

Nevada Bar No. 9807

Electronically Filed
Apr 03 2022 09:38 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

BETTY CHAN; and ASIAN	§	
AMERICAN REALTY &	§	
PROPERTY MANAGEMENT,	§	
	§	
Appellants/Cross-Respondents,	§	SUPREME COURT CASE NO. 82208
	§	
vs.	§	District Court Case No. A-16-744109-C
	§	
WAYNE WU; JUDITH	§	Eighth Judicial District Court
SULLIVAN; NEVADA REAL	§	
ESTATE CORP.; and JERRIN	§	(Hon. Eric Johnson)
CHIU;	§	
	§	
Respondents/Cross-Appellants.	§	
	§	

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 combined reply brief on appeal and answering brief on cross-appeal (“Appellants’ Combined Brief”). To that end, they now file this,

1 *Appellants’ Unopposed Motion for Extension of Time to File Combined Reply*
2 *Brief on Appeal and Answering Brief on Cross-Appeal (Third Request).* In support
3 of the Motion, Appellants would respectfully show the Court as follows:
4

5 NRAP 31(b)(3)(A) provides, in pertinent part, that “[a] motion for extension
6 of time for filing a brief may be made no later than the due date for the brief and
7 must comply with the provisions of this Rule and Rule 27.” Rule 31(b)(3)(A) also
8 requires that five items (*i-v*) be included in the motion. Those items are set forth
9 and addressed below.
10

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

12 Appellants’ Combined Brief is currently due April 4, 2022. (*Order Granting*
13 *Motion* (filed Mar. 8, 2022) [hereafter “Motion Order” or “Mot. Ord.”]).
14

15 ***(ii) The number of extensions of time previously granted (including a***
16 ***14-day telephonic extension), and if extensions were granted, the***
17 ***original date when the brief was due;***

18 The Court has previously granted Appellants two (2) extensions of time to
19 file their Combined Brief. The Combined Brief was originally due February 18,
20 2022. (*Order Denying Motion to Dismiss* (filed Jan. 19, 2022) [hereafter “Non-
21 Dismissal Order” or “Non-Dism. Ord.”]). The first extension was made pursuant
22 to a telephonic request, which extension continued the deadline to March 4, 2022.
23 (*Order Granting Telephonic Extension* (filed Feb. 16, 2022) [hereafter “Extension
24 Order” or “Ext. Ord.”]). The second extension was granted pursuant to a motion,
25 which extension further continued the deadline to the current due date of April 4,
26 2022. (Mot. Ord.).
27
28

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

3 None.

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

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

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

20 For the reasons discussed below, Appellants would submit that, with this
21 filing, they have satisfied the requirements of “good cause” and “extraordinary and
22 compelling circumstances” under both subsections (A) and (B) of NRAP 26(b)(1).
23 The reason for the current extension request is explained in an email from
24 Appellants’ attorney to Respondents’ counsel dated April 3, 2022, which states as
25 follows:

26 Dear Mike:

27 I know I sound like a broken record, but I really need to ask, once
28 again, for additional time to file our combined brief. I have been
 bedridden since last Tuesday due to some pulmonary
 infection/condition. Rapid tests have ruled out COVID, but I guess

1 that's still a possibility. I was hoping to have some sort of diagnosis
2 before asking for the extension, but since tomorrow is the deadline, I
can't wait any longer.

3 That said, I am much better today and am able to breathe easier than I
4 have in a week. I feel like I should be able to start working at home
5 again tomorrow. So, long story short, I'm asking for another seven
6 (7) days to file Appellants' combined brief, for a new deadline of
4/11. Please let me know if this is acceptable to you.

7 Much appreciated.

8 —Duane

9
10 (*Exhibit 1*). Respondents' counsel replied as follows: "Of course, get well my
11 friend." (*Id.*). Therefore, the present motion is unopposed. (*Id.*).

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

15 Appellants are requesting a seven (7) day extension, which would make the
16 new deadline April 11, 2022.

17 WHEREFORE, Appellants/Cross-Respondents BETTY CHAN ("Chan")
18 and ASIAN AMERICAN REALTY & PROPERTY MANAGEMENT ("Asian
19 American") (collectively "Appellants" or "Cross-Respondents") hereby request the
20 Court as follows:
21

- 22 1. to grant *Appellants' Unopposed Motion for Extension of Time to File*
23 *Combined Reply Brief on Appeal and Answering Brief on Cross-*
24 *Appeal (Third Request)*;
- 25 2. to extend the deadline for Appellants to file their Combined Brief
26 from April 4, 2022 (old deadline) to April 11, 2022 (new deadline);
27
28 and

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: April 3, 2022.

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 April 3, 2022, I served a true and correct copy of the forgoing ***APPELLANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE COMBINED REPLY BRIEF ON APPEAL AND ANSWERING BRIEF ON CROSS-APPEAL (THIRD 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.
Nevada State Bar No. 14944
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10155 W. Twain Ave., Suite 100
Las Vegas, Nevada 89147
Attorneys for Respondents/Cross-Appellants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp., 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: Sunday, April 3, 2022 5:41 PM
To: Duane Frizell
Cc: Keith Routsong; Aiqin Niu
Subject: Re: Chan v Wu: Here we go again

Of course, get well my friend.

Mike

Sent from my iPhone

> On Apr 3, 2022, at 7:32 PM, Duane Frizell <dfrizell@frizelllaw.com> wrote:

>

> Dear Mike:

>

> I know I sound like a broken record, but I really need to ask, once again, for additional time to file our combined brief. I have been bedridden since last Tuesday due to some pulmonary infection/condition. Rapid tests have ruled out COVID, but I guess that's still a possibility. I was hoping to have some sort of diagnosis before asking for the extension, but since tomorrow is the deadline, I can't wait any longer.

>

> That said, I am much better today and am able to breathe easier than I have in a week. I feel like I should be able to start working at home again tomorrow. So, long story short, I'm asking for another seven (7) days to file Appellants' combined brief, for a new deadline of 4/11. Please let me know if this is acceptable to you.

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> Much appreciated.

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> —Duane

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> Sent from my iPhone