

IN THE SUPREME COURT OF THE STATE OF NEVADA

KENNETH BERBERICH,

Appellant,

vs.

BANK OF AMERICA, N.A.; AND
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

Respondents.

Case No. 76457

Electronically Filed
Jan 23 2019 08:27 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

**MOTION TO EXTEND TIME TO
FILE ANSWERING BRIEF
(SECOND REQUEST)**

Bank of America, N.A., and Mortgage Electronic Registration Systems, Inc., move pursuant to NRAP 31(b)(3) for an extension of time to file their answering brief, which is currently due on Thursday, January 24, 2018. Respondents request a 32-day extension up to and including Monday, February 25, 2018.

Respondents submit the below information pursuant to NRAP 31(b)(3)(A).

- i. The answering brief is currently due on January 24, 2019.
- ii. The answering brief was originally due on January 10, 2019; Respondents obtained a two-week telephonic extension on January 3, 2019.
- iii. This is respondents' second request to extend time.
- iv. The previously request for extension was not denied.
- v. This court permitted non-party SFR Investments Pool 1, LLC to file an amicus brief on January 14, 2019. This court ordered respondents to incorporate any response to SFR's amicus brief into its answering brief.

vi. Although the answering brief is largely complete as to the issues raised by appellant Kenneth Berberich, SFR raised a number of issues that were not raised by Berberich below or on appeal. These issues expanded the scope of the appeal and have the potential to impact hundreds of pending HOA foreclosure cases in both the state and federal court. Good cause exist to extend time to file the answering brief due to the breadth of SFR's amicus brief. Good cause also exists since respondents' counsel have a number other appellate briefs due in this court and the Ninth Circuit in the next few weeks and are preparing for a number of trials scheduled to begin in late January/early February.

vii. Respondents' counsel reached out to counsel for SFR and Berberich in anticipation of filing this motion. SFR represented it is not opposed to the extension request. Berberich's counsel was non-committal.

viii. Respondents request an extension until February 25, 2019, to file their answering brief. This request is made in good faith and not for delay.

DATED this 22nd day of February, 2019.

AKERMAN LLP

/s/ Ariel E. Stern

ARIEL E. STERN, ESQ., NV Bar No. 8276

NATALIE L. WINSLOW, ESQ., NV Bar No. 12125

1635 Village Center Circle, Suite 200

Las Vegas, NV 89134

*Attorneys for Bank of America, N.A. and Mortgage
Electronic Registration Systems, Inc.*

CERTIFICATE OF SERVICE

I certify that I electronically filed on January 22, 2019, the foregoing **MOTION TO EXTEND TIME TO FILE ANSWERING BRIEF (SECOND REQUEST)** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal either are registered with the CM/ECF or have consented to electronic service.

☐ By placing a true copy enclosed in sealed envelope(s) addressed as follows:

☒ (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

☒ (Nevada) I declare that I am employed in the office of a member of the bar of this Court at whose discretion the service was made.

/s/ Carla Llarena
An employee of Akerman LLP