

**MOT**

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Elizabeth A. Brown  
Clerk of Supreme Court

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

ROSIE MARTINEZ and HENRY  
OLIVA,

Appellants,

vs.

IGNACIO AVILA, JR.,

Respondent.

) Supreme Court Case No.: 83023


) District Court Case No. D-15-515892-C

**APPELLANTS' MOTION TO EXTEND TIME IN WHICH TO FILE  
OPENING BRIEF**

Appellants, ROSIE MARTINEZ and HENRY OLIVA, by and through their  
counsel, Fred Page, Esq. hereby submits their Motion to Extend Time in Which to  
File the Opening Brief.

DATED this 16<sup>th</sup> day of August 2021

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1 **I. Appellants Should Receive an Extension of Time in Which to File Their**  
2 **Opening Brief**

3 On or about July 1, 2021, a telephonic meeting was held with the settlement  
4 judge, Appellants' counsel and Respondent's counsel. At that telephonic meeting  
5 it was concluded that the case was not appropriate for a settlement conference.  
6

7 On July 2, 2021, the settlement judge filed his report that the case was not  
8 appropriate for mediation and that the case should be removed from the settlement  
9 program.  
10

11 On July 8, 2021, the transcript was requested from Verbatim Court  
12 Reporting. In the first week of August because the transcript still had not been  
13 received from Verbatim Court Reporting, a telephone call was made to Verbatim  
14 Court Reporting regarding the status of the transcript. Verbatim Court Reporting  
15 advised that the transcript would not be completed until August 9, 2021.  
16  
17

18 On approximately August 6, 2021, a telephonic request for an extension was  
19 made with the Nevada Supreme Court in which to file the Opening Brief. The  
20 request was granted and the new date for the Opening Brief was set as being  
21 August 18, 2021.  
22  
23

24 The date promised by Verbatim Court Reporting of August 9, 2021, came  
25 and went without the transcript being produced. On August 12, 2021, another  
26 telephone call was made to Verbatim Court Reporting regarding the status of the  
27 transcript. Verbatim Court Reporting apologized for the delay and stated that the  
28 transcript would be ready the following day.

1 August 13, 2021, came and went without the transcript being produced. As  
2 of the date of this Motion, August 16, 2021, the transcript still has not been  
3 produced by Verbatim Court Reporting. The due date for the Opening Brief is still  
4 August 18, 2021.  
5

6 It is not known what is going on with Verbatim Court Reporting, but  
7 Verbatim Court Reporting is unable to produce a transcript in a timely manner and  
8 have failed to meet the two prior dates of production they have promised.  
9

## 10 **II. Legal Argument**

11 NRAP 31 provides for extensions of time. Under NRAP 31, the Court will  
12 grant an initial motion for extension of time for filing a brief only upon a clear  
13 showing of good cause. There is good cause. Verbatim Court Reporting is very  
14 delayed in producing the transcript needed for the Opening Brief.  
15

16 Appellants, Rosie Martinez and Henry Oliva, respectfully request that they  
17 receive an extension of time from August 18, 2021, in which to file their Opening  
18 Brief. It is not possible to properly file an Opening Brief and have the matter be  
19 considered on its merits without a transcript.  
20

21 The Nevada Supreme Court has held repeatedly that matters should be  
22 decided on their merits. There are a wealth of cases that stand for this proposition,  
23 particularly for a domestic relations case such as this one. *See Price v. Dunn*, 106  
24 Nev. 100, 787 P.2d 785, (1990) (1990) (Nevada's policy favoring decisions on the  
25 merits is heightened in cases involving domestic relations matters); *Dagher v.*  
26  
27  
28

1 *Dagher*, 103, Nev. 26, 28, 731 P.2d 1329, 1330 (1997) (same). *See also, Leslie v.*  
2 *Leslie*, 1 113 Nev. 727, 941 P.2d 451 (1997); *Kahn v. Orme*, 108, Nev. 510, 516,  
3 835 P.2d 790, 794 (1992)); *Hotel Last Frontier v. Frontier Prop.*, 79 Nev. 150,  
4 155, 380 P.2d 295 (1963).

5  
6 As indicated, Appellants' are still waiting for the transcript from Verbatim  
7 Court Reporting. There should be no undue prejudice to anyone.

8  
9 **III. Conclusion**

10  
11 Based upon the foregoing, Appellants respectfully requests that Appellants  
12 be granted an extension for two weeks, or a date the Court believes is just and  
13 equitable as it is not known at this point when Verbatim Court Reporting will  
14 produce a transcript.  
15

16 DATED this 16<sup>th</sup> day August 2021

17  
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19  
20   
21 FRED PAGE, ESQ.

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## CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Page Law Firm and that on August 16, 2021, I electronically filed with the Supreme Court a true and correct copy of the above and foregoing **APPELLANTS' MOTION TO EXTEND TIME IN WHICH TO FILE THE OPENING BRIEF.**

I further certify that on August 16, 2021, I served a true and correct copy of the above and foregoing **APPELLANTS' MOTION TO EXTEND TIME IN WHICH TO FILE THE OPENING BRIEF** via e-service and U.S. Mail, postage prepaid, to the following:

Emily McFarling, Esq.  
McFarling Law Group  
6230 W Desert Inn Road  
Las Vegas, Nevada 89146  
Attorney for Respondent

  
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An employee of Page Law Firm