

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRUDI LEE LYTLE; AND JOHN ALLEN
LYTLE, AS TRUSTEES OF THE LYTLE
TRUST,

Appellant ,

v.

SEPTEMBER TRUST, DATED MARCH
23, 1972; GERRY R. ZOBRIST AND
JOLIN G. ZOBRIST, AS TRUSTEES OF
THE GERRY R. ZOBRIST AND JOLIN G.
ZOBRIST FAMILY TRUST; RAYNALDO
G. SANDOVAL AND JULIE MARIE
SANDOVAL GEGEN, AS TRUSTEES OF
THE RAYNALDO G. AND EVELYN A.
SANDOVAL JOINT LIVING AND
DEVOLUTION TRUST DATED MAY 27,
1992; and DENNIS A. GEGEN AND
JULIE S. GEGEN, HUSBAND AND
WIFE, AS JOINT TENANTS,

Respondents .

Supreme Court No.: 77007

District Court Case No.: A-17-765372-C

REPLY TO RESPONSE TO
MOTION FOR EXTENSION TO
FILE OPENING BRIEF
Electronically Filed
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Elizabeth A. Brown
Clerk of Supreme Court

[Third Request]

Reply to Response to Motion For Extension To File Opening Brief

(Docket 77007)

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Respondents suggest in their Response to the Motion for Extension to File Opening Brief that the District Court will not reconsider Judge Mark Bailus' Order Granting Attorneys' Fees. This is blatantly false. This Court granted two prior extensions, so the District Court could reconsider the ruling, and only procedural glitches at the District Court level, unrelated to any party, delayed that hearing.

Good cause exists for an additional extension because the District Court, in this case, certified its intent to reconsider the attorney fee award that is the subject of this appeal, but before a written order could be entered, Judge Mark Bailus, stepped down from the bench.

Then, Senior Judge Senior Judge Barker attempted to hear the matter on April 3, 2019, at 9:00 a.m. At the hearing, Judge Barker stated that the matter was complex due to the overwhelming amount of background history and facts, and he asked the parties to consent to send the matter back to District Court Judge Timothy Williams, who originally heard the matter but had to temporarily recuse himself. The parties consented at the hearing to send the matter to Judge Williams because he was familiar as to the background facts and history between the parties.

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The matter is now set to be heard on May 16, 2019, at 9:00 a.m. before Judge Williams. The District Court must take the matter on due to Judge Bailus' own reasoning, specifically that the District Court ruled on the Motion for Attorneys' Fees and Costs prematurely and would not have granted and would have deferred ruling on the Motion for Attorneys' Fees and Costs pending determination of Nevada Supreme Court Docket No. 73039, which involves other parties to this consolidated litigation. Hearing Transcript ("Tran.") 18:13 – 25; 19:16 – 20:8, Motion for Extension, Exhibit B. The District Court, citing *Foster v. Dingwall*, 228 P.3d 453 (2010), EDRC 2.24, certified to the Nevada Supreme Court that it intended to reconsider the Motion for Attorneys' Fees and Costs and set a hearing thereon. *Id.*

Filing of briefs given the District Court's findings (as set forth above and in the hearing transcript) would be a waste of judicial resources. Further, it may subject the parties to duplicative briefing.

Finally, the delay between April 3, 2019, when Judge Barker was to reconsider the matter, and May 16, 2019, when Judge Williams will take-up the matter is through no fault of any of the parties, certainly not Appellants. Judge Barker and the parties wisely chose to assign this matter to Judge Williams given his background in the case.

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Appellants respectfully request additional time, through May 31, 2019, to file and serve their Opening Brief so that Judge Williams can consider Judge Bailus' intent to certify to the Supreme Court the district court's intent to reconsider the award of attorneys' fees and costs to Respondents, which will be heard on May 16, 2019.

DATED this 25th day of April, 2019.

GIBBS, GIDEN, LOCHER, TURNER, SENET &
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By: /s/ Richard E. Haskin

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LIST OF EXHIBITS TO MOTION

Exhibit A	Order Granting Attorneys' Fees and Costs
Exhibit B	Transcript from November 27, 2018 Hearing
Exhibit C	Stipulation and Order re Hearing Date

Certificate of Service

1. Electronic Service:

I hereby certify that on this date, the 12th day of February 2019, I submitted the foregoing **REPLY TO RESPONSE TO MOTION FOR EXTENSION TO FILE OPENING BRIEF (Docket 77007)** for filing and service through the Court's eFlex electronic filing service. According to the system, electronic notification will automatically be sent to the following:

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