

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHILLIP J. FAGAN, JR., AN
INDIVIDUAL AND AS TRUSTEE OF
THE PHILLIP J. FAGAN, JR. 2001
TRUST,

Appellant,

vs.

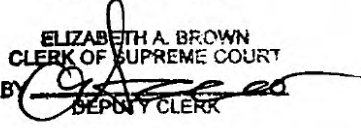
AAL-JAY, INC., A NEVADA
CORPORATION; CHRISTIANO DE
CARLO, AN INDIVIDUAL; AND LAIL
LEONARD, AN INDIVIDUAL,

Respondents.

No. 84699

FILED

DEC 13 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER GRANTING MOTION AND REGARDING RESPONDENTS

Appellant has filed a motion for a second extension of time to file the opening brief. Appellant previously received a telephonic extension of time to file the opening brief. Once a party receives a telephonic extension of time to perform an act, further extensions of time to perform that same act are barred unless the moving party files a motion for an extension of time demonstrating extraordinary and compelling circumstances in support of the requested extension.¹ NRAP 26(b)(1)(B); NRAP 31(b)(3)(A)(iv). In support of the current motion, appellant's counsel states, among other things, that she was ill and out of the office. On this basis, the motion is granted. Appellant shall have until December 20, 2022, to file and serve the opening brief and appendix. Failure to timely file and serve the opening

¹Appellant's motion cites to an outdated version of NRAP 31(b)(3).



brief and appendix may result in the imposition of sanctions, including the dismissal of this appeal.² NRAP 31(d).

Respondents have filed a notice informing this court that respondents Christiano de Carlo and Lail Leonard have been dismissed from the underlying district court action. Respondents suggest that this court lacks jurisdiction over these respondents due to the dismissal. Appellant has not filed any response to the notice. In addition, review of the notice of appeal and other documents before this court indicates that de Carlo and Leonard may not be proper respondents in this matter as it does not appear that Fagan asserted any counterclaims against them and they were not served in this matter. *See Valley Bank of Nevada v. Ginsburg*, 110 Nev. 440, 448, 874 P.2d 729, 735 (1994) (explaining that to qualify as a party within the meaning of NRAP 3A(a), a person must have been served with process, appeared in the district court, and been named as a party of record). Under these circumstances, the parties shall each have 7 days from the date of this order to inform this court, in writing, whether de Carlo and Leonard are proper respondents to this appeal. Failure to timely comply will result in the removal of de Carlo and Leonard as respondents.

It is so ORDERED.

 , C.J.

²Counsel is advised that a telephonic extension of time to file a document should only be sought when counsel reasonably believes the document will be filed within the additional time afforded by the telephonic extension. A telephonic extension should not be utilized when counsel believes a further extension motion may be necessary.

cc: Black & Wadhams
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