

IN THE SUPREME COURT OF THE STATE OF NEVADA

LARRY J. WILLARD, individually and as
Trustee of the Larry James Willard Trust Fund;
And OVERLAND DEVELOPMENT
CORPORATION, a California corporation,

Appellants,

vs.

BERRY-HINCKLEY INDUSTRIES, a Nevada
corporation; JERRY HERBST, an individual;
and TIMOTHY P. HERBST, as Special
Administrator of the ESTATE OF JERRY
HERBST, deceased,

Respondents.

No. 83640

District Court Case No. 2021-00712

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Elizabeth A. Brown
Clerk of Supreme Court

MOTION FOR EXTENSION FOR REPLY BRIEF (FIRST REQUEST)

Appellants hereby move for a 30-day extension of time for filing the reply brief, which is presently due for filing on May 13, 2022. Therefore, appellants request an extension until June 13, 2022. This is appellants' first request for an extension for the reply brief. Appellants filed their opening brief without an extension, and respondents obtained one extension for their answering brief.

This is an unusual and somewhat complex case involving litigation arising out of the breach of a commercial lease. Appellants are the plaintiffs. Their case was dismissed due to alleged rule violations by their former counsel. New counsel moved to set aside the dismissal under NRCP 60(b)(1). The district court denied the

motion, and appellants appealed. This court reversed and remanded in *Willard v. Berry-Hinckley Industries*, 136 Nev. Adv. Opn. 53 (August 6, 2020). Respondents petitioned for rehearing and en banc reconsideration, both of which were denied.

Proceedings on remand were hotly contested. The district court eventually denied Rule 60(b)(1) relief on remand, and appellants have appealed again.

The parties have needed to devote significant time and effort in their briefs explaining the unusual procedural background. Even the underlying facts are somewhat unique, involving serious derelictions by appellants' California attorney (all as discussed in the opening brief).

Respondents' answering brief has raised numerous attacks on the opening brief—contending that the opening brief is factually and legally wrong. Appellants' reply brief will need to address all these important contentions. Considerable attention is being devoted to this effort.

The undersigned attorneys for appellants have been working on the reply brief, but they will not be able to complete the brief by the current deadline of May 13, 2022. Counsel Williamson has had a previously-scheduled business trip, as well as multiple depositions and an upcoming trial, that have prevented him from finishing his part of the work on the brief. Counsel Eisenberg has also had to deal with important personal and work commitments, including a medical procedure, all of which have prevented him from finishing his part of the work on the brief. And

once a draft of the brief is prepared, it will need to be reviewed by the clients before it can be finalized and filed.

Accordingly, appellants request a 30-day extension until June 13, 2022, for the reply brief. This request is being made in good faith, without the intent to delay this appeal unnecessarily.

DATED: May 9, 2022

/s/ Robert L. Eisenberg
Robert L. Eisenberg (0950)

/s/ Richard D. Williamson
Richard D. Williamson (9932)

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of LEMONS, GRUNDY & EISENBERG, and on this date the foregoing *Motion for Extension for Reply Brief (First Request)* was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

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/s/ Margie Nevin

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