

IN THE SUPREME COURT OF THE STATE OF NEVADA

JENNY RISH,

Appellant,

vs.

WILLIAM JAY SIMAO, individually; and
CHERYL ANN SIMAO, individually and as
husband and wife,

Respondents.

Case Nos. 58504

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Tracie K. Lindeman
Clerk of Supreme Court

MOTION FOR EXTENSION OF TIME TO FILE RESPONDENTS' ANSWERING BRIEF (FOURTH REQUEST)

COME NOW respondents, acting by and through their counsel, David T. Wall, of the law firm of Eglet Wall, and hereby move the Court to enter its order granting them a 14-day extension of time, to and including January 18, 2013, within which to file and serve their answering brief.

FACTS

Pursuant to NRAP 31(b)(3)(A), the following information is provided:

1. The answering brief is currently due on January 4, 2013.¹
2. The original due date for respondents' answering brief was October 4, 2012.

¹This is the date on which the brief would be due if respondents' previous motion for extension is granted, but no order has yet been entered on such motion. No opposition to such motion was filed.

3. Pursuant to NRAP 31(b)(2) the parties stipulated to a 30-day extension of time, yielding a new due date of November 4, 2012.

4. Thereafter, respondents moved pursuant to NRAP 31(b)(3) for a second 30-day extension of time, to and including December 5, 2012.

5. Respondents then moved for another 30-day extension, based in part upon an unforeseen intervening circumstance, to wit: a medical issue involving the 10-year-old son of one of respondents' key appellate attorneys. Counsel's son had been scheduled for unforeseen surgery, which caused this attorney's work on the answering brief to be impeded by doctor appointments, scheduling the surgery, and dealing with his son's emotional issues arising from the impending operation.

6. No extension requests other than those mentioned above have been denied, or denied in part.

7. The reasons an additional 14-day extension is necessary are as follows:

a. Appellant's opening brief consists of 20,136 words and the appellant's appendix is comprised of 22 volumes consisting of over 5,000 pages. Thus far, the respondents' answering brief consists of 19,799 words and is approximately 85% complete. Because appellant has raised, but has not fully developed the facts as to, two highly fact-intensive issues (to wit: (i) her counsel's misconduct that justified the district court in striking her answer; and (ii) the amount of Mr. Simao's damages), it has been necessary to painstakingly document the facts relevant to these two issues. This process has been usually laborious and time-consuming. Although it is still not

complete, the current draft of respondents' statement of facts, alone, consists of 7,241 words.

b. Finally, the aforementioned surgery actually occurred on January 2, 2013, which required (and still requires) one of respondents' principal appellate attorneys to devote significant time to this important family matter.

8. Respondents seek a final 14-day extension, pursuant to which their answering brief would be due on January 18, 2013.

As stated, the current draft of the answering brief consists of 19,799 words, compared to the 8,000 word-length of the brief at the time of the previous extension request. So substantial progress is being made. Further, it is anticipated that appellant will not oppose the instant motion, in that she sought and was granted multiple time extensions in the process of preparing her oversized opening brief.

ARGUMENT

NRAP 31(b)(3)(B) provides that an extension of time, beyond which the parties are permitted to stipulate, will be granted upon a clear showing of good cause. The work on respondents' answering brief is proceeding, with significant progress having been made. This progress has been made despite the enormity of the project – opposing a brief that is nearly one-and-a-half times as long as allowed by NRAP 32(a)(7)(A)(ii) – and the very difficult circumstances caused by an unfortunate convergence of time-intensive deadlines.

NRAP 31(b)(3)(B) also provides that additional extensions may be granted upon a

showing of extraordinary circumstances and extreme need. It is respectfully submitted that the aforementioned circumstances, when considered in light of the unforeseen family medical issue, also militate strongly in favor of granting respondents' motion. Respondents anticipate that no further extension requests will be required.

CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the Court should enter its order granting respondents a 15-day extension of time, to and including January 18, 2013, within which to file and serve their answering brief.

DATED this 3rd day of January, 2013.

EGLET WALL

/s/ David T. Wall
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that this document was filed electronically with the Nevada Supreme Court on the 3rd day of January, 2013. Electronic service of the foregoing MOTION FOR EXTENSION OF TIME TO FILE RESPONDENTS' ANSWERING BRIEF (FOURTH REQUEST) shall be made in accordance with the Master Service List as follows:

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