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Elizabeth A. Brown
Clerk of Supreme Court

8 *Attorney for Respondents David Marriner*
9 *and Marriner Real Estate, LLC*

10 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

11
12 GEORGE STUART YOUNT, Individually and
13 in his Capacity as Owner of GEORGE
14 STUART YOUNT IRA,

15 Appellant,

16 vs.

17 CRISWELL RANDOVAN, LLC, a Nevada
18 Limited liability company; CR CAL NEVA, a
19 Nevada Limited liability company; ROBERT
20 RADOVAN; WILLIAM CRISWELL; CAL
21 NEVA LODGE, LLC, a
22 Nevada limited liability company;
23 POWELL, COLEMAN and ARNOLD, LLP;
24 DAVID MARRINER; MARRINER REAL
25 ESTATE, LLC, a Nevada limited liability
26 company,

27 Respondents.
28

CASE No.: 74275

Second Judicial District Court
Case No. CV16-00767

OPPOSITION TO MOTION
FOR EXTENSION TO FILE
THE REPLY BRIEF

1 Respondents David Marriner and Marriner Real Estate, LLC, by and through
2 their attorney Mark G. Simons of SIMONS HALL JOHNSTON PC, hereby
3 submits their opposition to the Appellant's *third* Motion for Extension to File The
4 Reply Brief.
5

6 **I. APPELLANT'S HISTORY OF DELAY AND EXTENSIONS.**
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8 The Notice of Appeal in this action was filed on October 24, 2017.

9 **A. HISTORY OF EXTENSIONS FOR TRANSCRIPT AND**
10 **OPENING BRIEF.**

11 On May 11, 2018, this Court entered its Order Reinstating Briefing setting
12 the deadline for Appellant to file the Opening Brief by August 9, 2018. And to file
13 its Request for Transcript by May 26, 2018.
14

15 Appellant thereafter filed a Motion to Determine Appellate Jurisdiction. In
16 response, this Court denied Appellant's motion and extended the due date for
17 Appellant's Opening Brief by 60 days making the Appellant's Opening Brief due
18 on or before October 23, 2018.
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20 Similarly, on July 12, 2018, Appellant filed its Motion for Extension to File
21 Request for Transcripts again requesting another 30-day extension even after
22 Appellant had already sought and obtained a 14-day extension to file its Request
23 for Transcript. *See* Orders dated May 30, 2018, and June 25, 2018. On July 12,
24 2018, Appellant again sought another 30-day extension to transcript request.
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1 Subsequently, Appellant sought a third extension to file the request for transcripts,
2 which this Court granted expressly advising Appellant that this Court was “not
3 inclined to allow the appeal to linger indefinitely on this court’s docket” and that
4 “no further extensions for filing the request for transcripts will be granted.” See
5 Order dated Aug. 2, 2018.
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7
8 Not to be dissuaded by any deadlines and/or that the deadline for filing the
9 Opening Motion expired, on October 24, 2018, Appellant sought another 90-day
10 extension to file the Opening Brief. See Oct. 24, 2018, Mot. For Ext. to File Op.
11 Brief. The extended deadline to file the opening brief became January 22, 2019.
12 The Court granted Appellant’s request. See Order dated Nov. 1, 2018.
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15 After even more delay, Appellant then filed another a Motion to Extend
16 Time to February 23, 2019, to file the Opening Brief. The Court again granted
17 Appellant another 30-day extension. See Order dated March 5, 2019. Finally, on
18 March 5, 2019, Appellant filed its Opening Brief.
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20 The Opening Brief was filed almost 19 months after the Notice of Appeal
21 was filed and ten months after this Court entered its May 11, 2018, Order
22 Reinstating Briefing.
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1 **B. HISTORY OF EXTENSIONS FOR REPLY BRIEF.**

2 Pursuant to the parties' stipulation, Marriner filed his Answering Brief on
3 June 5, 2019. Of note, the Court denied the Criswell/Radovan respondents request
4 for an extension of time to file their Answering Brief.
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6 In response to the filing of the Answering Briefs by the Respondents,
7 Appellant again embarked on its delay tactics and has sought extension after
8 extension all to the prejudice of Marriner. On July 11, 2019, Appellants
9 prematurely filed a motion seeking a 30-day extension to file the reply brief
10 claiming that one of the attorneys assigned to the case broke some fingers
11 necessitating a extension. This Court granted Appellant's request and set the
12 deadline for filing the reply brief as of August 21, 2019. *See* Order dated July 22,
13 2019.
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17 On August 21, 2019, the Appellant again filed another request for a 30-day
18 extension this time contending that another attorney "fell ill" and some scheduling
19 conflicts warranted another extension. *See* Mot. for Ext. dated Aust 21, 2019. On
20 August 27, 2019, the Court granted Appellant's second request for a 30-extension
21 to file its Reply brief establishing the due date for the reply brief as of September
22 20, 2019. *See* Order dated Aug. 27, 2019.
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1 Despite over 90 days to file the reply brief, Appellant now seeks another 30-
2 day extension to October 21, 2019, to file the reply brief. This request should be
3 denied.
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5 **II. BASIS FOR DENIAL.**

6 As the recitation of facts demonstrates, Appellant is delaying this appeal and
7 resolution of the issues all to the detriment and prejudice of Respondents. *See e.g.*,
8 Dougan v. Gustaveson, 108 Nev. 517, 835 P.2d 795, 799 (1992) ("[The timeliness]
9 provisions [of the rules] recognize judicial commitment to the proposition that
10 justice delayed is justice denied."").
11

12 At some point in time Appellants are going to need to take this appeal
13 seriously and allow this Court to rule on the merits of the Appellant's contentions.
14 There are no "extraordinary circumstances" or "extreme need" warranting another
15 extension and it appears that the broken bones have healed and the illnesses have
16 passed. *See* Order dated Aug. 27, 2019 ("No further extensions of time shall be
17 permitted absent demonstration of extraordinary circumstances and extreme
18 need."). It is time for this appeal to proceed and it is requested that this third
19 extension to file the reply brief be denied in total. Alternatively, appropriate
20 sanctions in the discretion of this Court should be issued if such additional
21 extension is granted.
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1 **AFFIRMATION:** This document does not contain the social security
2 number of any person.

3
4 DATED this 27th day of September, 2019.

5
6 SIMONS HALL JONSTON, PC
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10 BY: 
11 _____

12 Mark G. Simons, Esq.
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14 *Attorney for Respondents David Marriner*
15 *and Marriner Real Estate, LLC*
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CERTIFICATE OF SERVICE

I hereby certify pursuant to NRAP 25(c), that on the 24 day of September, 2019, I caused service of a true and correct copy of the above and foregoing **OPPOSITION TO MOTION FOR EXTENSION TO FILE THE REPLY BRIEF** on all parties to this action by the method(s) indicated below:


X by using the Supreme Court Electronic Filing System:

Martin Little, Esq.
*Attorneys for Criswell Radovan, LLC, William Criswell, CR
Cal Neva LLC, Powell, Coleman and Arnold LLP, Robert
Radovan, Cal Neva Lodge, LLC*

Richard G. Campbell, Jr.
Attorneys for George Stuart Yount IRA et al.

Daniel Polsenberg
Joel Henriod
Attorneys for George Stuart Yount

DATED this 24 day of September, 2019.


An Employee of Simons Hall Johnston PC