

IN THE SUPREME COURT OF THE STATE OF NEVADA

AARON LEIGH-PINK, TANA
EMERSON

Appellants

No. 82572

Electronically Filed
Jun 07 2021 08:11 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

v.

RIO PROPERTIES, LLC

Respondents,

ON THE CERTIFIED QUESTION FROM
THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Appeal from the United States District Court for the District of Nevada
Case No. 2:17-cv-02910-GMN-VCF

**APPELLANTS' MOTION FOR 30 DAY EXTENSION
TO FILE APPELLANTS' OPENING BRIEF
[SECOND REQUEST]**

Law Office of Robert A. Waller, Jr.
Robert A. Waller, Jr. (CA Bar No. 169604)
P.O. Box 999
Cardiff-by-the-Sea, California 92007
Telephone: 760-753-3118
Facsimile: 760-753-3206
Email: robert@robertwallerlaw.com

Counsel for Appellants

Richard Fama
Email: rfama@cozen.com
COZEN O'CONNOR
45 Broadway Atrium, Suite 1600
New York, New York 10006
Telephone: 212-908-1229

F. Brenden Coller
Email: bcoller@cozen.com
COZEN O'CONNOR
1650 Market Street, Suite 2800
Philadelphia, Pennsylvania 19103
Telephone: 215-665-5518

Counsel for Respondent

**TO THE HONORABLE COURT, ALL PARTIES AND THEIR COUNSEL OF
RECORD HEREIN:**

PLEASE TAKE NOTICE that pursuant to NRAP, Rule 26(b)(1)(A) and 31(b)(3), Appellants AARON LEIGH-PINK and TANA EMERSON, by and through their counsel of record, Robert A. Waller, Jr., hereby move this Court to extend time in which to file Appellants' Opening Brief for a period of thirty (30) days from the current due date of June 9, 2021. Appellants' motion is based on the following points, facts and circumstances.

I.

A PARTY MAY MOVE TO EXTEND TIME

WHERE GOOD CAUSE IS SHOWN

NRAP Rule 26(b)(1)(A) provides in pertinent part, that, "[f]or good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit any act to be done after that time expires." *Id.*

NRAP Rule 31(b)(3) also provides that "[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." Any such motion shall include the following information:

- (i) The date when the brief is due;

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(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 and compelling circumstances under Rule 26(b)(1)(B), if required); and

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

NRAP Rule 31(b)(3)(A).

Appellants' counsel reached out to Respondent's counsel about whether the motion will be unopposed. No response has been received as the time this motion was submitted to the Court thus Appellants are unable to represent whether the motion will be opposed by Respondent.

Appellants' opening brief is currently due June 9, 2021.

The original date for filing Appellants' opening brief was May 10, 2021.

Appellants' and Respondent stipulated to an initial 30-day extension for Appellants' opening brief. No other extensions have been requested by Appellants.

The grounds for the requested extension are that the novelty and complexity of the unresolved issue of law as presented by the Court of Appeals for the Ninth Circuit

Court of Appeals in this action, as well as other pressing professional commitments in pending matters, including having been required to prepare for a jury trial which was set to commence May 28, 2021, in the Superior Court of California, County of San Diego have prevented Appellants' counsel from being able to research and prepare the opening brief. In addition, on May 18, 2021, Appellants' counsel was notified by the United States District Court for the District of Colorado that he is to prepare and file no later than June 17, 2021, a complex class certification motion involving approximately 170,000 potential class members in a pending class action. Based thereon, Appellants' counsel requires additional time to properly research and prepare the opening brief in this action.

With the requested 30-day extension Appellants' opening brief would be due July 9, 2021.

There is no prejudice to Respondent by the requested extension.

For the foregoing reasons, the parties, by and through their counsel of record herein, request the Court grant the requested extension.

Respectfully submitted,

Dated: June 5, 2021

/s/ Robert A. Waller, Jr.

Robert A. Waller, Jr.
Law Office of Robert A. Waller, Jr.
Counsel for Appellants
AARON LEIGH-PINK and
TANA EMERSON

PROOF OF SERVICE

On (date), I served the foregoing **APPELLANTS' MOTION FOR 30 DAY EXTENSION TO FILE APPELLANTS' OPENING BRIEF [SECOND REQUEST]** on interested parties in this action by serving VIA EMAIL (Wiznet/Eflex) and email to the following email addresses though which we have agreed to accept service and have regularly communicated throughout this action in accordance with the NRAP:

Richard Fama
Email: rfama@cozen.com
COZEN O'CONNOR
45 Broadway Atrium, Suite 1600
New York, New York 10006
Telephone: 212-908-1229

F. Brenden Coller
Email: bcoller@cozen.com
COZEN O'CONNOR
1650 Market Street, Suite 2800
Philadelphia, Pennsylvania 19103
Telephone: 215-665-5518
Counsel for Respondent

Dated: June 5, 2021

/s/ Robert A. Waller, Jr.

Robert A. Waller, Jr.
Law Office of Robert A. Waller, Jr.
Counsel for Appellants
AARON LEIGH-PINK and
TANA EMERSON