

IN THE SUPREME COURT OF THE STATE OF NEVADA

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POPE INVESTMENTS, LLC, A
DELAWARE LIMITED LIABILITY
COMPANY; POPE INVESTMENTS
II, LLC, A DELAWARE LIMITED
LIABILITY COMPANY; AND
ANNUITY & LIFE
REASSURANCE, LTD., AN
UNKNOWN LIMITED COMPANY,
Appellants,

vs.

CHINA YIDA HOLDING, CO., A
NEVADA CORPORATION,

Respondent.

CASE NOS. 79807 & 80709

DISTRICT COURT CASE NO.
A-16-746732-P

Electronically Filed
Aug 04 2020 12:26 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**UNOPPOSED MOTION TO EXTEND TIME TO FILE OPENING BRIEF
(SIXTH REQUEST)**

COME NOW the Appellants Pope Investments, LLC, Pope Investments II, LLC, and Annuity & Life Reassurance, Ltd., by and through their counsel of record, Richard J. Pocker, Esq., of the law firm Boies Schiller Flexner LLP and Peter Chasey, Esq. of Chasey Law Offices and hereby move this Honorable Court for an extension of time to August 11, 2020 in which to file their Opening Brief and Appendix pursuant to Rules 27 and 31 of the Nevada Rules of Appellate

Procedure. This Motion is based upon the Memorandum of Points and Authorities included herein, and the papers and pleadings on file in this matter.

MEMORANDUM OF POINTS AND AUTHORITIES

This Unopposed Motion to Extend Time to File Opening Brief is filed on an emergency basis, with good cause, despite the fact that it is being filed just two (2) days prior to the due date for the Appellants' Opening Brief requested in last week's fifth request to extend time for filing of the Opening Brief. Since the July 31, 2020 filing containing the Appellants' fifth request, the legal assistant to Appellants' counsel has suffered a death in her close family under the most tragic of circumstances on August 2, 2020. Her significant involvement in the assembly of the Opening Brief and Appendix, as well as research assistance make her an essential participant in the filing of the briefing with the Court. As the person in her family most responsible for attending to the immediate consequences of her family loss, her time has been rightfully consumed with attention to these important matters. A short extension of 5 days to accommodate this unforeseen series of events would be in the interests of justice and supported by just cause to postpone the filing deadline. Understanding the magnitude of this sad, unanticipated development, counsel for the Respondent has graciously agreed to this extension and will not oppose Appellants' Motion. The record regarding prior

extensions and the justifications attendant thereto are explained in the paragraphs which follow.

On December 17, 2019, following an unsuccessful attempt to resolve the disputes between the parties through the Court's Settlement Program, the Court entered an Order requiring the Appellants to file their Opening Brief in Case No. 79807 by March 16, 2020. Subsequent to the entry of that Order, the Appellants filed their Notice of Appeal of the district court's Order as to the Respondent's request for attorney's fees on February 26, 2020. (This Notice of Appeal generated Case Number 80709.)

On March 9, 2020, the Appellants and the Respondent stipulated to an extension of Appellants' deadline to file the Opening Brief in Case Number 79807. The Court approved the stipulation, extending the due date for the Opening Brief in Case Number 79807 to April 15, 2020.

The Court set the due date for the Appellants' Opening Brief in Case Number 80709, the appeal regarding the district court's attorney's fee ruling, for July 1, 2020. On March 27, 2020, the Appellants moved, without opposition from the Respondent, to consolidate Case Number 79807 with Case Number 80709. The Court granted the requested consolidation on April 6, 2020, and also granted the Appellants' additional request that the Opening Brief for the consolidated appeals be due on July 1, 2020.

On June 17, 2020 the Appellants sought a further extension of the deadline for filing of the Opening Brief, without opposition from the Respondent. The Court granted the requested extension June 24, 2020, extending the due date for the Opening Brief to and including July 22, 2020. In its Order doing so, the Court instructed that no further extensions would be granted absent extraordinary circumstances.

On July 10, 2020 the Appellants filed an Unopposed Motion to Extend Time to File Opening Brief, which was granted on July 31, 2020, extending the due date to August 3, 2020. On July 31, 2020 the Appellants made their fifth request for an extension of just four (4) days, which request is still pending before the Court.

None of the prior five requests to adjust or extend the due date for the Opening Brief were denied and one such request is still pending. As noted earlier, Respondent's counsel has been advised of the present request to further extend the due date for the Opening Brief to August 11, 2020, and has no opposition to the requested extension.

As the Court is well aware, the COVID 19 public health crisis has persisted beyond earlier estimations as to the date by which that crisis would be abated or resolved, disrupting the ability of business and law firms to conduct their affairs in the usual or customary fashion. Advances in remote working technology and the relaxation or adjustment of Court protocols notwithstanding, legal work of a

substantive and complex variety has been more cumbersome and time consuming in the past few months. This is especially so where clients and counsel reside in different parts of the country, with sometimes conflicting schedules as to availability, as in the present case. While Appellants' counsel has an extraordinarily capable staff, the functional challenges of working from home have complicated these appellate proceedings, especially for counsel.

In addition to the general impact of the safety measures necessary for effectively fighting the COVID-19 public health crisis, the office building in which Appellants' counsel maintains his office has reported in the past month at least two confirmed cases of individuals working in that building having tested positive for COVID-19, including one individual working on the same floor as Appellants' counsel, a floor on which there are shared common areas and facilities, such as restrooms. Counsels' employees and staff (including those assisting with the Opening Brief), consistent with the strict policy of Boies Schiller Flexner, have been directed to stay away from the office and were advised to self-quarantine for the appropriate time. While a couple of weeks have elapsed since the last presence in the office building of a known COVID-19 infected person, counsels' objective is to preserve the safety and health of staff, and this request for a brief extension is also aimed at insuring that such health and safety objectives are furthered, with the passage of enough time to establish the lack of infections or symptoms before

having staff present in the office for the extended amount of time necessary for the final push to assemble and file the Opening Brief and appendices. This final stage is important to the effective completion of the Brief, the possibility and frequency of remote work notwithstanding and is not easily coordinated between remote workers. This is especially true with respect to the creation of the required appendices, very much a hands on task.

Other considerations, less life threatening, have also complicated the task of meeting the August 3rd deadline. The disruptive impact of counsel's recent automobile accident on his schedule and availability has also impacted the smooth completion of the required appellate submissions. In addition, the Appellants in the present case are located in Tennessee, a location subject to its own set of restrictions on access to office facilities and public health requirements, and Counsel wishes to insure that their review of the final submissions can be accomplished in a safe and timely fashion. Thus, the extension sought by Appellants is to and including August 11, 2020, a date just five (5) days beyond the current deadline.

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These are no ordinary times, and flexibility in the Court's schedule are often times necessary in the interests of justice. For the reasons set forth herein the Appellants request that the Court extend the due date for the Appellants' Opening Brief to August 11, 2020.

Dated this 4th day of August, 2020.

BOIES SCHILLER FLEXNER LLP

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- AND -

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BOIES SCHILLER FLEXNER LLP, and that on this 4th day of August, 2020, I electronically filed and served through the Nevada Supreme Court's E-Filing System (Eflex) a true and correct copy of the above and foregoing ***UNOPPOSED MOTION TO EXTEND TIME TO FILE OPENING BRIEF (SIXTH REQUEST)*** addressed to the following:

J. Robert Smith, Esq.
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/s/ Shilah Wisniewski
SHILAH WISNIEWSKI
An employee of Boies Schiller Flexner LLP