

**In the Supreme Court of Nevada**

FIRST TRANSIT, INC.; and JAY  
FARRALES,

Appellants,

*vs.*

JACK CHERNIKOFF; and ELAINE  
CHERNIKOFF,

Respondents.

Electronically Filed  
Dec 15 2016 08:16 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**MOTION TO STAY BRIEFING PENDING  
RESOLUTION OF APPELLATE JURISDICTION**

Appellants First Transit, Inc. and Jay Farrales move the Court to stay the briefing schedule pending resolution of jurisdictional defects.

Specifically, the district court has not yet entered orders resolving appellants' tolling post-judgment motions. *See* NRAP 4(a)(4)(A).

Appellants propose that the current briefing schedule be vacated and that the parties be ordered to provide a status report to this Court within 60 days regarding the status of the district-court orders.

Appellants' notice of appeal was premature albeit permissible under NRAP 4(a)(6). And undersigned counsel candidly informed the

Court in the docketing statement that tolling motions remained pending:

The appeal is premature. Pursuant to NRAP 4(a)(6), however, the notice of appeal from the judgment (Exhibit D) will be deemed timely upon entry of the district court's order resolving the last of the tolling motions.

\* \* \*

The motions remain pending.

(Appellant's "Docketing Statement Civil Appeals," filed May 20, 2016, Doc. # 2016-15903, at 7.) Unfortunately, the district-court orders that would resolve the tolling motions still are not entered.

Until the district court orders are entered, appellants cannot finish the opening brief. This appeal is partly from the district court's ruling denying appellants' motion for new trial based on alleged attorney misconduct. And where attorney misconduct is raised as a cause for new trial, the district court must enter specific findings and conclusions before that ruling may be reviewed on appeal, or effectively scrutinized in a brief. *See Lioce v. Cohen*, 124 Nev. 1, 174 P.3d 970 (2008). Appellants also could not complete the jurisdictional statement. NRAP 28(a)(4).

Undersigned counsel anticipates that 60 days will be necessary to facilitate completion and entry of the orders. Respondents' counsel still need to draft proposed findings of fact and conclusions of law to explain the district court's ruling under *Lioce v. Cohen*. And the transcript of the hearing in which the district court denied the motion for new trial is not finished. Appellants' counsel then will need an opportunity to review, comment and, if necessary, object to the proposed order. Finally, the district court will need time to review the proposed order and adopt or modify it as necessary.

While it will take time to facilitate entry of the post-judgment order, appellants request that the appeal not be dismissed. To dismiss the appeal at this point would constitute an avoidable waste of time and resources.<sup>1</sup>

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<sup>1</sup> A stay of the briefing, rather than an extension, is the proper course. In the alternative, however, appellants request 90 days, until March 14, 2017, to resolve the jurisdictional defects and complete the opening brief. *See* NRAP 31(b)(3). The lack of orders and transcripts is an extraordinary circumstance that makes completing the brief impracticable.

Dated this 14th day of December, 2016.

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**CERTIFICATE OF SERVICE**

I certify that on December 14, 2016, I submitted the foregoing  
“Motion for Stay of Briefing Pending Resolution of Appellate  
Jurisdiction” for filing *via* the Court’s eFlex electronic filing system.

Electronic notification will be sent to the following:

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I further certify that I served a copy of this document by mailing a  
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