

Nevada Bar No. 9807

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Cross-Respondents

Electronically Filed
May 20 2021 10:12 p.m.

Elizabeth A. Brown
Clerk of Supreme Court

**IN THE SUPREME COURT
OF THE STATE OF NEVADA**

AMERICAN REALTY & §

11 1 3
8

SULLIVAN: NEVADA REAL

CHIEF: §

Respondents/Cross Appellants

[illegible]

SUPREME COURT CASE NO. 82208

District Court Case No. A-16-744109-C

Eighth Judicial District Court

(Hon. Eric Johnson)

**APPELLANTS' UNOPPOSED MOTION FOR EXTENSION OF
TIME TO FILE OPENING BRIEF AND APPENDIX
(SECOND REQUEST)**

Appellants/Cross-Respondents BETTY CHAN (“Chan”) and ASIAN AMERICAN REALTY & PROPERTY MANAGEMENT (“Asian American”) (collectively “Appellants” or “Cross-Respondents”) seek an **extension of seven (7)**

days to file their opening brief and appendix. To that end, they now file this, *Appellants' Unopposed Motion for Extension of Time to File Opening Brief and*

1 *Appendix (Second Request)*. In support of the Motion, would respectfully show the
2 Court as follows:

3
4 NRAP 31(b)(3)(A) provides, in pertinent part, that “[a] motion for extension
5 of time for filing a brief may be made no later than the due date for the brief and
6 must comply with the provisions of this Rule and Rule 27.” Rule 31(b)(3)(A) also
7 requires that five items (*i-v*) be included in the motion. Those items are set forth
8 and addressed below.

9
10 ***(i) The date when the brief is due;***

11 Appellants’ opening brief is currently due May 21, 2021. (*Order Approving*
12 *Stipulation in Part* (filed May 5, 2021) [hereafter “Order” or “Ord.”]).

13
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 The Court has previously granted Appellants one (1) extension of time to
18 file their opening brief. (Ord.). The brief was originally due April 21, 2021.
19 (*Exemption from Settlement Program – Notice to File Documents* (dated Dec 22,
20 2020) [hereafter “Exemption” or “Exempt.”]).

21
22 ***(iii) Whether any previous requests for extensions of time have been***
23 ***denied or denied in part;***

24 Appellants/Cross-Respondents’ first—and only—request was made as part
25 of a stipulation, which also requested an extension of time for Respondents/Cross-
26 Appellants’ to file their cross-appeal opening brief. (Ord.). The Court granted the
27 request for the extension of time for Appellants, denied the request for
28 Respondents, required briefing to proceed in accordance with NRAP 28.1(f) after

1 Appellants filed their opening brief, and instructed the parties as follows: “The
2 parties are reminded that after appellants/cross-respondents file the opening brief
3 on appeal, respondents/cross-appellants must file a combined answering brief on
4 appeal and opening brief on cross-appeal, rather than separate opening and
5 answering briefs.” (Ord.).

6
7
8 *(iv) The reasons or grounds why an extension is necessary (including*
9 *demonstrating extraordinary and compelling circumstances under*
10 *Rule 26(b)(1)(B), if required); and*

11 NRAP 26(b)(1)(A) provides: “For good cause, the court may extend the
12 time prescribed by these Rules or by its order to perform any act, or may permit an
13 act to be done after that time expires.” NRAP 26(b)(1)(B) provides:

14 Except as otherwise provided in these Rules, a party may, on or before
15 the due date sought to be extended, request by telephone a single 14-
16 day extension of time for performing any act except the filing of a
17 notice of appeal. If good cause is shown, the clerk may grant such a
18 request by telephone or by written order of the clerk. The grant of an
19 extension of time to perform an act under this Rule will bar any
20 further extensions of time to perform the same act unless the party
files a written motion for an extension of time demonstrating
extraordinary and compelling circumstances why a further extension
of time is necessary.

21 (Emphasis added).

22 Because Appellants have never received a telephonic extension from the
23 Court Clerk, it would appear that the requirements of NRAP 26(b)(1)(B) may not
24 apply. Nevertheless, for the reasons discussed below, Appellants would submit
25 that have satisfied the requirements of “good cause” and “extraordinary and
26 compelling circumstances” under both subsections (A) and (B) of NRAP 26(b)(1).
27
28

1 Less than one week ago, on May 14, 2021, Appellants' undersigned attorney
2 had surgery. It was outpatient, and he thought he would recover faster than he has.
3 He has been working on the opening brief this week (and the weeks prior as well),
4 but for his health reasons, he just has not been able to spend the time on it that it
5 needs.

7 Appellants' counsel reached out to Respondents' attorney about the matter.
8 (*Exhibit 1*). Respondents' attorney said that he did not object to a seven (7) day
9 extension. (*Id.*). Therefore, Appellants' motion is unopposed. (*Id.*).

11 (v) *The length of the extension requested and the date on which the*
12 *brief would become due.*

13 Appellants are requesting a seven (7) day extension, which would make the
14 new deadline May 28, 2021.

16 WHEREFORE, Appellants/Cross-Respondents BETTY CHAN ("Chan")
17 and ASIAN AMERICAN REALTY & PROPERTY MANAGEMENT ("Asian
18 American") (collectively "Appellants" or "Cross-Respondents") hereby request the
19 Court as follows:

- 21 1. to grant *Appellants' Unopposed Motion for Extension of Time to File*
22 *Opening Brief and Appendix (Second Request)*;
- 23 2. to extend the deadline for Appellants to file their opening brief and
24 appendix from May 21, 2021 (old deadline) to May 28, 2021 (new
25 deadline); and

27 ///

28 ///

1 3. to grant Appellants all such other and further relief that they justly
2 deserve or to which they may be entitled at law or in equity.
3

4 DATED: May 20, 2021.

5 **FRIZELL LAW FIRM, PLLC**
6 400 N. Stephanie St., Suite 265
7 Henderson, NV 89014

8 By: /s/ R. Duane Frizell
9 **R. DUANE FRIZELL, ESQ.**
10 Nevada Bar No. 9807
11 Attorney for Appellants/
12 Cross-Respondents
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CERTIFICATE OF SERVICE

I hereby certify pursuant to NRAP 25(c), that on May 20, 2021, I served a true and correct copy of the forgoing ***APPELLANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE OPENING BRIEF AND APPENDIX (SECOND REQUEST)***, together with any and all exhibits and other attachments, via the Supreme Court's Electronic Filing System to the following:

MICHAEL A. OLSEN, ESQ.
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THOMAS R. GROVER, ESQ.
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/s/ R. Duane Frizell
R. DUANE FRIZELL, ESQ.
Nevada Bar. No 9807
*Attorney for Appellants/
Cross-Respondents*

EXHIBIT 1

EXHIBIT 1

Duane Frizell

From: Mike Olsen <mike@blackrocklawyers.com>
Sent: Thursday, May 20, 2021 8:54 PM
To: Duane Frizell
Subject: Re: Would you object to a 7-day extension?

No problem, get feeling better.

Sent from my iPhone

On May 20, 2021, at 8:52 PM, Duane Frizell <dfrizell@frizelllaw.com> wrote:

Hi Mike:

Was in surgery last Friday. It was outpatient, and I thought I would recover faster than I have. I have been working on the brief this week, but I just have not been able to spend the time on it that it needs. Would you object to a 7-day extension?

R. Duane Frizell

Attorney at Law

Licensed in Nevada, New Mexico, and Texas

<image001.png>

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