

IN THE SUPREME COURT OF NEVADA

NATIONSTAR MORTGAGE, LLC;
AND THE BANK OF NEW YORK
MELLON F/K/A THE BANK OF NEW
YORK AS TRUSTEE FOR THE
HOLDERS OF THE CERTIFICATES,
FIRST HORIZON MORTGAGE PASS-
THROUGH CERTIFICATES SERIES
PHAMS 2005-AA5, BY FIRST
HORIZON HOME LOANS, A
DIVISION OF FIRST TENNESSEE
BANK NATIONAL MASTER
SERVICER, IN ITS CAPACITY AS
AGENT FOR THE TRUSTEE UNDER
THE POOLING AND SERVICING
AGREEMENT,

Appellants,

vs.

CATHERINE RODRIGUEZ,

Respondent.

Supreme Court No. 66761

Electronically Filed
District Court Case No. A685616
May 11, 2015 01:38 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

**APPELLANTS' EMERGENCY MOTION UNDER NRAP 27(e) FOR
EXTENSION OF TIME TO FILE APPELLANTS' OPENING BRIEF
(THIRD REQUEST)**

Pursuant to NRAP 27(e)(2), action on this Motion is necessary on or before
Tuesday, May 12, 2015.

Pursuant to NRAP 26(b)(1)(B), 27(e) and 31(b)(3), Appellants request an
extension of time of two weeks, up to and including May 27, 2015, in which to file
their opening brief. The brief is currently due to be filed on May 13, 2015. This
Continuance is necessary because the attorney responsible for drafting the Opening
Brief, Melanie Morgan, Esq., tendered her resignation on or about April 10, 2015

1 and is no longer with Appellants' retained law firm. Ms. Morgan's departure
2 necessitated that the drafting of the opening brief be reassigned to Tyler J. Watson,
3 Esq. The Respondent stipulates to this request.
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5 The Opening Brief was originally due on March 13, 2015, but the Court
6 granted the Parties' stipulation to continue the matter to April 13, 2015. Then the
7 Court granted a second extension to May 13, 2015. Thereafter, the Parties
8 stipulated to continue the Opening Brief due date to May 27, but the Stipulation
9 was denied on May 8, 2015 because the Stipulation did not contain an explanation
10 of the "extreme and unforeseeable circumstance" which would allow for a third
11 continuance.
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13 Here, the extreme and unforeseeable circumstance necessitating a
14 continuance is Ms. Morgan's unexpected departure from Appellants' retained law
15 firm. It is a time-consuming task for a new attorney to learn the facts and history
16 of this case, which consist of three prior mediations, two petitions for judicial
17 review, a two day evidentiary hearing and a judicial foreclosure. Accordingly,
18 Appellants and Respondent requests an extension as detailed above.
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DATED this 11th day of May, 2015.

/s/ Gary E. Schnitzer

GARY E. SCHNITZER, ESQ.

Nevada Bar No. 395

TYLER J. WATSON, ESQ.

Nevada Bar No. 11735

KRAVITZ, SCHNITZER & JOHNSON,
CHTD.

8985 South Eastern Avenue, Suite 200

Las Vegas, Nevada 89123

Telephone: (702) 222-4149

Attorneys for Appellants

**NRAP 27(E) CERTIFICATE AND AFFIDAVIT OF
GARY E. SCHNITZER, ESQ.**

I, Gary E. Schnitzer, swear, under the laws of the State of Nevada as follows:

1. I am a Partner at Kravitz, Schnitzer, and Johnson, Chtd (the "law firm").
Nationstar Mortgage, LLC and Bank of New York Mellon ("Appellants")
are clients of the law firm.

2. The statements contained in this affidavit are based upon Affiant's own
first-hand knowledge or, if so indicated, based upon information and
belief.

3. Upon information and belief, the telephone numbers and office addresses
of the attorneys for the parties is as follows:

- a. Gary E. Schnitzer, Esq.
Tyler J. Watson, Esq.
Kravitz, Schnitzer & Johnson, Chtd.
8985 S. Eastern Ave., Ste. 200
Las Vegas, NV 89123
Tele: (702) 222-4149
- b. Tara Newberry, Esq.
Connaghan Newberry Law Firm
7854 W. Sahara Ave.
Las Vegas, NV 89117
Tele: (702) 608-4232
- c. Venicia Considine, Esq.
Legal Aid Center of Southern Nevada, Inc.
725 E. Charleston Blvd.
Las Vegas, NV 89104
Tele: (702) 386-1070

4. Appellants' opening brief was originally due on March 13, 2015.

- 1 5. This Honorable Court granted the parties two extensions for the opening
- 2 brief and reply brief deadlines on April 13, 2015 and May 13, 2015.
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- 4 6. On or about April 14, 2014, Melanie Morgan, Esq., counsel primarily
- 5 responsible for the drafting of Appellants' opening brief, tendered her
- 6 resignation to the law firm.
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- 8 7. Ms. Morgan's departure has necessitated that the drafting of the opening
- 9 brief be reassigned to Tyler J. Watson, Esq.
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- 11 8. Accordingly, Affiant and Ms. Morgan contacted Tara Newberry, Esq.
- 12 and Venicia Considine, counsel for Respondent, to request a stipulation
- 13 for a two week extension of time due to Ms. Morgan's departure.
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- 15 9. Ms. Newberry and Ms. Considine agreed to the requested extension.
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- 17 10. On or about April 17, 2015, Ms. Morgan drafted and filed a Stipulation
- 18 for Extension of Time to File Appellants' Opening Brief (Third Request),
- 19 but the Stipulation did not contain an explanation that the extension was
- 20 necessary due to Ms. Morgan's departure from Appellants' law firm.
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- 22 11. On or about May 8, 2015, Affiant received this Honorable Court's denial
- 23 of the requested extension. The request was denied because it lacked an
- 24 explanation of the reasoning behind the request.
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- 26 12. On that same day, Affiant's firm reached out to Ms. Newberry and Ms.
- 27 Considine by phone and e-mail to request their permission to refile the
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1 Stipulation with the addition of an explanation that the continuance was
2 necessary due to Ms. Morgan's departure.

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4 13. On May 11, 2015, at 1:00 p.m., Ms. Newberry and Ms. Considine
5 informed Affiant through Tyler Watson, they consent to the proposed
6 continuance.

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8 14. Affiant certifies this Motion was filed at the earliest possible time as
9 required under NRAP 27(e)(1).

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11 15. Respondent's counsel will be served electronically upon filing of this
12 Motion.

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14 16. Affiant certifies that all parties previously stipulated to the requested
15 extension based upon Ms. Morgan's unexpected departure. The sole
16 reason for this Motion is to inform the Court that Ms. Morgan's departure
17 is the reason the Continuance is necessary.

18 DATED this 11th day of May, 2015.

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21 /s/ Gary E. Schnitzer
22 GARY E. SCHNITZER, ESQ.
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CERTIFICATE OF SERVICE

In accordance with Rule 9 of the N.E.F.C.R., I, the undersigned hereby certify that on the 11th day of May, 2015, I served a true and correct copy of the foregoing **APPELLANTS' EMERGENCY MOTION UNDER NRAP 27(e) FOR EXTENSION OF TIME TO FILE APPELLANTS' OPENING BRIEF (THIRD REQUEST)** to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case to the following counsel:

Tara Newberry, Esq.
Connaghan Newberry Law Firm
7854 W. Sahara Ave.
Las Vegas, NV 89117
Attorney for Respondent

Venicia Considine, Esq.
Legal Aid Center of Southern Nevada, Inc.
725 E. Charleston Blvd.
Las Vegas, NV 89104
Attorney for Respondent

/s/ Donna M. Adams

An employee of Kravitz, Schnitzer
& Johnson, Chtd.