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Electronically Filed
Aug 01 2018 07:48 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTONETTE PATUSH,

Appellant,

vs.

LAS VEGAS BISTRO, LLC,

Respondent.

No. 76062

**APPELLANT'S MOTION TO
EXTEND TIME TO FILE
DOCKETING STATEMENT AND
TRANSCRIPT REQUEST**

COMES NOW APPELLANT, ANTONETTE PATUSH, by and through her attorney, JAMES P. KEMP, ESQ., and hereby moves, pursuant to NRAP 14(d) that this honorable court grant an extension of time through and including three business days after the Court enters and order granting the extension to file the Docketing Statement in this matter. Appellant also requests the same amount of time to file her Certificate That No Transcript is Requested. Both of these documents were submitted for filing with the Clerk on July 31, 2018, but were rejected as untimely. (Ex. 1) As set forth herein, good cause exists to grant the extension of time.

This extra time is needed due to the undersigned experiencing technical difficulties with Microsoft Outlook's calendar function in late June and early July

2018. For approximately a week during that time period items that were calendared would stay on the calendar for few hours and then mysteriously disappear. To date the cause of this problem has not been determined and the office has resorted to printing the calendar on paper every day to protect the entries until the technical issue is fully troubleshooted. The calendaring of the due dates for the Docketing Statement and Transcript Request both appear to have fallen victim to this glitch as the dates are not on the calendar. This caused the documents to not be timely filed. Appellant's counsel had also been traveling for a CLE conference in Chicago (National Employment Lawyers Association convention) and to his wife's family reunion in Wyoming during the time period in question which contributed to not catching the failure to file the Docketing Statement and Certificate of No Transcripts. The error was caught on July 30, when Appellant's counsel opened an email from the District Court containing another order (that will soon be appealed as well) that was entered by the District Court on Friday, July 27, 2018.

POINTS AND AUTHORITIES

I. ARGUMENT

Nevada Rules of Appellate Procedure Rule 14 governs the filing of the Docketing Statement and states in relevant part as follows:

RULE 14. DOCKETING STATEMENT

1 (a) Application and Purpose of Docketing Statement.

2 (1) In General. Appellants shall file completed docketing
3 statements in accordance with the provisions of this Rule in all appeals.
4 Unless a cross-appeal is filed, the respondent may not complete a
5 docketing statement but may file a response as specified in Rule 14(f).

6 ...

7 (b) Time for Filing; Form of Docketing Statement. Within 20 days
8 after docketing of the appeal under Rule 12, the appellant shall file a
9 docketing statement with the clerk of the Supreme Court, on a form
10 provided by the clerk. Legible photostatic copies of the original form
11 provided by the clerk will be accepted by the clerk for filing in lieu of the
12 original form. The appellant may file a docketing statement that is not on
13 the form provided by the clerk so long as it contains every question
14 included in the clerk's form. An original and 2 copies shall be filed,
15 together with proof of service of a copy of the completed statement on all
16 parties and, if the appeal is assigned to the settlement conference program
17 under Rule 16, on the settlement judge.

18 [As amended; effective January 20, 2015.]

19 (c) Consequences of Failure to Comply. The statement must be
20 completed fully and accurately. For civil appeals, copies of all requested
21 documents must be attached to the completed docketing statement. The
22 court may impose sanctions on counsel or appellant if it appears that the
23 information provided is incomplete or inaccurate, or if the requested
24 documentation has not been attached. Failure to file a docketing statement
25 within the time prescribed shall not affect the validity of the appeal, but is
26 grounds for such action as the court deems appropriate including
27 sanctions and dismissal of the appeal.

28 [As amended; effective October 1, 2015.]

(d) Extensions of Time. A motion for an extension of time within
which to file the docketing statement will be granted for good cause.
Counsel's caseload generally will not provide grounds for an extension.

Good cause exists to extend the time to file the docketing statement in

1 accordance with the above information regarding the technical difficulties that appears
2 to have caused Appellant's Microsoft Outlook calendar to malfunction losing the
3 calendared due dates for the Docketing Statement and the Certificate of No
4 Transcripts. No system is infallible and human error will occur. As soon as the error
5 was discovered Appellant's counsel worked late into the night to submit the documents
6 to the Clerk, who rejected them necessitating this motion which is also filed promptly
7 the same day.
8

9
10 Appellant's counsel understands the inconvenience to the Court and its staff and
11 sincerely apologizes for this error. As to the Certificate of No Transcript indicates that
12 no transcripts are necessary for this appeal, thus there is no inconvenience to any court
13 reporter who would have deadlines. Again, the documents are prepared and can be
14 promptly uploaded and filed in the Eflex system.
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II. CONCLUSION

For the reasons set forth above, the Appellant respectfully requests that the Court grant this motion and extend the time for Appellant to file her Docketing Statement and Certificate of No Transcripts through three business days after the order granting this motion.

DATED this 31st day of July 2018.

/s/ James P. Kemp
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/s/James P. Kemp
An Employee of James P. Kemp, Esq.

EXHIBIT 1

Court Emails Rejecting Filings

EXHIBIT 1

From: efiling@nvcourts.nv.gov
Sent: Tuesday, July 31, 2018 9:37 AM
To: jpkempesq@aol.com
Subject: Rejection of Electronic Document. No. 76062.

Docket Number: 76062
Case Category: Civil Appeal
Submitted by: James P Kemp
Date Submitted: Jul 31 2018 12:49 a.m.
Date Rejected: Jul 31 2018 09:37 a.m.
Note from Clerk: This filing is being rejected for being untimely. The due date was 07/03/18.
Document Category: Docketing Statement
Document Title: Docketing Statement Civil Appeals
Filing Status: Rejected

This notice was automatically generated by the electronic filing system. Do not respond to this email. If you have any questions, contact the Nevada Supreme Court Clerk's office at 775-684-1600 or 702-486-9300.

From: efiling@nvcourts.nv.gov
Sent: Tuesday, July 31, 2018 9:39 AM
To: jpkempesq@aol.com
Subject: Rejection of Electronic Document. No. 76062.

Docket Number: 76062
Case Category: Civil Appeal
Submitted by: James P Kemp
Date Submitted: Jul 31 2018 12:51 a.m.
Date Rejected: Jul 31 2018 09:39 a.m.
Note from Clerk: This filing is being rejected for being untimely. The due date was 07/06/18.
Document Category: Transcript Request
Document Title: Appellant's Certificate That No Transcript is Being Requested
Filing Status: Rejected

This notice was automatically generated by the electronic filing system. Do not respond to this email. If you have any questions, contact the Nevada Supreme Court Clerk's office at 775-684-1600 or 702-486-9300.