

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 53264

FRANCHISE TAX BOARD OF THE STATE OF CALIFORNIA

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Elizabeth A. Brown
Clerk of Supreme Court

Appellant/Cross-Respondent
v.

GILBERT P. HYATT
Respondent/Cross-Appellant

APPEAL FROM JUDGMENT – EIGHTH JUDICIAL DISTRICT COURT
STATE OF NEVADA, CLARK COUNTY
HONORABLE JESSIE WALSH, DISTRICT JUDGE

**APPELLANT’S MOTION TO STAY REMITTITUR
PENDING APPLICATION FOR WRIT OF CERTIORARI
TO U.S. SUPREME COURT
(REMITTITUR TO ISSUE ON JANUARY 22, 2018)**

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Franchise Tax Board of the State of California*

Pursuant to NRAP 41(a)(1) and NRAP 41(b), Appellant Franchise Tax Board of the State of California (“FTB”) moves the Court to stay issuance of the remittitur pending FTB’s anticipated petition to the Supreme Court of the United States for writ of certiorari. The Court issued its order granting FTB’s petition for rehearing and its revised opinion on December 26, 2017. Therefore, in the ordinary course, the Court’s remittitur would issue on January 22, 2018. *See* NRAP 41(a)(1) (remittitur shall issue 25 days after the entry of judgment).

FTB is evaluating whether to file a petition for writ of certiorari in the U.S. Supreme Court to challenge those aspects of the Court’s December 26, 2017 reissued opinion adverse to FTB. Although FTB has not reached a final decision as to whether or not to seek a writ of certiorari, it anticipates doing so. The due date for a petition for writ of certiorari would be March 26, 2018. A 120-day stay of issuance of the remittitur, as authorized by NRAP 41(b)(3)(A), would provide FTB the time needed to file a petition for certiorari within the Supreme Court’s deadline. Because FTB is a governmental entity, a bond or other security as a condition to granting the stay is not warranted.

Accordingly, FTB respectfully requests that the Court enter a 120-day stay of issuance of the remittitur pending FTB's anticipated petition for writ of certiorari to the U.S. Supreme Court.

AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 17th day of January, 2018.

McDONALD CARANO LLP

By: /s/_____

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