

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

2
3 PHILLIP J. FAGAN, JR. an individual
4 and as Trustee of the PHILLIP J.
5 FAGAN, FR. 2001 TRUST

6 Appellant,

7 vs.

8 AAL-JAY, INC., a Nevada corporation

9 Respondent.
10

Appeal No. 84699

Electronically Filed
Dec 22 2022 05:09 PM
Elizabeth A. Brown
Clerk of Supreme Court
**UNOPPOSED MOTION FOR
EXTENSION OF TIME TO FILE
APPELLANT'S APPENDIX VOL. 2
AND NOTICE AS TO WHETHER
CHRISTIANO DECARLO AND
LAIL LEONARD ARE PROPER
PARTIES TO THIS APPEAL
(FIRST/THIRD REQUEST)**

11 Appellants PHILLIP J. FAGAN, JR. an individual and as Trustee of the
12 PHILLIP J. FAGAN, FR. 2001 TRUST (hereinafter "D. Fagan") hereby request,
13 pursuant to NRAP 31(b)(3) and NRAP 27(3)(B) an extension time to file its
14 Appellant's Appendix Vol. 2 and Appellants Notice re: Whether Christiano DeCarlo
15 and Lail Leonard are proper parties to this appeal. Both the Appendix Vol. 2 and
16 the Notice were due on December 20, 2022. Dr. Fagan seeks an extension to
17 December 22, 2022 to file both documents.

18 Pursuant to NRAP 31(b)(3)(A), BDJ submits the following information:

19 (1) The Appendix Vol. 2 and the Notice were due on December 20, 2022 Dr.

20 Fagan received previous extensions of time to file the Appendix Vol. 2 0-
21 it was originally due on November 22, 2022. Dr. Fagan obtained a
22 telephonic extension to December 6, 2022, and then a motion to extend the
23 due date to December 20, 2022 was also granted.

24 (2) The extension is necessary due to errors in the filing process. Appellants'
25 counsel encountered difficulties getting the second volume to file after
26 several attempts due to the size. Appellants had the same issue with the
27 first volume, but were able to successfully resolve the issue by splitting the
28 document into multiple parts. Though Volume 2 was reduced and

1 similarly split, it appears the filing wasn't properly finalized by clicking
2 all the way through. Following the difficulties with the submission of the
3 appendices, the filing of the notice was simply overlooked. Counsel for
4 Appellants was out of the office the following day, on December 21, 2022
5 to attend to a pro bono case, and discovered the issues, and filed this motion
6 to correct the errors immediately. Counsel for Respondent, Ogonna M.
7 Brown indicated that respondents do not oppose this motion.

8 (3) Appellants makes this request in good faith and not for the purposes of
9 harassment or delay. Appellant recognizes that pursuant to NRAP 31, such
10 requests should ordinarily be made before the expiration of the deadline
11 sought to be extended. Nonetheless, appellants, and appellants' counsel
12 respectfully requests the Court excuse the failure to file this motion prior
13 to the expiration as the mistake amounts to excusable neglect pursuant to
14 NRAP 26(b)(1)(A).

15 Pursuant to the foregoing, Appellants respectfully request an extension to file the
16 notice and second appendix volume on December 22, 2022.

17
18 DATED this 22nd day of December, 2022

19
20 BLACK & WADHAMS

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22 s/ Allison R. Schmidt
23 Allison R. Schmidt, Esq. (#10743)
24 10777 West Twain Avenue, Suite
25 300 Las Vegas, Nevada 89135
26 ATTORNEYS FOR APPELLANT
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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of December, 2022, that I served a copy of the foregoing document upon all counsel of record electronically via the Court's eflex-eFile and e-serve system:

Ogonna Brown, Esq.,
Lewis Roca Rothberger Christie, LLP
3993 Howard Hughes Parkway, Suite 600,
Las Vegas, Nevada 89169
(702) 474-2622
obrown@lewisroca.com

/s/ Diane Meeter
An Employee of Black & Wadham