

Nevada Bar No. 9807

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Cross-Respondents

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Jul 27 2021 05:51 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

BETTY CHAN; and ASIAN
AMERICAN REALTY &
PROPERTY MANAGEMENT,

Appellants/Cross-Respondents,

VS.

WAYNE WU; JUDITH
SULLIVAN; NEVADA REAL
ESTATE CORP.; and JERRIN
CHIU;

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 OPPOSITION TO RESPONDENTS' MOTION TO DISMISS
(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 an opposition to Respondents’ pending Motion to Dismiss. To that end, they now file this, *Appellants’ Unopposed Motion for Extension of Time to File Opposition to Respondents’ Motion to Dismiss (Second Request)*. In support

1 of the present Motion for Extension of Time, Appellants would respectfully show
2 the Court as follows:

3 Appellants have already received one telephonic extension of 14 days to file
4 an opposition to *Respondents' Motion to Dismiss Second Appeal* (filed Jul. 6,
5 2021) ["Motion to Dismiss"]. NRAP 26(b)(1)(B) provides that "[t]he grant of
6 [such] an extension of time to perform an act under this Rule will bar any further
7 extensions of time to perform the same act unless the party files a written motion
8 for an extension of time demonstrating extraordinary and compelling
9 circumstances why a further extension of time is necessary." Although Rule
10 31(b)(3)(A), relates to extensions of time to file a brief, rather than a response to a
11 motion, it requires five items (*i-v*) to be set forth in a motion to extend, including a
12 description of the "extraordinary and compelling circumstances" under NRAP
13 26(b)(1)(B), if necessary. Each of those items are set forth and addressed below.

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17 ***(i) The date when the opposition is due;***

18 Appellants' opposition is currently due July 27, 2021. (*Order Granting*
19 *Telephonic Extension* (filed Jul. 13, 2021) [hereafter "Order" or "Ord."]).

20
21 ***(ii) The number of extensions of time previously granted (including a***
22 ***14-day telephonic extension), and if extensions were granted, the***
23 ***original date when the opposition was due;***

24 The Court has previously granted Appellants one (1) extension of time to
25 file their opposition. (Ord.). The opposition was originally due July 13, 2021. See
26 NRAP 27(a)(3)(A).

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

3 Appellants/Cross-Respondents’ first and only previous request was made
4 telephonically pursuant to NRAP 26(b)(1)(B). (Ord.). The Court granted a 14-day
5 extension thereunder, making the new deadline July 27, 2021. (Ord.).

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

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

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

20 (Emphasis added).

21 For the reasons discussed below, Appellants would submit that they have
22 satisfied the requirements of “good cause” and “extraordinary and compelling
23 circumstances” under both subsections (A) and (B) of NRAP 26(b)(1). Given
24 Appellants’ prior motion to seek an extension of time to file their *opening and*
25 *brief and appendix*, it would appear that Appellants’ counsel’s family conveniently
26 has a medical emergency whenever there is a deadline in this case. If counsel were
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28

1 not living it, he would not believe it either. That said, on July 26, 2021 (the day
2 before the current deadline for Appellants' opposition), counsel's high-school age
3 son unexpectedly had a severe medical emergency that required his immediate
4 admission to the Emergency Room and later ICU. Even as counsel is writing this
5 motion, counsel's son remains in ICU, has yet to be discharged, and may be
6 required to remain in the hospital.
7

8
9 Prior and up to the date of counsel's son's hospital admission, counsel had
10 been working on the opposition to Respondent's Motion to Dismiss. Nevertheless,
11 he requires more time to work on the opposition, complete it, and file it. Counsel
12 believes seven (7) days would be sufficient.
13

14 Appellants' counsel reached out to Respondents' attorney about the matter.
15 (*Exhibit 1*). Respondents' attorney said that he did not object to a seven (7) day
16 extension. (*Id.*). Therefore, Appellants' motion is unopposed. (*Id.*).
17

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

20 Appellants are requesting a seven (7) day extension, which would make the
21 new deadline August 3, 2021.
22

23 WHEREFORE, Appellants/Cross-Respondents BETTY CHAN ("Chan")
24 and ASIAN AMERICAN REALTY & PROPERTY MANAGEMENT ("Asian
25 American") (collectively "Appellants" or "Cross-Respondents") hereby request the
26 Court as follows:

- 27 1. to grant *Appellants' Unopposed Motion for Extension of Time to File*
28 *Opposition to Respondents' Motion to Dismiss (Second Request)*;

- 1 2. to extend the deadline for Appellants to file their opposition to
2 Respondent's Motion to Dismiss from July 27, 2021 (old deadline) to
3 August 3, 2021 (new deadline); and
4
5 3. to grant Appellants all such other and further relief that they justly
6 deserve or to which they may be entitled at law or in equity.
7

8 DATED: July 27, 2021.

9 **FRIZELL LAW FIRM, PLLC**
10 400 N. Stephanie St., Suite 265
 Henderson, NV 89014

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

I hereby certify pursuant to NRAP 25(c), that on July 27, 2021, I served a true and correct copy of the forgoing ***APPELLANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE OPPOSITION TO RESPONDENTS' MOTION TO DISMISS (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.

Nevada State Bar No. 6076

THOMAS R. GROVER, ESQ.

Nevada State Bar No. 12387

KEITH D. ROUTSONG, ESQ.

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and Jerrin Chiu

/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: Tuesday, July 27, 2021 4:31 PM
To: Duane Frizell
Cc: Keith Routsong; Aiqin Niu
Subject: Re: Chan v Wu

Of course and best wishes for your son.

Mike



Michael A. Olsen, Esq.
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From: Duane Frizell <dfrizell@frizelllaw.com>
Date: Tuesday, July 27, 2021 at 3:48 PM
To: Mike Olsen <mike@blackrocklawyers.com>
Cc: Keith Routsong <keith@blackrocklawyers.com>, Aiqin Niu <aniu@frizelllaw.com>
Subject: Chan v Wu

Mike:

I know. It seems like my family conveniently has a medical emergency whenever there is a deadline in this case. If I weren't living it, I wouldn't believe it either. That said, yesterday my son had one and is still in the hospital. He may be there a few more days. Honest truth. Would you agree to 7-day extension of my deadline to file an opposition to your motion to dismiss? Please let me know. Thank you.

—Duane

Sent from my iPhone