

LAW OFFICES OF BYRON THOMAS
BYRON E. THOMAS, ESQ.
Nevada Bar No. 8906
3275 S. Jones Blvd. Ste. 104
Las Vegas, Nevada 89146
Phone: 702 747-3103
Facsimile: (702) 543-4855
byronthomaslaw@gmail

Electronically Filed
Dec 03 2021 09:01 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Attorney for Appellant

IN THE SUPREME COURT OF THE STATE OF NEVADA

TRACY LEE CASTL)	Supreme Court Case No: 82296
)	District Court Case No: A742267
Appellant)	
)	
vs.)	
)	
PENNYMAC HOLDINGS, LLC)	
)	
)	
Respondent)	
)	
)	

APPELLANTS MOTION TO EXTEND TIME TO FILE OPENING BRIEF

(FOURTH AND FINAL REQUEST)

COMES NOW, TRACY LEE CASTL (“Appellant”) through counsel files its Motion to Extend Time to File Response to Opening Brief (the “Motion”).

pursuant to NRAP 31(b).

MEMORANDUM OF POINTS AND AUTHORITIES

ARGUMENT

Appellant seeks an extension of time to file its opening brief based on extraordinary circumstances. NRAP 27 and NRAP 31(b)(3) permit a party to file a motion to seek "an extension of time to file a brief."

NRAP 31(b)(3) states as follows:

(3) Motions for Extensions of Time. A motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27.

(A) Contents of Motion. A motion for extension of time for filing a brief shall include the following:

- (i) The date when the brief is due;
- (ii) The number of extensions of time previously granted (including a 14-day telephonic extension), and if extensions were granted, the original date when the brief was due;
- (iii) Whether any previous requests for extensions of time have been denied or denied in part;
- (iv) The reasons or grounds why an extension is necessary (including demonstrating extraordinary circumstances under Rule 26(b)(1)(B), if required).

1. The Date When the Brief is Due:

The Response to the Cross Appellant's Opening Brief and Reply to Response to Opening Brief (the "Brief") is due on December 3, 2021.

///

2. The number of extensions of time previously granted were partially granted, the original date when the brief was due on August 9, 2021.

On May 24, 2021, Appellant was granted an extension by this Court based on her medical conditions and being Pro Per while she sought the services of a private attorney. On September 3, 2021 the Court denied a sixty day (60) request to extend the deadline to file the opening brief, and set a thirty (30) day deadline to file the Opening Brief. Appellant found an attorney and filed a third request for an extension which the Court ultimately approved. The Court set December 3, 2021 as the deadline to file the Opening Brief.

Appellant was not financially able to pay for the transcripts until November 24, 2021, which was the day before Thanksgiving weekend, and due to the length of the transcripts they will not be ready until December 29, 2021. Thus, Appellant makes this fourth request for an extension.. (See copy of Appellant's Declaration attached hereto as Exhibit A)

3. Whether any previous requests for extensions of time have been denied or denied in part.

The Court denied a sixty day request and instead set a thirty (30) day deadline, no other requests for extension were denied.

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

Appellant attempted in good faith to comply with the Court's order, but was prejudiced by her financial condition and could only afford to pay for the transcripts on November 24, 2021. Appellant still has serious medical problems, which also contributed to her financial issues and the delay in being able to afford the transcripts. Counsel for Appellant has also discounted his rates and retainer in an attempt to alleviate Appellant's financial distress and timely file the Opening Brief.

The transcripts should be a part of the record, and Appellant believes the transcripts will aid the Court in its deliberations. Since the transcripts will not be ready until December 29, 2021 the brief cannot be prepared in the allotted time.

5. The length of the extension requested and the date on which the brief would become due.

Appellant requests an additional sixty day extension from today to file the Brief, as measured from the date of the filing of this Motion. The Opening Brief would be due on February 3, 2022.

DATED this 3rd day of December, 2021.

/s/ Byron E. Thomas
BYRON THOMAS, ESQ.
Nevada Bar No. 8906
Law Offices of Byron Thomas
3275 S. Jones Blvd., Ste. 104
Las Vegas, Nevada 89146
(702) 747-3103
byronthomaslaw@gmail.com
Attorney for Appellant

**DECLARATION OF BYRON THOMAS IN SUPPORT OF MOTION
TO EXTEND DEADLINE TO FILE OPENING BRIEF**

I Byron Thomas declare as follows pursuant to Nev. R. APP. P.31(b).

1. I am licensed to practice law in the State of Nevada and registered in this court.
2. I was recently engaged by the Appellant in the above entitled cause number where the Appellant had been Pro Per.
3. This is my second request for an enlargement of time and I am unable to file the Opening Brief that is due on December 3, 2021.
4. On September 30, 2021, I received two large boxes of case materials from the Appellant that I am reviewing and indexing for the opening brief and will not receive the trial transcript until December 29, 2021. Appellant was no able to pay for the transcripts until November 24, 2021. I have discounted my fees and retainer in an attempt to alleviate the financial stress on Appellant so as to timely file this appeal.
5. Upon information and belief the RESPONDENT will not be prejudiced by a sixty day extension of the filing of the opening brief, either procedurally or substantively.

///

///

///

///

///

6. This motion is based upon the demonstration of exteme, unforeseeable and extraordinary circumstances that warrant a sixty day continuance on the basis that without the trial transcripts and that the denial of my motion would be unduly harsh.

Under penalty of perjury under the laws of Nevada, I attest that the foregoing statements are true and correct.

December 3, 2021

/s/ Byron E. Thomas
Byron E. Thomas

Certificate of Service

I certify that on December 3, 2021 the Motion to Extend Time was served upon the following via the Nevada Supreme Court's electronic filing system:

Aaron R. Maurice Esq.

Brittany Wood Esq/

/s/Byron E. Thomas
Byron Thomas Esq

EXHIBIT A

1 LAW OFFICES OF BYRON THOMAS
2 BYRON E. THOMAS, ESQ.
3 Nevada Bar No. 8906
4 3275 S. Jones Blvd. Ste. 104
5 Las Vegas, Nevada 89146
6 Phone: 702 747-3103
7 Facsimile: (702) 543-4855
8 Byronthomaslaw@gmail.com
9 Attorney for Appellant

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

11 TRACY LEE CASTL)	Supreme Court Case No: 82296
)	District Court Case No: A742267
12 Appellant)	
)	
13 vs.)	
)	
14 PENNYMAC HOLDINGS, LLC)	
)	
15)	
)	
16 Respondent)	
)	
17)	

18
19 **DECLARATION OF TRACY LEE CASTL**

20 I, Tracy Lee Castl pursuant to Nev. R. APP. P.31 (b) declare that I am the
21 Appellant in the above entitled cause number as follows:
22

23 1. I was only able to pay for the transcripts that were estimated to be 489 pages
24 at \$3.80 per page on Wednesday, November 24, 2021 that was paid to my
25 attorney that was delayed on the basis of my current financial situation and my
26 current medical issues not covered by health insurance.

27 2. Additionally, I also just engaged the services of a private attorney that was a
28 serious financial struggle.

3. This is my first request for an enlargement of time on the basis of waiting for the delivery of trial transcripts that are needed to file the Opening Brief that is due on October 3, 2021.

4. I am acting in good faith and have no reason to purposely delay the filing of my opening brief, which requires the trial transcripts for their appeal.

5. My appeal will be severely prejudiced if I cannot obtain an extension so that my attorney can draft and file an opening brief.

Under penalty of perjury under the laws of the State of Nevada, I attest that the foregoing statements are true and correct.

Dated: December 2, 2021

____ s/ Traci Lee Castl
Traci Lee Castl