

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOSE OSCAR SALAZAR,

Appellant,

vs.

AGUSTINA CERVANTES LANDA,

Respondent.

Supreme Court No.: 83111

District Case No.: D-19-595434-D

FILED

NOV 29 2021

ETHEL A. BROWN
CLERK OF THE SUPREME COURT
BY *Agustina*
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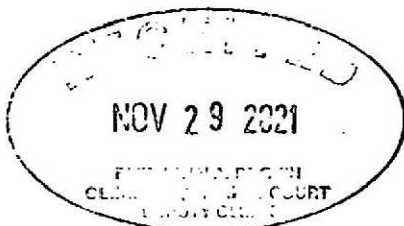
MOTION TO EXTEND TIME TO FILE ANSWERING BRIEF

COMES NOW Petitioner Agustina Cervantes Landa, files this Motion to Extend Time to Answer Brief. This Motion is made and based upon papers and pleadings on file herein and the Affidavit of Agustina Cervantes Landa, attached hereto.

Dated this 24th day of November, 2021.

By:

Agustina Cervantes Landa
Agustina Cervantes Landa



21-33986

MEMORANDUM OF POINTS AND AUTHORITIES

The Respondent's opening brief is due on November 29, 2021. However, respondent received a copy of the filed Appeal from Decree of Divorce and Plaintiff's Motion to Reconsider on November 20, 2021, on the Certificate of Services it states and certifies that a copy of the Motion to Reconsider was served to me via US mail, which I did not received at that time. I received the documents stated until November 20, 2021, attached is a copy of the mailing envelope used to served me, the mailing stamp on the envelope is dated November 18, 2021 which is 20 days later from the Certificate of Service date. Respondent therefore requests an additional 30 days to allow her to answer to the Motion to Reconsider. She respectfully requests that the Court extend the time for filing of the Answering Brief.

NRAP 26(b) states:

(b)Extending Time.

(1)By Court Order.

(A)For good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time to file a notice of appeal except as provided in Rule 4(c).

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

This Court outlined the test for showing good cause to extend time under a similar rule to NRAP 26(b) in the case of *Moseley v. Eighth Judicial District Court of Nev.*, 124 Nev. 654, 188 P.3d 1136 (2008). In that case, the Court established a test for determining "good cause" under NRCP 6 (the rule treating extensions of time for the district courts). It held that a party seeking to enlarge time under


NRCP 6(b)(2) “is required to demonstrate that (1) it acted in good faith, (2) it exercised due diligence, (3) there is a reasonable basis for not complying within the specified time, and (4) the nonmoving party will not suffer prejudice.” Id. at 1146. Additionally, the United States Supreme Court held that in deciding whether neglect is excusable, a court must:

take account of all relevant circumstances surrounding the party's omission. These include . . . the danger of prejudice to the debtor, the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith.

Pioneer Inv. Serv. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 395, 113 S. Ct. 1489, 123 L. Ed. 2d 74 (1993).

In this case, Appellant believes that she has a chance of settling this matter and wishes an additional 30 days to pursue this.

DATED this 24th day of November, 2021




Agustina Cervantes Landa.

CERTIFICATE OF SERVICE

The undersigned, Agustina Cervantes Landa hereby certifies that on the 24th day of November, 2021, I mailed via United States Mail, postage prepaid, a true and correct copy of the **Motion to Extend Time to File Answering Brief** to the following parties:

Emily McFarling, Esq.
McFarling Law Group
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Agustina Cervantes Landa



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