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IN THE SUPREME COURT OF THE STATE OF NEVADA

U.S. BANK N.A., AS TRUSTEE FOR THE)
SPECIALTY UNDERWRITING AND)
RESIDENTIAL FINANCE TRUST)
MORTGAGE LOAN ASSET-BACKED)
CERTIFICATES SERIES 2006-BC4,)
Appellant,)
vs.)
THUNDER PROPERTIES, INC.; AND)
WESTLAND REAL ESTATE)
DEVELOPMENT AND INVESTMENTS,)
Respondents.)

Supreme Court No. 81129

UNOPPOSED MOTION TO EXTEND TIME TO

FILE PETITION FOR REHEARING

(Second Request)

COMES NOW, Respondent, THUNDER PROPERTIES, INC., by and through its
attorneys, ROGER P. CROTEAU & ASSOCIATES, LTD., and hereby presents its Unopposed
Motion to Extend Time to File Petition for Rehearing, requesting an extension of approximately
two weeks from the current due date of March 8, 2022. This Motion is made and

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

3 DATED this 7th day of March, 2022.

4 ROGER P. CROTEAU & ASSOCIATES, LTD.

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6 /s/ Timothy E. Rhoda
7 ROGER P. CROTEAU, ESQ.
8 Nevada Bar No. 4958
9 TIMOTHY E. RHODA, ESQ.
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13 (702) 254-7775
14 *Attorney for Respondent*
15 THUNDER PROPERTIES, INC.

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MEMORANDUM OF POINTS AND AUTHORITIES

A. STATEMENT OF THE FACTS

1. The instant matter arises from an Order Certifying Questions to the Nevada Supreme Court entered by the Ninth Circuit Court of Appeals on May 5, 2020. This Court accepted the certified questions pursuant to an Order entered on September 11, 2020.
2. On February 3, 2022, this Court issued a decision answering the question. See *U.S. Bank, N.A. v. Thunder Props.*, No. 81129, 2022 Nev. LEXIS 3 (Feb. 3, 2022)
3. On February 14, 2022, Respondent requested a telephonic extension of the deadline in which to file a Petition for Rehearing pursuant to NRAP 26(b)(1)(B). The request was granted on the same date and the deadline to file a Petition for Rehearing became March 8, 2022.
4. Although Respondent's counsel expected to be able to complete the Petition for Rehearing by the current deadline, as a result of various other work and personal obligations, he is unable to do so.

1 5. Respondent's counsel has communicated with Appellant's counsel, Ariel Stern,
2 Esq., who has advised that he does not oppose an additional extension of time.

3 **B STATEMENT OF THE LAW**

4 The time for filing of a Petition for Rehearing is governed by NRAP 40, which provides
5 in pertinent part as follows:

6 Unless the time is shortened or enlarged by order, a petition for rehearing may be
7 filed within 18 days after the filing of the appellate court's decision under Rule
8 36. The 3-day mailing period set forth in Rule 26(c) does not apply to the time
9 limits set by this Rule.

10 Good cause exists to extend the time period for a Petition for Rehearing in this case.

11 **C. ARGUMENT**

12 Appellant respectfully moves for an additional extension of time in which to file its
13 Petition for Rehearing. This is Respondent's second extension request. Respondent previously
14 obtained a 14-day telephonic extension pursuant to NRAP 26(b)(1)(B). Respondent's counsel
15 has communicated with counsel for Appellant, who has advised that he is not opposed to
16 requested extension.

17 There is good cause to grant Respondent's request. This is an original jurisdiction NRAP
18 5 matter that raised complicated statute-of-limitations questions. The Court's ultimate decision
19 included a relatively novel determination that "the limitations period does not begin to run until
20 the lienholder receives notice of some affirmative action by the titleholder to repudiate the lien or
21 that is otherwise inconsistent with the lien's continues existence." This finding conflicts with
22 longstanding Nevada case law which has previously established that in determining whether a
23 statute of limitations has run against an action, the time must be computed from the day the cause
24 of action accrued. *Clark v. Robison*, 113 Nev. 949, 951, 944 P.2d 788, 789 (1997). Citing *White*
25 *v. Sheldon*, 4 Nev. 280, 288-289 (1868). A cause of action "accrues" when a suit may be
26 maintained thereon. *Clark*, 113 Nev. at 951, 944 P.2d at 789. See also Black's Law Dictionary at
27 19 (5th ed. 1979).

28 Appellant intends to request that this Court reconsider the "triggering" of the statute of
 limitations at issue. This is an important issue that will likely affect many real properties and

1 many legal claims. The complexities associated with this matter necessitated additional time for
2 researching and drafting the petition. Moreover, it is important that the briefing is
3 comprehensive and unrushed. During the past two weeks, Respondent's counsel has been
4 required to assist with trial preparation before the district court, as well as multiple other work
5 obligations. In addition, counsel had friends visiting for several days.

6 There is good cause for an additional extension of two weeks to file the Petition for
7 Rehearing. Counsel has made progress on the draft of the petition, and anticipates no need for a
8 further extension. Counsel has conferred with counsel for the Appellant. The Appellant does not
9 oppose the extension. For these reasons, Respondent respectfully requests that the Court extend
10 the deadline to file the Petition for Rehearing from March 8, 2022, until March 22, 2022.

11 CONCLUSION

12 Based upon the foregoing, Respondent respectfully requests that the deadline to file the
13 Petition for Rehearing herein be extended until March 22, 2022, or until such other date that the
14 Court deems appropriate.

15 DATED this 7th day of March, 2022.

16 ROGER P. CROTEAU & ASSOCIATES, LTD.

17
18 /s/ Timothy E. Rhoda
19 ROGER P. CROTEAU, ESQ.
20 Nevada Bar No. 4958
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26 *Attorney for Respondent*
27 **THUNDER PROPERTIES, INC.**
28

DECLARATION OF TIMOTHY E. RHODA

TIMOTHY E. RHODA, being first duly sworn, deposes and says, that:

1. That I am an attorney for the Respondent, Thunder Properties, Inc. ("*Thunder*"), 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. The instant matter arises from an Order Certifying Questions to the Nevada Supreme Court entered by the Ninth Circuit Court of Appeals on May 5, 2020. This Court accepted the certified questions pursuant to an Order entered on September 11, 2020.
4. On February 3, 2022, this Court issued a decision answering the question. See *U.S. Bank, N.A. v. Thunder Props.*, No. 81129, 2022 Nev. LEXIS 3 (Feb. 3, 2022).
5. On February 14, 2022, Respondent requested a telephonic extension of the deadline in which to file a Petition for Rehearing pursuant to NRAP 26(b)(1)(B). The request was granted on the same date and the deadline to file a Petition for Rehearing became March 8, 2022.
6. Although Respondent's counsel expected to be able to complete the Petition for Rehearing by the current deadline, as a result of various other work and personal obligations, he is unable to do so.
7. Appellant intends to request that this Court reconsider the "triggering" of the statute of limitations at issue. This is an important issue that will likely affect many real properties and many legal claims.
8. The complexities associated with this matter necessitated additional time for researching and drafting the petition. Moreover, it is important that the briefing is comprehensive and unrushed.
9. During the past two weeks, Respondent's counsel has been required to assist with trial preparation before the district court, as well as multiple other work obligations. In addition, counsel had friends visiting for several days.

- 1 10. There is good cause for an additional extension of two weeks to file the Petition for
2 Rehearing. Counsel has made progress on the draft of the petition, and anticipates no
3 need for a further extension.
- 4 11. Counsel has conferred with counsel for the Appellant. The Appellant does not oppose the
5 extension.
- 6 12. For these reasons, Respondent respectfully requests that the Court extend the deadline to
7 file the Petition for Rehearing from March 8, 2022, until March 22, 2022.
- 8 13. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
9 is true and correct to the best of my knowledge.
- 10 DATED this 7th day of March, 2022.

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12 /s/ Timothy E. Rhoda
13 TIMOTHY E. RHODA
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee or agent of ROGER P. CROTEAU & ASSOCIATES, LTD. and that on the 7th day of March, 2022, 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 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/ Timothy E. Rhoda
An employee or agent of ROGER P.
CROTEAU & ASSOCIATES, LTD.