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Jul 22 2021 04:04 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

10 IN THE SUPREME COURT OF THE STATE OF NEVADA

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12 AIRMOTIVE INVESTMENTS, LLC, A	)	
13 NEVADA LIMITED LIABILITY COMPANY,	)	
	)	
14 Appellant,	)	Supreme Court No. 80373
	)	
15 vs.	)	
	)	
16 BANK OF AMERICA, N.A.,	)	District Court Case No. A654840
	)	
17 Respondent.	)	

18 **UNOPPOSED MOTION TO EXTEND TIME TO FILE REPLY BRIEF**

19 **(Second Request)**

20 COMES NOW, Appellant, LAS VEGAS DEVELOPMENT GROUP, LLC, by and  
21 through its attorneys, ROGER P. CROTEAU & ASSOCIATES, LTD., and hereby presents its  
22 Unopposed Motion to Extend Time to File Reply Brief, requesting an extension of approximately  
23 thirty (30) from the current due date of July 23, 2021. This Motion is made and based upon the

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

3 DATED this 22<sup>nd</sup> day of July, 2021.

4 ROGER P. CROTEAU & ASSOCIATES, LTD.

5  
6 /s/ Timothy E. Rhoda  
7 ROGER P. CROTEAU, ESQ.  
8 Nevada Bar No. 4958  
9 TIMOTHY E. RHODA, ESQ.  
10 Nevada Bar No. 7878  
11 2810 West Charleston Blvd. #75  
12 Las Vegas, Nevada 89102  
13 (702) 254-7775  
14 *Attorney for Appellant*  
15 **AIRMOTIVE INVESTMENTS, LLC**

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **A. STATEMENT OF THE FACTS**

- 18 1. Appellant caused the instant appeal to be filed on January 2, 2020, and it was  
19 subsequently docketed in this Court on January 10, 2020.
- 20 2. On July 22, 2020, this Court issued an Order Reinstating Briefing after the matter was  
21 released from the Court's settlement program.
- 22 3. Appellant caused its Opening Brief and Appendix to be filed on December 21, 2020.
- 23 4. On March 2, 2021, Appellant filed a Motion to Stay this appeal. While said Motion was  
24 pending, Respondent caused its Answering Brief to be filed on March 22, 2021. On May  
25 24, 2021, the Court issued an Order denying the Motion to Stay and directing that the  
26 Reply Brief be filed within 30 days, making the Reply Brief due on June 23, 2021.
- 27 5. On June 21, 2021, the parties submitted a stipulation for an extension of time to file the  
28 Reply Brief herein based upon ongoing settlement negotiations between Appellant and  
Federal Housing Finance Agency ("FHFA"). Said stipulation was granted on June 25,  
2021, and the Reply Brief became due on July 23, 2021.
6. Appellant continues to negotiate with FHFA, on behalf of Fannie Mae and Freddie Mac,  
to potentially globally resolve all of its outstanding litigation and appeals related to real

property that purportedly secures loans owned by said entities. Airmotive initially made a substantial settlement offer. Since that time the parties have made multiple counter-offers. FHFA is currently considering Airmotive's most recent counter-offer.

7. Airmotive's sister company, Thunder Properties, Inc., recently completed a similar global agreement resolving all of its properties involving loans owned by Fannie Mae and Freddie Mac. In the event that Airmotive and FHFA are able to reach an agreement on similar terms, the instant appeal will be resolved and rendered moot.

8. The parties hereto prefer to devote their time and resources to a potential settlement rather than additional briefing that may be rendered unnecessary. In addition, Appellant's counsel has various other pending obligations, including other appellate briefs and motion practice, that will make completing the Reply Brief herein by the existing deadline difficult.

9. Respondent's counsel, Scott Lachman, Esq., has advised that Respondent does not oppose the relief requested herein.

#### **STATEMENT OF THE LAW**

With regard to extending time for the filing of briefs, NRAP 31(b) provides in pertinent part as follows:

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

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

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

(i) The date when the brief is due;

(ii) The number of extensions of time previously granted (including a 14-day telephonic extension), and if extensions were granted, the original date when the brief was due;

(iii) Whether any previous requests for extensions of time have been denied or denied in part;

(iv) The reasons or grounds why an extension is necessary (including demonstrating extraordinary and compelling circumstances under Rule 26(b)(1)(B), if required); and

(v) The length of the extension requested and the date on which the brief would

1           become due.

2   **C.    ARGUMENT**

3           The Reply Brief was originally due on June 23, 2021, and is presently due on July 23,  
4 2021. Pursuant to this Motion, Appellant requests an approximately 30-day extension of time in  
5 which to file its reply brief herein. This is the second extension of time requested in relation to  
6 the Reply Brief and the request is based upon ongoing settlement negotiations between Appellant  
7 and FHFA. No prior extensions have been denied.

8           Airmotive and FHFA are actively attempting to reach a global resolution of all of the  
9 litigation and appeals in which they are involved with each other. Importantly, the parties’  
10 counsel recently completed a settlement involving Appellant’s sister company, Thunder  
11 Properties, Inc. The decision makers are identical herein. Thus, it is quite possible that a similar  
12 agreement will be reached. However, given that a dozen properties and millions of dollars are at  
13 stake, negotiations have been time consuming.

14          The parties have made multiple counter-offers and FHFA is currently considering  
15 Airmotive’s most recent offer. Upon information and belief, FHFA’s counsel is required to deal  
16 with multiple layers of corporate governance, which slows the process down somewhat.  
17 However, the parties are diligently attempting to reach a resolution. It is likely that the parties  
18 will reach a settlement or an impasse within the next 30 days. At the very least, the parties  
19 expect to have a better idea of whether a settlement will be achieved. The instant request is  
20 being made in good faith and not for purpose of delay.

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1 **CONCLUSION**

2 Based upon the foregoing, Appellant respectfully requests that the deadline to file the  
3 Reply Brief herein be extended until August 23, 2021 (because August 22, 2021 falls on a  
4 Sunday), or until such other date that the Court deems appropriate. Such an extension is in the  
5 best interest of both the parties and judicial economy because a settlement would render further  
6 litigation unnecessary.

7 DATED this 22<sup>nd</sup> day of July, 2021.

8 ROGER P. CROTEAU & ASSOCIATES, LTD.

9  
10 /s/ Timothy E. Rhoda  
11 ROGER P. CROTEAU, ESQ.  
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14 Nevada Bar No. 7878  
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similar terms, the instant appeal will be resolved and rendered moot.

10. The parties hereto prefer to devote their time and resources to a potential settlement rather than additional briefing that may be rendered unnecessary. In addition, Appellant’s counsel has various other pending obligations, including other appellate briefs and motion practice, that will make completing the Reply Brief herein by the existing deadline difficult.

11. Respondent’s counsel, Scott Lachman, Esq., has advised that Respondent does not oppose the relief requested herein.

12. 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 22<sup>nd</sup> day of July, 2021.

/s/ Timothy E. Rhoda  
TIMOTHY E. RHODA

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of ROGER P. CROTEAU & ASSOCIATES, LTD.  
and that on the 22<sup>nd</sup> day of July, 2021, 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.

Stephen E. Haberfeld  
8224 Blackburn Avenue #100  
Los Angeles, CA 90048  
***Settlement Judge***

\_\_\_\_ 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/ Timothy E. Rhoda  
An employee of ROGER P. CROTEAU &  
ASSOCIATES, LTD.