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SATICOY BAY, LLC 34 INNISBROOK

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Nov 23 2020 03:12 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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8 IN THE SUPREME COURT OF THE STATE OF NEVADA

9 ***

10 SATICOY BAY, LLC 34
INNISBROOK,)

11)
12 Appellant,)

Supreme Court No. 80111

13 vs.)

District Court Case No. A-14-
710161-C

14 THORNBURG MORTGAGE
SECURITIES TRUST 2007-3; FRANK
15 TIMPA; MADELAINE TIMPA; TIMPA)
16 TRUST; RED ROCK FINANCIAL
SERVICES, LLC; SPANISH TRAIL
17 MASTER ASSOCIATION; REPUBLIC
SERVICES; AND LAS VEGAS
VALLEY WATER DISTRICT,)

18 Respondents.)
19

20 _____
21 **MOTION TO EXTEND TIME TO FILE OPENING BRIEF**
(Second Request)

22 COMES NOW, Appellant, SATICOY BAY, LLC 34 INNISBROOK,
23 (“*Saticoy Bay*”) by and through its attorneys, ROGER P. CROTEAU &
24 ASSOCIATES, LTD., and hereby presents its Motion to Extend Time to File
25 Opening Brief, requesting a second extension of time to twenty-eight (28) days
26 from the current deadline of November 23, 2020, or until such other date that the
27 court deems appropriate. This Motion is made and based upon the attached
28

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Memorandum of Points and Authorities, the attached declaration of counsel, and all papers and pleadings on file herein.

DATED this 23rd day of November, 2020.

ROGER P. CROTEAU & ASSOCIATES,
LTD.

/s/ Roger P. Croteau

ROGER P. CROTEAU, ESQ.
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34 INNISBROOK

1
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **A. STATEMENT OF THE FACTS**

- 4 1. Saticoy Bay caused the instant appeal to be filed on December 2, 2019.
- 5 2. On December 19, 2019, this Court assigned this matter to the Settlement
6 Program.
- 7 3. A Mediation was held on June 30, 2020 and the parties were unable to agree
8 to a settlement.
- 9 4. On July 10, 2020, this Court issued an Order Removing Case from
10 Settlement Program and Reinstating Briefing schedule.
- 11 5. Pursuant to the Briefing schedule, Saticoy Bay was given 90 days from the
12 date of the notice to file and serve the Opening Brief and Appendix. The
13 Opening Brief and Appendix were thus initially due on October 8, 2020.
- 14 6. A first Request for Extension was submitted and granted, extending the
15 deadline to November 23, 2020.
- 16 7. On September 24, 2020, Counsel for Spanish Trial Master Association filed
17 a Motion to Dismiss.
- 18 8. On September 29, 2020, Counsel for Red Rock Financial Services filed a
19 Joinder to the Motion to Dismiss.
- 20 9. Saticoy Bay's Opposition to the Motion to Dismiss was filed October 15,
21 2020.
- 22 10. The current deadline for Spanish Trial Master Association to file a Reply in
23 support of their Motion to Dismiss is November 23, 2020.
- 24 11. Saticoy Bay and Spanish Trial Master Association have agreed to an
25 extension of the Reply deadline to December 7, 2018
- 26 12. As a result of the foregoing, Saticoy Bay's counsel is requesting an
27 extension in which to file its Opening Brief to a date twenty-eight (28) days
28 after the currently set deadline of November 23, 2020, namely, December

- 1 21, 2020, to allow the Court the opportunity to rule upon the Motion to
2 Dismiss and avoid duplicative arguments in briefing and thus streamline the
3 analysis for any forthcoming decision.
- 4 13. The content of the Opening Brief will be dictated by the Court’s ruling on
5 the Motion to Dismiss.
- 6 14. On November 20, 2020, Saticoy Bay ’s counsel’s associate contacted
7 Respondents’ various counsel by email, requesting an extension of time of
8 four weeks (28 days) until December 21, 2020, in which to prepare, file and
9 serve the Opening Brief based upon the judicial efficiency of allowing the
10 Motion to Dismiss be decided prior to the filing of the Opening Brief.
- 11 15. Ryan Hastings, Esq., counsel for Spanish Trail Master Association
12 responded with their consent to the requested extension.
- 13 16. Bryan Naddafi, Esq., counsel for the Timpa Trust responded with their
14 consent to the requested extension.
- 15 17. Steven Scow, Esq., counsel for Red Rock Financial Services, LLC,
16 responded with their consent to the requested extension.
- 17 18. Melanie Morgan, Esq., counsel for Thornburg Mortgage Securities Trust
18 2007-3, responded with their consent to the requested extension.
- 19 19. This Motion is filed not for delay, but judicial economy of the Court and the
20 various parties.
- 21 20. Saticoy Bay’s counsel had not heard back from counsel for Las Vegas
22 Valley Water District. Mr. and Mrs. Timpa are deceased, and Saticoy Bay’s
23 counsel is unsure whether counsel for any probated estate will appear.
24 Republic Services considers their involvement in the matter concluded.
25 Thus, the Respondents who are most likely to be impacted in this matter
26 have agreed to the extension based upon judicial efficiency.

27 **STATEMENT OF THE LAW**

28 NRAP 31(b) provides in pertinent part as follows:

1 **(2) Stipulations.** Unless the court orders otherwise, in all appeals
2 except child custody, visitation, or capital cases, the parties may
3 extend the time for filing any brief for a total of 30 days beyond the
4 due dates set forth in Rule 31(a)(1) by filing a written stipulation with
5 the clerk of the Supreme Court on or before the brief's due date. No
6 extensions of time by stipulation are permitted in child custody,
7 visitation, or capital cases.

8 **(3) Motions for Extensions of Time.** A motion for extension of time
9 for filing a brief may be made no later than the due date for the brief
10 and must comply with the provisions of this Rule and Rule 27.

11 **(A) Contents of Motion.** A motion for extension of time for filing a
12 brief shall include the following:

- 13 (i) The date when the brief is due;
14 (ii) The number of extensions of time previously granted (including a
15 14-day telephonic extension), and if extensions were granted, the
16 original date when the brief was due;
17 (iii) Whether any previous requests for extensions of time have been
18 denied or denied in part;
19 (iv) The reasons or grounds why an extension is necessary; and
20 (v) The length of the extension requested and the date on which the
21 brief would become due.

22 **C. ARGUMENT**

23 As set forth above, Saticoy Bay's counsel seeks to obtain an extension,
24 stipulated to by the relevant Respondents, of the due date for the Opening Brief
25 that is presently due on November 23, 2020, and was originally due on October 8,
26 2020. This is not a child custody, visitation, or capital case. The relevant
27 participating parties have agreed.. This is the second extension of time that has
28 been requested. The prior request was granted. The requested length of the
extension is for weeks (28 days). The reasons are set forth below.

Saticoy Bay 's counsel is aware that this is the second request for an
extension. The extension is to allow Saticoy Bay and Red Rock Financial Services,
LLC, to continue to negotiate a potential resolution, as set forth in their Stipulation
filed on November 20, 2020. Such an agreement would address the Motion to
Dismiss and possibly remove one Respondent, which would change the character
of the forthcoming briefing. Likewise, should negotiations fail, the requested
extension would allow the Court to address the Motion to Dismiss, which would
also streamline briefing in this matter.

1 Thus, based upon ongoing negotiations and the pending Motion to Dismiss,
2 Saticoy Bay’s counsel does not want to waste the resources preparing an Opening
3 Brief that may be pared down based upon the Court’s ruling until a date after the
4 hearing on the Motion to Dismiss. Because NRAP 26(b)(1)(B) specifically bars
5 any additional extensions of time under most circumstances, Saticoy Bay’s counsel
6 brings the instant Motion.

7 Saticoy Bay’s counsel is timely filing a Joint Appendix, the contents of
8 which are agreed upon by the Respondents who have also consented to this
9 requested extension, as an indication that Saticoy Bay’s counsel is not seeking to
10 delay this matter, and is working towards the completion of this matter with all due
11 diligence. Furthermore, in compliance with Governor Sisolak’s request that
12 Nevadans take all available steps to mitigate possible Covid-19 exposure so as to
13 avoid the requirement of additional limitations, a portion of the office is working
14 remotely to seek to mitigate risks. While not the cause for the requested extension,
15 the extension would permit ongoing mitigation efforts to remain in place in Saticoy
16 Bay’s counsel’s office, thus contributing to mitigation efforts.

17 **CONCLUSION**

18 Based upon the foregoing, Saticoy Bay respectfully requests that the
19 deadline to file the Opening Brief herein be extended an additional 28 days, to
20 December 21, 2020, or another date that the Court deems appropriate.

21 DATED this 23rd day of November, 2020.

22 ROGER P. CROTEAU & ASSOCIATES,
23 LTD.

24 /s/ Roger P. Croteau
25 ROGER P. CROTEAU, ESQ.
26 Nevada Bar No. 4958
27 2810 W. Charleston Blvd., Ste. 75
28 Las Vegas, Nevada 89102
(702) 254-7775
Attorney for Appellant
SATICOY BAY LLC 34 INNISBROOK

DECLARATION OF ROGER P. CROTEAU

ROGER P. CROTEAU, being first duly sworn, deposes and says, that:

1. That I am an attorney for the Appellant, Saticoy Bay, LLC 34 Innisbrook (“*Saticoy Bay*”), in the above-captioned matter.
2. Of the following facts, I know them to be true of my own knowledge unless stated upon information and belief, in which case I possess a good faith belief that such facts are true and correct.
3. Saticoy Bay caused the instant appeal to be filed on December 2, 2019.
4. On December 14, 2016, this Court issued an Exemption from Settlement Program - Notice to File Documents.
5. Pursuant to the Briefing schedule, Saticoy Bay was given 90 days from the date of the notice to file and serve the Opening Brief and Appendix. The Opening Brief and Appendix were thus initially due on October 8, 2020.
6. Saticoy Bay’s counsel’s office previously requested an extension of time of forty-five (45) days until November 23, 2020, in which to prepare, file and serve the Opening Brief and Appendix.
7. The Court granted said extension.
8. Settlement negotiations are ongoing between Saticoy Bay and Spanish Trail Master Association, with Saticoy Bay and Spanish Trail Master Association have agreed to another extension regarding Spanish Trail Master Association’s Motion to Dismiss.
9. Thornburg Mortgage Securities Trust 2007-3, Timpa Trust, and Red Rock Financial Services, Inc., have consented to the request for an additional four week (28 day) extension.
10. Saticoy Bay respectfully requests an additional four week (28 day) extension, or until such other time that the Court deems appropriate.

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11. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct to the best of my knowledge.

DATED this 23rd day of November 2020.

/s/ Roger P. Croteau

ROGER P. CROTEAU

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of ROGER P. CROTEAU & ASSOCIATES, LTD. and that on the 23rd day of November, 2020, I caused a true and correct copy of the foregoing document to be served on all parties as follows:

X VIA ELECTRONIC SERVICE: through the Nevada Supreme Court's efile e-file and serve system.

 VIA U.S. MAIL: by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as indicated on service list below in the United States mail at Las Vegas, Nevada.

 VIA FACSIMILE: by causing a true copy thereof to be telecopied to the number indicated on the service list below.

 VIA PERSONAL DELIVERY: by causing a true copy hereof to be hand delivered on this date to the addressee(s) at the address(es) set forth on the service list below.

/s/ Joe Koehle
An employee of ROGER P. CROTEAU & ASSOCIATES, LTD.