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6 *Attorney for Appellant*
LAS VEGAS DEVELOPMENT GROUP, LLC
7

Electronically Filed
Apr 13 2017 09:53 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

8 IN THE SUPREME COURT OF THE STATE OF NEVADA

9 ***

10 LAS VEGAS DEVELOPMENT GROUP, LLC,)
11 a Nevada limited liability company,)
12)
Appellant,)
13 vs.)
14 JAMES R. BLAHA, an individual; BANK OF)
AMERICA, NA, a National Banking)
15 Association, as successor by merger to BAC)
HOME LOANS SERVICING, LP;)
16 RECONTRUST COMPANY NA, a Texas)
corporation; EZ PROPERTIES, LLC, a Nevada)
17 limited liability company; K&L BAXTER)
FAMILY LIMITED PARTNERSHIP, a Nevada)
18 limited partnership; FCH FUNDING, INC, an)
unknown corporate entity,)
19 Respondents.)
20

Supreme Court No. 71875

District Court Case No. A-15-715532-C

21 **MOTION TO EXTEND TIME TO FILE OPENING BRIEF AND APPENDIX**
22 **(First Request)**

23 COMES NOW, Appellant, LAS VEGAS DEVELOPMENT GROUP, LLC, by and
24 through its attorneys, ROGER P. CROTEAU & ASSOCIATES, LTD., and hereby presents its
25 Motion to Extend Time to File Opening Brief and Appendix, requesting an extension of
26 approximately thirty (30) from the current due date of April 13, 2017. This Motion is made and
based upon the attached Memorandum of Points and Authorities, the attached exhibits, the

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1 declaration of counsel, and all papers and pleadings on file herein.

2 DATED this 12th day of April, 2017.

3 ROGER P. CROTEAU & ASSOCIATES, LTD.

4
5 /s/ Timothy E. Rhoda
6 ROGER P. CROTEAU, ESQ.
7 Nevada Bar No. 4958
8 TIMOTHY E. RHODA, ESQ.
9 Nevada Bar No. 7878
10 9120 West Post Road, Suite 100
11 Las Vegas, Nevada 89148
12 (702) 254-7775
13 *Attorney for Appellant*
14 **LAS VEGAS DEVELOPMENT GROUP, LLC**

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **A. STATEMENT OF THE FACTS**

- 13 1. Appellant caused the instant appeal to be filed on December 1, 2016.
- 14 2. On December 14, 2016, this Court issued an Exemption from Settlement Program -
15 Notice to File Documents (*“Exemption Notice”*).
- 16 3. Pursuant to the Exemption Notice, the Appellant was given 120 days from the date of the
17 notice to file and serve the opening brief and appendix. The opening brief and appendix
18 are thus presently due on April 13, 2017.
- 19 4. Appellant’s counsel was ill for much of an approximately two week period in March.
20 Thereafter, the mother of Appellant’s counsel was hospitalized after suffering a heart
21 attack.
- 22 5. As a result of the foregoing, Appellant’s counsel was absent from work for a significant
23 period of time and unable to attend to numerous pending legal matters. The absence
24 resulted in a significant backlog of required work, including the opening brief and
25 appendix at issue herein.
- 26 6. On April 12, 2017, Appellant’s counsel contacted Respondents’ various counsel by email,
27 explaining his circumstances and requesting an extension of time until May 15, 2017, in
28 which to prepare, file and serve the opening brief and appendix.

1 7. William Habdas, Esq., counsel for Bank of America, N.A. and Recontrust Company, and
2 Kevin Hansen, Esq., counsel for EZ Properties, LLC and K&L Baxter Family
3 Partnership, immediately responded with their consent to the requested extension.

4 8. Shortly thereafter, Brittany Wood, Esq., counsel for James Blaha and Noble Home Loans
5 formerly known as FCH Funding, Inc., responded and advised as follows:

6 I am sorry to hear of your personal problems and am happy to know your mother
7 is now doing better. Unfortunately, Mr. Blaha responded that he was unwilling to
8 provide me with consent for the requested 30 day extension. Obviously, I have no
9 objection to your request for an automatic 14 day extension pursuant to NRAP
10 26(b)(1)(B).

11 9. Based upon her client's apparent refusal to grant an extension, Ms. Wood refused to agree
12 to the requested extension.

13 **B. STATEMENT OF THE LAW**

14 NRAP 31(b) provides in pertinent part as follows:

15 **(2) Stipulations.** Unless the court orders otherwise, in all appeals except child
16 custody, visitation, or capital cases, the parties may extend the time for filing any
17 brief for a total of 30 days beyond the due dates set forth in Rule 31(a)(1) by filing
18 a written stipulation with the clerk of the Supreme Court on or before the brief's
19 due date. No extensions of time by stipulation are permitted in child custody,
20 visitation, or capital cases.

21 **(3) Motions for Extensions of Time.** A motion for extension of time for filing a
22 brief may be made no later than the due date for the brief and must comply with
23 the provisions of this Rule and Rule 27.

24 **(A) Contents of Motion.** A motion for extension of time for filing a brief shall
25 include the following:

- 26 (i) The date when the brief is due;
- 27 (ii) The number of extensions of time previously granted (including a 5-day
28 telephonic extension), and if extensions were granted, the original date when the
brief was due;
- (iii) Whether any previous requests for extensions of time have been denied or
denied in part;
- (iv) The reasons or grounds why an extension is necessary; and
- (v) The length of the extension requested and the date on which the brief would
become due.

C. ARGUMENT

As set forth above, Appellant's counsel sought to obtain a stipulated extension of the due date for the opening brief and appendix that is presently due on April 13, 2017. In such a manner, Appellant hoped to avoid burdening the Court with a matter as mundane as an extension of time, as well as to avoid the time and expense of preparing and filing the instant Motion.

1 Although most of the parties and their counsel immediately agreed to the extension, Ms. Wood
2 and her client refused. This is the first extension of time that has been requested.

3 The requested extension is the result of various unfortunate circumstances, including
4 illness on the part of both the Appellant’s counsel and his mother. Due to both his own health
5 condition and that of his family, Appellant’s counsel was forced to miss a significant amount of
6 work over the course of the past several weeks. This resulted in a large backlog of work
7 obligations, including the opening brief and appendix herein.

8 Appellant’s counsel appreciates Ms. Wood’s lack of opposition to the “automatic 14 day
9 extension pursuant to NRAP 26(b)(1)(B).” However, based upon the sheer volume of his
10 pending work obligations and the nature thereof, Appellant’s counsel is not confident that he can
11 complete the opening brief and appendix within 14 days. Because NRAP 26(b)(1)(B)
12 specifically bars any additional extensions of time under most circumstances, Appellant’s
13 counsel brings the instant Motion. Appellant’s counsel regrets that he has been forced to burden
14 the Court with this Motion where the majority of the parties were willing to professionally
15 resolve the matter without court intervention.

16 **CONCLUSION**

17 Based upon the foregoing, Appellant respectfully requests that the deadline to file the
18 opening brief and appendix herein be extended until May 15, 2017, or until such other date that
19 the Court deems appropriate.

20 DATED this 12th day of April, 2017.

21 ROGER P. CROTEAU & ASSOCIATES, LTD.

22
23 /s/ Timothy E. Rhoda
24 ROGER P. CROTEAU, ESQ.
25 Nevada Bar No. 4958
26 TIMOTHY E. RHODA, ESQ.
27 Nevada Bar No. 7878
28 9120 West Post Road, Suite 100
Las Vegas, Nevada 89148
(702) 254-7775
Attorney for Appellant
LAS VEGAS DEVELOPMENT GROUP, LLC

DECLARATION OF TIMOTHY E. RHODA

TIMOTHY E. RHODA, being first duly sworn, deposes and says, that:

1. That I am an attorney for the Appellant, Las Vegas Development Group, LLC (“LVDG”), in the above-captioned matter.
2. Of the following facts, I know them to be true of my own knowledge unless stated upon information and belief, in which case I possess a good faith belief that such facts are true and correct.
3. Appellant caused the instant appeal to be filed on December 1, 2016.
4. On December 14, 2016, this Court issued an Exemption from Settlement Program - Notice to File Documents (“*Exemption Notice*”).
5. Pursuant to the Exemption Notice, the Appellant was given 120 days from the date of the notice to file and serve the opening brief and appendix. The opening brief and appendix are thus presently due on April 13, 2017.
6. Appellant’s counsel was ill for much of an approximately two week period in March. Thereafter, the mother of Appellant’s counsel was hospitalized after suffering a heart attack.
7. As a result of the foregoing, Appellant’s counsel was absent from work for a significant period of time and unable to attend to numerous pending legal matters. The absence resulted in a significant backlog of required work, including the opening brief and appendix at issue herein.
8. On April 12, 2017, Appellant’s counsel contacted Respondents’ various counsel by email, explaining his circumstances and requesting an extension of time until May 15, 2017, in which to prepare, file and serve the opening brief and appendix.
9. William Habdas, Esq., counsel for Bank of America, N.A. and Recontrust Company, and Kevin Hansen, Esq., counsel for EZ Properties, LLC and K&L Baxter Family Partnership, immediately responded with their consent to the requested extension.
10. Shortly thereafter, Brittany Wood, Esq., counsel for James Blaha and Noble Home Loans formerly known as FCH Funding, Inc., responded and advised as follows:

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I am sorry to hear of your personal problems and am happy to know your mother is now doing better. Unfortunately, Mr. Blaha responded that he was unwilling to provide me with consent for the requested 30 day extension. Obviously, I have no objection to your request for an automatic 14 day extension pursuant to NRAP 26(b)(1)(B).

- 11. Based upon her client’s apparent refusal to grant an extension, Ms. Wood refused to agree to the requested extension, necessitating the instant Motion.
- 12. Appellant respectfully requests that the deadline to file the opening brief and appendix herein be extended until May 15, 2017 May 15, 2017, or until such other time that the Court deems appropriate.
- 13. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct to the best of my knowledge.

DATED this 12th day of April, 2017.

/s/ Timothy E. Rhoda
TIMOTHY E. RHODA

CERTIFICATE OF SERVICE

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that I am an employee of ROGER P. CROTEAU & ASSOCIATES, LTD. and that on the 12th day of April, 2017, I caused a true and correct copy of the foregoing document to be served on all parties as follows:

X VIA ELECTRONIC SERVICE: through the Nevada Supreme Court's efile and serve system.

Kevin R. Hansen, Esq.
Amy M. Wilson, Esq.
LAW OFFICES OF KEVIN R. HANSEN
5440 West Sahara Avenue, Suite 206
Las Vegas, Nevada 89146
Attorney for Respondents
EZ Properties, LLC and K&L Baxter
Family Partnership

Aaron R. Maurice, Esq.
Brittany Wood, Esq.
KOLESAR & LEATHAM
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Attorney for Respondents
James R. Blaha and Noble Home Loans
formerly known as FCH Funding, Inc.

Darren T. Brenner, Esq.
William S. Habdas, Esq.
AKERMAN, LLP
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144
Attorney for Respondents
Bank of America, N.A. and Recontrust
Company

____ VIA U.S. MAIL: by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as indicated on service list below in the United States mail at Las Vegas, Nevada.

____ VIA FACSIMILE: by causing a true copy thereof to be telecopied to the number indicated on the service list below.

____ VIA PERSONAL DELIVERY: by causing a true copy hereof to be hand delivered on this date to the addressee(s) at the address(es) set forth on the service list below.

/s/ Timothy E. Rhoda
An employee of ROGER P. CROTEAU &
ASSOCIATES, LTD.