

IN THE SUPREME COURT OF THE STATE OF NEVADA

BANK OF AMERICA, N.A.;
MORTGAGE ELECTRONIC
REGISTRATIONS SYSTEMS, INC.;
and THE BANK OF NEW YORK
MELLON,

Appellants,

vs.

THOMAS JESSUP, LLC SERIES VII,

Respondent.

Case No. 73785 Electronically Filed
May 08 2018 02:53 p.m.
District Court Case No. A-13-693205
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from the Eighth Judicial District Court, Department VII
The Honorable Linda Marie Bell, District Judge
District Court Case No. A-13-693205-C

MOTION TO FILE APPELLANT'S REPLY BRIEF

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Pursuant to NRAP 26(b)(1)(A) and 27, Appellants Bank of America, N.A. (**BANA**), Mortgage Electronic Registrations Systems, Inc. (**MERS**), and The Bank of New York Mellon (**BoNYM**) (collectively **Appellants**), by and through their counsel of record, Akerman LLP respectfully requests the Court to file its reply brief one day late.

Appellant's reply brief was filed timely on May 7, 2018. On May 8, 2018 it was rejected for failure to comply with NRAP 32(a)(7)(A). Specifically, the brief stated it complied with the type-volume limits, and was 7,406 words. This was typographical error caused by including portions of the brief exempted under NRAP 32(a)(7)(C).

Upon recalculation, and taking into consideration the portions exempted by NRAP 32(a)(7)(C), the brief is only 5,692 words, which is in compliance with NRAP 32(a)(7)(A).

NRAP 26(b)(1)(A) states that this Court “For good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires.”

Appellants believe that a typographical error provides the required good cause for allowing the filing a day late—especially where the underlying brief was not itself out of compliance with the rule. Furthermore, disallowing the brief a single day late would be a harsh and disproportionate sanction in light of the stakes

of the litigation and meritorious arguments Appellants intend to raise on appeal. This motion was filed the very next day after the problems. Respondent has not been prejudiced by this minor delay.

Appellants are concurrently filing the reply brief again (with the corrected word calculation in the certificate of compliance) with this motion. Appellants make this request in good faith and not for the purpose of harassment or delay.

Dated: May 8, 2018.

AKERMAN LLP

/s/ William S. Habdas

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Akerman LLP, and that on the 8th day of May, 2018, I caused to be served a true and correct copy of the foregoing **MOTION TO FILE APPELLANT'S REPLY BRIEF**, in the following manner:

(ELECTRONIC SERVICE) The above referenced document was electronically filed on the date hereof with the Clerk of the Court for the Supreme Court of the State of Nevada by using the Court's CM/ECF system and served through the Court's Notice of electronic filing system automatically generated to those parties registered on the Court's Master E-Service List.

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