

IN THE SUPREME COURT OF NEVADA

DAISY TRUST, A NEVADA TRUST,

Appellant,

v.

SUNRISE RIDGE MASTER
HOMEOWNERS ASSOCIATION;
AND NEVADA ASSOCIATION
SERVICES, INC., A NEVADA NON-
PROFIT CORPORATION,

Respondents.

Supreme Court Docket No. 83798

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Jul 14 2022 12:46 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

MOTION TO EXTEND TIME TO FILE REPLY BRIEF

(Third Request, following prior Telephonic Extension)

COMES NOW, Appellant, DAISY TRUST, A NEVADA TRUST, (“Daisy”) by and through its attorneys, ROGER P. CROTEAU & ASSOCIATES, LTD., and hereby presents its Motion to Extend Time to File Reply Brief, requesting a third extension (beyond that previously granted by a telephonic extension) of time to thirty (30) days from the current deadline of July 15, 2022, or until such other date that the court deems appropriate. This Motion is made and based upon the attached Memorandum of Points and Authorities, the attached exhibits, the declaration of counsel, and all papers and pleadings on file herein.

Dated this 14th day of July, 2022.

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Christopher L. Benner, Esq.

Roger P. Croteau, Esq.

Nevada Bar No. 4958

Christopher L. Benner, Esq.

Nevada Bar No. 8963

2810 West Charleston Blvd., Suite 75

Las Vegas, Nevada 89102

Attorney for Appellant

MEMORANDUM OF POINTS AND AUTHORITIES

A. STATEMENT OF THE FACTS

1. Daisy caused the instant appeal to be filed on November 18, 2021.
2. On November 23, 2021, this Court assigned this matter to the Settlement Program.
3. On December 14, 2021, this Court issued an Order Removing Case from Settlement Program and Reinstating Briefing schedule.
4. Daisy submitted the Opening Brief and Joint Appendix on March 28, 2022.
5. Respondent Sunrise Ridge Master Homeowners Association filed their Answering Brief on April 27, 2022.
6. Respondent Nevada Association Services, Inc., obtained an extension until May 11, 2022, to file their Answering Brief.

7. Respondent Nevada Association Services filed a Joinder to Sunrise Ridge Master Homeowners Association's Answering Brief on May 2, 2022.
8. On May 26, 2022, this Court issued the decision in *Saticoy Bay, LLC v. Thornburg Mortg. Sec. Tr. 2007-3*, No. 80111, 2022 Nev. LEXIS 32 (May 26, 2022)("Innisbrook Matter").
9. On May 27, 2022, Daisy requested and obtained a two-week extension by telephonic request to extend the time to file and serve the Reply Brief until June 15, 2022.
10. On June 15, 2022, Daisy requested and obtained a 30 day extension by way of the prior Motion to extend the time to file and serve the Reply Brief until July 15, 2022.
11. The parties have actively discussed settlement and are in the process of resolving the matter, but require additional time to conclude the matter.
12. Daisy is requesting an extension of 28 days in which to file its Reply Brief, or otherwise resolve the matter, after the currently set deadline of July 15, 2022, namely, to August 12, 2022.
13. No prior extensions have been denied, in whole or in part.

B. STATEMENT OF THE LAW

NRAP 31(b) provides in pertinent part as follows:

(2) Stipulations. Unless the court orders otherwise, in all appeals except child custody, visitation, or capital cases, the parties may extend the time for filing any brief for a total of 30 days beyond the due dates set forth in Rule 31(a)(1) by filing a written stipulation with the clerk of the Supreme Court on or before the brief's due date. No extensions of time by stipulation are permitted in child custody, visitation, or capital cases.

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

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

C. ARGUMENT

As set forth above, Daisy's counsel seeks to obtain an additional extension of the due date for the Reply Brief that is presently due on July 15, 2022, and was originally due on June 1, 2022. This is not a child custody, visitation, or capital case. This is the second extension of time that has been requested, excluding the prior telephonic request. The prior telephonic request was granted. The requested length of the extension is for twenty-eight (28) days.

This matter concerns a homeowners association sale which occurred following a tender of a superpriority amount for a lien. Following the submission of the Opening Brief by Daisy and Answering Briefs by the Respondents, Daisy's counsel became aware of the decision in the Innisbrook Matter. Daisy has proposed a resolution which one Respondent has already agreed upon, and is simply awaiting the approval of the remaining Respondent. As such, the agreement has not been finalized at this date. Thus, Daisy seeks an additional 28 days, until August 12, 2022, to finalize any resolution with the remaining Respondent, if possible, or submit a Reply Brief in this matter as the remaining respondent. The requested additional time will allow the parties to completely resolve the matter, which the parties contend is a compelling reason pursuant to *Varnum v. Grady*, 90

Nev. 374, 528 P.2d 1027 (1974), as it is not due to delay by the parties or counsel, or due to involvement in other matters.

CONCLUSION

Based upon the foregoing, Daisy respectfully requests that the deadline to file the Reply Brief be extended an additional 28 days, to August 12, 2022, or another date that the Court deems appropriate.

Dated this 14th day of July, 2022.

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Christopher L. Benner, Esq.

Roger P. Croteau, Esq.

Nevada Bar No. 4958

Christopher L. Benner, Esq.

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2810 West Charleston Blvd., Suite 67

Las Vegas, Nevada 89102

Attorney for Appellant

DECLARATION OF CHRISTOPHER L. BENNER

CHRISTOPHER L. BENNER, being first duly sworn, deposes and says that:

1. That I am an attorney for the Appellant, Daisy Trust, a Nevada Trust (“Daisy”), in the above-captioned matter.
2. Of the following facts, I know them to be true of my own knowledge unless stated upon information and belief, in which case I possess a good faith belief that such facts are true and correct.
3. Daisy caused the instant appeal to be filed on November 18, 2021.

4. On December 14, 2021, this Court issued an Order Removing Case from Settlement Program and Reinstating Briefing schedule.
5. Daisy submitted the Opening Brief and Joint Appendix on March 28, 2022.
6. Respondent Sunrise Ridge Master Homeowners Association filed their Answering Brief on April 27, 2022.
7. Respondent Nevada Association Services, Inc., obtained an extension until May 11, 2022, to file their Answering Brief.
8. Respondent Nevada Association Services filed a Joinder to Sunrise Ridge Master Homeowners Association's Answering Brief on May 2, 2022.
9. On May 26, 2022, this Court issued the decision in *Saticoy Bay, LLC v. Thornburg Mortg. Sec. Tr. 2007-3*, No. 80111, 2022 Nev. LEXIS 32 (May 26, 2022).
10. On May 27, 2022, Daisy requested and obtained a two-week extension by telephonic request to extend the time to file and serve the Reply Brief until June 15, 2022.
11. Daisy has proposed a resolution, which one Respondent has agreed upon, and is awaiting confirmation of the other.
12. Daisy is requesting an extension of 28 days in which to file its Reply Brief, or otherwise resolve the matter, after the currently set deadline of July 15, 2022, namely, to August 12, 2022.
13. No prior extensions have been denied.
14. I have contacted counsel for Respondents Nevada Association Services and Sunrise Ridge Master Homeowners Association; neither stated an opposition to the requested extension as set forth in this Motion.

CERTIFICATE OF SERVICE

In accordance with NRAP 25, I hereby certify that on July 14, 2022, I caused a copy of the **MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF (Third Request)** to be filed and served electronically via the Court's E-Flex System to the following:

BRANDON E. WOOD, ESQ.
6625 S. Valley View Blvd, Suite 300
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/s/ Joe Koehle

An Employee of ROGER P. CROTEAU &
ASSOCIATES