensure that FTB is
4 able to provide this court with all of the necessary information, both legal and factual,
5 that it needs to review and decide this appeal correctly. Given the task of reviewing the
6 extensive documentation regarding the costs in this case and the factual detail required in
7 cost issues, generally FTB needs additional time for the preparation of its supplemental
8 opening brief regarding costs.

9 This motion is made in good faith and without intent to delay this appeal
10 unnecessarily. Based on the foregoing, FTB believes that good cause exists to grant the
11 requested extension **until June 8, 2010** to file its supplemental opening brief regarding
12 costs.

13 Dated this 6th day of May, 2010.

14
15 McDONALD CARANO WILSON LLP

16 By: /s/ Denise Pasquale

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I hereby certify that I am an employee of McDonald Carano Wilson LLP, and that I served true and correct copies of the foregoing **FTB'S MOTION TO EXTEND TIME TO FILE APPELLANT'S SUPPLEMENTAL OPENING BRIEF REGARDING THE AWARD OF COSTS** on this 6th day of May, 2010, by depositing said copies in the United States Mail, postage prepaid thereon, upon the following:

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