

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE
OF DENNIS JOHN CARVER,
DECEASED,

COLONIAL REAL ESTATE
PARTNERSHIP, LTD.; AND JOHN
HOULIHAN,

Appellants,

vs.

RHONDA MORGAN, PERSONAL
REPRESENTATIVE OF THE
ESTATE OF DENNIS JOHN
CARVER,

Respondent.

Supreme Court No. 81447

Electronically Filed
Nov 29 2021 01:11 p.m.
Elizabeth A. Brown

**Respondent's Motion to Extend Time
to File Answering Brief**

I.

Introduction

On November 29, 2021, Counsel for Respondent lost approximately 6 hours of work on the answering brief that had been done on November 27, 2021. The data loss was caused by an apparent error in Clear Counsel Law Group's online file storage system or perhaps unintentional user error. Respondent requests that the time to file the answering brief be extended until December 1, 2021.

II.

Argument

NRAP 26(b)(1) allows this Court to extend deadlines if the movant shows good cause. As set forth in more detail in the Declaration of David T. Blake, Esq., below, Mr. Blake had planned on filing the Answering brief on the November 29, 2021 deadline. However, all the writing and revisions that were performed on November 27, 2021 were either not saved or lost because of an error in Clear Counsel Law Group's online file storage service (Microsoft SharePoint). Respondent requests an extension of time to file the Answering brief. Due to this loss of work, it is very unlikely that the Answering brief will be able to be filed on November 29, 2021, although counsel will work as diligently to file the brief as soon as possible. Mr. Blake asked counsel for Appellant, Leo Flangas, Esq., if he had an objection to the extension via email. Mr. Flangas did not respond prior to the filing of this Motion. Respondent requests an extension of two days, until December 1, 2021 to file the Answering brief.

Dated: November 29, 2021.

CLEAR COUNSEL LAW GROUP

/s/ David T. Blake

David T. Blake
Attorneys for the Respondent

III.

Declaration of David T. Blake, Esq.

1. I have personal knowledge of the contents of this Declaration, am competent to testify about the matters stated in this Declaration and would do so in a court of law if required.

2. I am an attorney licensed to practice in the State of Nevada.

3. I am a Partner of Clear Counsel Law Group (“Clear Counsel”).

4. Clear Counsel is counsel of record for respondent.

5. I am the attorney performing and supervising all legal work on this Appeal.

6. The current deadline for the Answering Brief is November 29, 2021.

7. I worked on the Answering brief over the weekend of the Thanksgiving holiday, including on November 27, 2021.¹

8. I worked on the brief for approximately 6 hours on November 27, 2021. I was travelling on that day and my changes were saved locally to my computer but not synchronized with Clear Counsel’s online file system (“SharePoint”).

9. I planned on finishing and filing the brief on time, by November 29, 2021.

10. I would have been able to finish and file the brief on time, but I discovered that all changes made on November 27 were lost.

11. After booting my computer this morning (November 29, 2021), I connected to the internet and my local files automatically began to synchronize with SharePoint.

12. I opened Microsoft Word (“Word”) to begin working on the brief.

¹ I avoid working on Sundays wherever possible for religious reasons and did not work on the brief at all on Sunday, November 28, 2021.

Word immediately asked if I wanted to save my changes. Without thinking, I clicked yes. Immediately after this, I scrolled down to continue working on the brief and realized that all the changes and additions that I made to the brief on November 27 were lost.

13. Word has a feature that allows me to view prior versions of a document. I attempted to roll back my draft brief to a prior version that included my November 27 changes, but for some reason word did not preserve a version with any changes made on November 27.

14. I do not know exactly how my November 27 changes were lost. I suspect that when I opened the brief, Word downloaded the SharePoint version that did not include my November 27 changes that were done offline and not synchronized with SharePoint. When Word prompted me to save my changes, it may have overwritten the changes that were saved locally on my computer.

15. I'm not sure this is what happened because normally SharePoint detects offline changes or conflicting versions of the same document and will prompt the user to reconcile the differences. This did not happen for me today.

16. My only guess is that by clicking yes to the save prompt, it saved the remote version of the file before it noticed that the local version contained conflicting and additional changes.

17. Regardless of the cause, the result is that I lost roughly 6 hours of work on the Answering Brief. I highly doubt I will now be able to finalize a competent brief that complies with the Nevada Rules of Appellate Procedure, including citations to the record, before the current deadline today.

18. I will do my best to finish the brief today and, if not, as soon thereafter as possible.

19. I believe that this unanticipated error is an extraordinary circumstance that warrants the short extension that is being requested.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 29, 2021.

Clear Counsel Law Group

/s/ David Blake

David T. Blake (#11059)

CERTIFICATE OF SERVICE

I hereby certify pursuant to NRAP 25(c) that on the 29th day of November 2021, I served a copy of **Respondent's Motion to Extend Time to File Opening Brief** upon all counsel of record as follows:

- ☐ By personally serving it upon him/her;
- ☒ Electronic service to all registered parties;
- ☐ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

/s/ K.A. Gentile

An Employee of Clear Counsel Law Group