

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

2 RICHARD H NEWMAN, AN
3 INDIVIDUAL; NEWMAN LAW, LLC,
4 A NEVADA LIMITED LIABILITY
5 COMPANY; AND COOPER
6 BLACKSTONE, LLC, A NEVADA
7 LIMITED LIABILITY COMPANY

8 *Appellant,*

9 vs.

10 FULL COLOR GAMES, INC., A
11 NEVADA CORPORATION

12 *Appellee.*

SUPREME COURT NO.: 79395

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Mar 22 2020 09:15 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

13 **APPELLANTS' NON-OPPOSITION TO HUTCHISON & STEFFEN,**
14 **PLLC'S MOTION TO WITHDRAW AS COUNSEL AND OPPOSITION TO**
15 **APPELLEE'S MOTION FOR EXTENSION OF TIME TO LOCATE NEW**
16 **COUNSEL**

17 Appellee's current counsel, Hutchison & Steffen, PLLC was disqualified from
18 representing Appellee, Full Color Games, Inc. ("FCGI") on February 18, 2020.
19 Appellant does not oppose Hutchison & Steffen, PLLC's Motion to Withdraw as
20 Counsel. However, Appellant opposes Appellee's Motion for Extension of Time
because an extension of time for an additional 90 days is unnecessarily long,
prejudicial to Appellants respective interests in this appeal, and inconsistent with the

1 continued hearing dates in the underlying action that also require Appellee to have
2 retained new counsel.

3 As a preliminary matter, Appellee's basis for requesting a 90 day extension
4 of time due to David Mahon being out of the country fails to acknowledge that
5 Appellee FCGI is a corporate entity with another director residing in the United
6 States, namely, Glen Howard, FCGI's President. Glen Howard is believed to either
7 own or lease an apartment in Las Vegas, and as its director and President, had ample
8 opportunity over the last month since Appellee's current counsel was disqualified to
9 locate and retain new counsel on behalf Appellee while Mahon was traveling.

10 Indeed, given Mahon's apparent need to be physical in India, the due dates in
11 this appeal, as well as next month's deadlines in the underlying action, Appellee had
12 a compelling reason for its President Glen Howard to waste no time in locating and
13 retaining new counsel after its current counsel was disqualified. Yet Appellee's
14 motion fails to provide a reason why Appellee's director and President Glen Howard
15 was unable to retain new counsel on behalf of Appellee FCGI last month while
16 Appellee's other director David Mahon was traveling. Appellee's failure to
17 diligently address their need for new counsel is even more aggravating now that
18 Covid-19 concerns have made the process more difficult than it would have been
19 last month.

1 Since there is no reason why Appellee's President Glen Howard cannot locate
2 and retain new counsel on its behalf, there is no reason why this appeal must be put
3 on hold just so David Mahon can return from traveling at some uncertain date. Glen
4 Howard, David Mahon and prospective or retained new counsel can easily
5 communicate using conventional telecommunication technology, such as video-
6 conferencing and email. David Mahon has already been willing to attend hearings
7 in the underlying actions telephonically. Mahon can participate with Howard in
8 finding new counsel telephonically or through one of the many video conferencing
9 options.

10 It should be noted that in light of the Covid-19 crisis, David Mahon's return
11 to this country by any particular date cannot be assured. This fact is alluded to by
12 Appellee on Page 3 of its Motion where it states Mahon "anticipates that he cannot
13 safely leave India until approximately April 15, 2020." Even assuming Mahon was
14 able to leave India on April 15, 2020, his return would leave very little time for him
15 to both locate and retain new counsel for Appellee and afford Appellee's new
16 counsel sufficient time to be prepared for the deadlines in the underlying action, at
17 least one of which is April 20, 2020. There is also the very real possibility that
18 travelers returning from abroad will be quarantined upon arrival, and therefore,
19 telephonic or video conferencing may be the only options for retaining new counsel
20 even if Mahon is in the US. Thus, it is much more efficient and less likely to cause

unnecessary delay for Appellee's other director and president Glen Howard to locate and retain new counsel on behalf of Appellee. Appellee's motion does not give any reason why Glen Howard cannot do this as soon as possible.

As mentioned above, Appellee must also retain new counsel in order to comply with the current hearing schedule in the underlying action. In the underlying action, Appellee filed a Second Amended Answer and Third-Party Complaint which named numerous additional Third-Party Defendants and added new claims against Appellants. This Second Amended Answer and Third-Party Complaint was filed on January 9, 2020, about a month before Hutchison & Steffen, PLLC was disqualified. Appellants and other newly named Third-Party Defendants timely filed Motions to Dismiss. Oppositions and hearings on these Motions and other matters in the underlying action have now been rescheduled as a result of the disqualification of Appellee's counsel. The continuances agreed to by Appellee, Appellants, Plaintiffs and other Third-Party Defendants expire much sooner than 90 days. For example, an opposition to Appellant's Motion to Dismiss is due by April 20, 2020, and the related hearing is scheduled for May 16, 2020. Appellee would need to retain counsel in time to enable counsel to be in a position to respond to Appellant's Motion to Dismiss by April 20, 2020 and prepare for the hearing on May 16, 2020.

Since the outcome of Appellant's appeal relates to matters in the underlying action, including Appellant's Motion to Dismiss, it would be prejudicial to

1 Appellants for this appeal to be possibly delayed for a longer period of time than the
2 current opposition and hearing schedule in the underlying action. Given the
3 uncertainty of Mahon's return from India, it makes much more sense for Appellee's
4 other director and president Glen Howard who is here to locate and retain counsel.
5 Though the current situation complicates this process, Glen Howard can presumably
6 locate and retain new counsel without uncertainty or unnecessarily delay.

7 In light of the foregoing, and in consideration of the fact that Appellee has
8 already had a month to locate and retain new counsel, Appellants move this Court
9 to deny Appellee's Motion for a 90 day extension in favor of an extension of time
10 which is commensurate with Appellee retaining new counsel at least prior to the
11 April 20, 2020 hearing date in the underlying action.

12 DATED, this 22nd day of March 2020.

13 NEWMAN LAW, LLC

14 /s/ Richard H Newman

15 Richard H Newman (NV Bar No. 8943)

16 *Attorneys for Third-Party*

17 *Defendants/Appellants*
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/s/ Richard H Newman