

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

ANTHONY S. NOONAN IRA, LLC;  
LOU NOONAN; AND JAMES M.  
ALLRED IRA, LLC,

Appellants,

vs.

U.S. BANK NATIONAL  
ASSOCIATION; AND NATIONSTAR  
MORTGAGE LLC,

Respondents.

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Elizabeth A. Brown  
Clerk of Supreme Court

**Supreme Court Case No. 78624**

**APPELLANTS' OPPOSITION TO RESPONDENTS' MOTION FOR  
EXTENSION OF TIME TO FILE PETITION FOR EN BANC  
RECONSIDERATION (FIRST MOTION)**

Appellants Anthony Noonan IRA, LLC, LOU NOONAN, AND JAMES M. ALLRED IRA, LLC (collectively, "Appellants") hereby submit this Opposition to respondents U.S. Bank National Association and Nationstar Mortgage LLC's (collectively "Respondents") Motion for Extension of Time to File Petition for En Banc Reconsideration. As discussed briefly below, Respondents have offered no showing of good cause for the requested extension, and under the circumstances, the extension should be denied.

First, Respondents' request for extension of time fails to present any specific "good cause" for the requested extension. Respondents suggest that this latest in a long line of extensions is necessary because the case has purportedly been "internally

transferred to another associate.” Appellants’ counsel is sympathetic to the challenges presented by any medical emergency, especially in light of the unique challenges many have faced this year. However, and as discussed further below, Respondents have already received three and a half months of post-decision extensions in this matter. Moreover, Respondents are represented by counsel which boasts having “700+ Lawyers.”<sup>1</sup> Simply having to “internally transfer” this case to “another associate” is not sufficient justification for yet another extension in this matter.

Respondents have already received multiple post-decision extensions from this Court and have been successful in delaying the resolution of this matter for approximately four months. This Court filed an authored opinion in favor of Appellants on July 9, 2020. Despite the 18-day timeline set forth in NRAP 40 for filing a Petition for Rehearing, Respondents sought and obtained two extensions of time (one telephonic, one by motion) and ultimately filed the Petition for Rehearing on August 21, 2020. From there, Respondents filed a Motion to Amend the Petition for Rehearing, which was granted, and Respondents filed the Amended Petition on September 14, 2020. This Court denied that motion on October 1, 2020 making the original deadline to file a Petition for En Banc Reconsideration October 15, 2020.

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<sup>1</sup> See Akerman LLP Homepage, available at <https://www.akerman.com/en/>.

Respondents then sought a 14-day telephonic extension from this Court extending the deadline to October 29, 2020. And finally, on October 29, 2020, filed the instant Motion seeking an extension based on the case being “internally transferred” to another associate.

An additional consideration is the narrow scope of review allowed for en banc reconsideration. While Respondents have not yet proffered any indication as to the basis for their pending Petition for En Banc Reconsideration, this Court can look to both the denial of Respondents’ previous Petition for Rehearing and the very narrow standard for en banc reconsideration under NRAP 40A. More specifically, compared to the broad standard for petitions for rehearing under NRAP 40(a)(2), the standard for en banc reconsideration is precisely limited to two grounds. NRAP 40A(a). Absent a showing that such reconsideration is “necessary to secure or maintain uniformity of decisions of the Supreme Court or Court of Appeals,” or that the appeal “involves a substantial precedential, constitutional or public policy issue,” en banc reconsideration “is not favored and ordinarily will not be ordered.” Id. Appellants are unaware and have seen no indication that this Court’s prior decision is somehow inconsistent with other precedent released by this Court. Furthermore, this Court’s previous denial of the Petition for Rehearing underscores that no substantial precedential issue has been presented which would support rehearing en banc.

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In short, Respondents have been able to extend an 18-day and a 14-day timeline into nearly four full months of extensions and delays. Now, Respondents seek yet again to delay the resolution of this matter. These repeated extensions are needlessly delaying resolution of this matter for Appellants without any reasonable justification for so doing. Appellant Lou Noonan was 89 years old in 2014 when the subject property was purchased and is now 95. These continual delays, if allowed to continue, present the reasonable possibility that Ms. Noonan may not see resolution of this title dispute during her lifetime. As the timeless legal aphorism goes, “justice delayed is justice denied.” See, e.g., Arnett v. Kennedy, 416 US 134 (1974). Therefore, under the circumstances, Respondents’ Motion should be denied.

DATED this 5th day of October, 2019.

SHUMWAY VAN

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## **CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On October 16, 2019, I caused to be served a true and correct copy of the foregoing APPELLANTS' OPPOSITION TO RESPONDENTS' MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR EN BANC RECONSIDERATION (FIRST MOTION) upon the following by the method indicated:

☒ BY ELECTRONIC SUBMISSION: submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.

☐ BY U.S. MAIL: by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.

/s/ Garrett R. Chase  
An Employee of Shumway Van