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Electronically Filed
Oct 06 2021 09:37 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * *

TRACY LEE CASTL,

Appellant,

vs.

PENNYMAC HOLDINGS, LLC,

Respondent.

Supreme Court No. 82296
District Ct. No. A742267

**OPPOSITION TO
APPELLANT'S THIRD
MOTION FOR EXTENSION
OF TIME TO FILE OPENING
BRIEF**

MEMORANDUM OF POINTS AND AUTHORITIES

Appellant's Third Motion for Extension of Time to File Opening Brief on Appeal once again seeks to further Appellant's overall objective: foreclosure avoidance. Since 2008, when Appellant first defaulted on her \$2,250,000 loan ("Loan") secured by a Deed of Trust on real property commonly known as 3910

White Fir Way, Mount Charleston, Nevada 89124 (“Property”)¹, Appellant has initiated two quiet title actions, filed three bankruptcies, participated in an NRS Chapter 107 foreclosure mediation, filed a Petition for Judicial Review in connection with the foreclosure mediation and, thereafter, appealed the District Court’s Order Denying Appellant’s Petition for Judicial Review to the Nevada Court of Appeals. Throughout this ordeal, Appellant has not made a single loan payment. In fact, this case marks Appellant’s *seventh* legal action filed to delay the foreclosure. While Appellant’s previously filed actions were unsuccessful, they appear to have satisfied Appellant’s true objective: retain the benefits of the \$2,250,000 Loan, while simultaneously and indefinitely delaying PennyMac’s right to foreclose.

On December 30, 2020, Appellant filed a Substitution of Attorney in the District Court, indicating that Appellant would be representing herself, in proper person.

The following day, Appellant filed her Notice of Appeal asserting:

I expressly reserve the right to liberal construction according to NRAP 1(c), and filing [sic] despite perceived deficiencies according to NRAP 3(a)(3), and 3(f)(2).

(footnotes omitted).²

¹ The Property was formerly known as 123 Rainbow Canyon Boulevard, Mount Charleston, Nevada.

² After filing her Notice of Appeal, on January 7, 2021, Appellant filed an untimely notice in the District Court asserting that she would be filing a Memorandum of Points and Authorities seeking NRCP 60 relief.

On January 28, 2021, Appellant filed a Notice stating: “I hereby certify I am *not* requesting any transcript at this time.” (emphasis in original).

It was not until May 13, 2021 – three days after Appellant’s Opening Brief on Appeal was due – that Appellant changed course and indicated that she would be retaining counsel for this appeal. At that time, Appellant filed her first Motion for Extension of Time to File Opening Brief, seeking a ninety-day extension to file an Opening Brief to allow Appellant time to retain an attorney.

On May 24, 2021, this Court granted Appellant’s untimely request, noting: “Given the length of this initial extension request, no further extensions shall be permitted absent extraordinary circumstances and extreme need. NRAP 31(b)(3)(B). Failure to timely file the opening brief and appendix may result in the dismissal of this appeal. NRAP 31(d).”

Notwithstanding this Court’s prior Order noting that any further extension would require a showing of extreme need, on August 12, 2021, Appellant filed a Second Motion for Extension of Time to File Opening Brief (“Second Motion”) seeking a sixty-day extension to file an Opening Brief, asserting that Appellant was “waiting for transcripts of the record from Angie Calvillo, Court Report to the Honorable Eric Johnson.” PennyMac opposed Appellant’s Second Motion, noting that Appellant previously filed a notice in this action specifically stating that Appellant would *not* be requesting any transcripts in this matter and further demonstrating that Appellant had not requested copies of any transcripts from the Court Reporter.

On September 3, 2021, this Court entered an Order Denying Motion (“Order”). In denying the Second Motion, this Court found that Appellant had failed to demonstrate extraordinary circumstance and extreme need warranting an additional sixty-day extension. In addition, the Order advised Appellant that if she desired the production of transcripts, Appellant must: serve and file a transcript request form in compliance with NRAP 9(b)(1), serve the court reporter with a copy of the request, and pay any required deposit. See Order n.1. Despite this Court’s clear instructions, Appellant took no steps to order the trial transcripts.

Notwithstanding the fact that the Order denied Appellant’s Motion, the Court nonetheless granted Appellant an additional thirty days from the date of the filing of the Order to file Appellant’s Opening Brief.³ However, the Order clearly cautioned Appellant: “Failure to timely file and serve an informal brief or an opening brief may result in the imposition of sanctions, including the dismissal of this appeal.”

Immediately before Appellant’s Opening Brief was due the third time – 147 days after the initial deadline – Appellant retained counsel to appear on her behalf in this Appeal.

Following her newly retained counsel’s appearance, on October 4, 2021, Appellant filed her Third Motion to Extend Time to File Opening Brief (“Third

³ Given the time it took for briefing and decision, the Court’s Order only effectively shortened the period requested by Appellant’s Second Motion by seven days (changing the deadline requested by Appellant’s Second Motion from October 11, 2021, to October 4, 2021).

Motion”), requesting an extension to file her Opening Brief until December 3, 2021. It is respectfully submitted that Appellant’s Third Motion must be denied.

When Appellant’s trial counsel withdrew as counsel of record in December of 2020, Appellant knew she would need to retain counsel or file her Opening Brief pro se. Yet, Appellant waited **ten months** before retaining counsel to represent her in this appeal.⁴ It is respectfully submitted that Appellant has only retained counsel in this Appeal for one reason: further delay. PennyMac is entitled to have this case resolved once and for all. Appellant has effectively used the legal system to avoid making a single payment on her \$2,250,000 loan for thirteen years. Enough is enough. This Court should reject Appellant’s third request for an extension.

DATED this 6th day of October, 2021.

MAURICE WOOD

By /s/Brittany Wood

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⁴ The Law Offices of Byron Thomas is the fifth law firm Appellant has retained in connection with this action.

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Maurice Wood, and that on the 6th day of October, 2021, I caused to be served a true and correct copy of the foregoing **OPPOSITION TO APPELLANT'S MOTION FOR EXTENSION OF TIME TO FILE OPENING BRIEF** in the following manner:

(UNITED STATES MAIL): By depositing a copy of the above-referenced document for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, Nevada, to the parties listed below at their last-known mailing addresses, on the date above written:

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/s/ Brittany Wood
An Employee of MAURICE WOOD