

IN THE SUPREME COURT OF THE STATE OF NEVADA

PRINCIPAL INVESTMENTS, INC. d/b/a RAPID CASH; GRANITE FINANCIAL SERVICES, INC. d/b/a RAPID CASH; FMMR INVESTMENTS, INC. d/b/a RAPID CASH; PRIME GROUP, INC. d/b/a RAPID CASH; and ADVANCE GROUP, INC. d/b/a RAPID CASH,

Petitioners,

vs.

The EIGHTH JUDICIAL DISTRICT COURT of the State of Nevada, in and for the County of Clark; and THE HONORABLE ELIZABETH GOFF GONZALEZ, District Judge,

Respondents,

and

CASSANDRA HARRISON; EUGENE VARCADOS CONCEPCION QUINTINO; and MARY DUNGAN,

Real Parties in Interest.

Case No. 57371

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Tracie K. Lindeman
Clerk of Supreme Court

**REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE A REPLY
IN SUPPORT OF PETITION FOR *EN BANC* RECONSIDERATION**

Plaintiffs present a very limited opposition to Rapid Cash's motion for leave to file a reply in support of its petition for *en banc* reconsideration. Plaintiffs do not dispute that the points and authorities in the proposed reply are relevant, responsive to plaintiffs' answer, concise, and would aid this Court in its decision. Rather, plaintiffs argue only that (a) Rapid Cash's reference to the pending motion to consolidate cases 57371, 57625 and 59837 improperly constitutes a "new issue"

in reply, and (b) the proposed reply exceeds five pages. Neither of these is a reasonable basis to reject the proposed reply.

A. Rapid Cash Properly Refers to its Motion for Consolidation in the Reply

Rapid Cash did not suggest consolidation for the first time in the reply. Rapid Cash moved for consolidation by separate motion before submitting the proposed reply. (Doc. 12-10609) This allowed plaintiffs to affirmatively oppose consolidation, which they did (doc. 12-11814), even before filing their opposition to this motion (doc. 12-11814). There is no due process violation here.

The suggestion of consolidation in the reply also is directly responsive to plaintiffs' answer to the petition for *en banc* reconsideration. A reply is "limited to answering any new matter set forth in the opposing brief." NRAP 28(c). Here, plaintiffs contend in their answering brief that they would be prejudiced if this Court were to deem Rapid's writ petition to be the functional equivalent of a notice of appeal because it would require them to brief similar issues in multiple appeals. (Answer at 8:12-14.) The proposed reply merely points out that consolidation would ameliorate any such inconvenience. The reply does not impermissibly raise a new assignment of error, therefore, but only responds to the allegation of prejudice set forth the answering brief. *See* NRAP 28(c); *Bongiovi v. Sullivan*, 122 Nev. 556, 569 n.5, 138 P.3d 433, 443 n.5 (2006) ("reply briefs are limited to answering any matter set forth in the opposing brief"); *G.I.S. Venture v. Novak*,

902 N.E.2d 744, 747 (Ill. App. 2009) (“Issues raised for the first time in an appellant’s reply brief are considered forfeited *unless they are responsive to an argument raised in the appellee’s brief*”).

B. The Proposed Reply Is the Appropriate Length

Plaintiffs argue that the proposed reply should be rejected because it is longer than five pages. Assuming the reply should be half as long as a petition for *en banc* reconsideration, however, it would be limited to *either* five pages *or* 2,333 words. See NRAP 40A(d).¹ The reply contains only 1,532 words. The reply is well within the length limit.

¹ Under NRAP 40A, the petition for reconsideration *en banc* and any answer is limited to either 10 pages or 4,667 words:

(d) Form of Petition and Answer; Number of Copies; Length; Certificate of Compliance. ... Except by permission of the court, a petition for full court reconsideration, or an answer to the petition, shall not exceed 10 pages. *Alternatively, the petition or answer is acceptable if it contains no more than 4,667 words, or if it uses a monospaced typeface, and contains no more than 433 lines of text.*

NRAP 40A(d) (emphasis added).

CONCLUSION

This Court should accept the proposed reply in support of Rapid Cash's petition for *en banc* reconsideration, as it is undisputed that the reply would aid this Court in its decision, and plaintiffs' limited objections are meritless.

Dated this 23rd day of April 2012.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE A REPLY IN SUPPORT OF PETITION FOR EN BANC RECONSIDERATION was filed electronically with the Nevada Supreme Court on the 23rd day of April 2012, Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

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I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, at Las Vegas, Nevada, addressed as follows:

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