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Electronically Filed  
Nov 15 2022 03:28 AM  
Elizabeth A. Brown  
Clerk of Supreme Court

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

TARA KELLOGG,  
Appellant,

v.

ALEX GHIBAUDO,  
Respondent.

Docket No. 84778

**RESPONDENT'S MOTION TO EXTEND TIME TO FILE ANSWERING  
BRIEF AND APPENDIX TO NOVEMBER 15, 2022**

**COME NOW** Alex Ghibaud, in Proper Person, and requests an extension of time to file his Answering Brief and Appendix no later than November 15, 2022 (which are already filed).

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. SUMMARY OF FACTS**

Alex requested and obtained a telephonic extension to file his answering brief and appendix in the above referenced case to November 14, 2022. Alex in fact

completed his answering brief and appendix by the deadline provided, November 14, 2022. However, when Alex attempted to file his answering brief and appendix he received the following error message from this Court's electronic filing system:

*"502-Web server received an invalid response while acting as a gateway or proxy server. There is a problem with the page you are looking for, and it cannot be displayed. When the web server (while acting as a gateway or proxy) contacted the upstream content server, it received an invalid response from the content server."*

See attached exhibits bates stamped 001-003.

The highlighted portion of bates stamp 002, in the top right corner of the image, shows the page attempting to load to the filing page. The time indicated below is 12:06 a.m. The page attempted to load for up to 10 minutes before it timed out and showed the error message indicated above. Throughout the night, Alex attempted to file the answering brief and appendix and received the same error message repeatedly. For example, bates stamp 001 shows an attempt on or about 12:32 a.m. that resulted in an error message; another image shows an attempt at 1:15 a.m. with the same error message; and another image shows another attempt at 1:22 a.m., again with the same error message.

The error messages were sporadic but more consistent than not. So, for example, the first answering brief was filed at 12:14 a.m. However, when Alex attempted to follow up with the appendix (3 volumes), he received an error message

repeatedly. An amended answering brief was filed at 1:34 a.m. (the certificate of service had the incorrect date) though there was an attempted filing and error message at 12:32 a.m. and 1:15 a.m. as the third and second images, respectively, on bates stamp 001 demonstrates; the first volume of the appendix wasn't able to be filed until 1:48 a.m. – more than 20 minutes after another error message, shown in the first image on bates stamp 001; the second volume was filed at 1:51 a.m.; and the third volume was filed at 2:05 a.m. In between Alex continued to receive error messages.

The answering brief and appendix, all three (3) volumes, have now been filed as of 2:08 a.m. on November 15, 2022. Alex therefore asks for an extension of time to file his answering brief and appendix on November 15, 2022.

## **II. ARGUMENT**

Under NRAP 26(a)(1)(B), motions for extensions of time after a telephonic extension is granted must demonstrate extraordinary and compelling circumstances. Here, the Court's electronic filing system was experiencing system errors that prohibited Alex from timely filing the answering brief and appendix. The Court's electronic filing system repeatedly sent error messages which caused the answering brief and appendix to be filed 2 hours after the deadline provided by this Court. It should be noted that the late filing is not as a result of Alex's dilatory conduct but rather unforeseen circumstances stemming from system errors emanating from the

Court's electronic filing system.

This unforeseen circumstance out of Alex's control constitutes extraordinary and compelling circumstances justifying the late filing, especially since the filing was only 2 hours late and Alex stayed up late and made repeated and multiple attempts to file the answering brief and appendix as quickly as possible. Coupled with this Court's policy preference to hear matters on the merits, especially this matter, which implicates constitutional issues of statewide importance that are the subject of two similar matters (Falconi v. Eighth Judicial District Court, Docket No. 84947 and Falconi v. Eighth Judicial District Court, Real Parties' in interest Troy Minter and Jennifer Minter, Docket No. 85195), it is respectfully requested that the requested extension to file the answering brief and appendix (which have actually already been filed) no later than November 15, 2022 be granted.

### **III. CONCLUSION**

For the foregoing reasons, Alex requests that this Court grant his extension to file the answering brief and appendix, which have already been filed, no later than November 15, 2022.

**DATED** November 15, 2022.

Respectfully Submitted,

*/s/ Alex Ghibaud*

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Alex B. Ghibaud  
Respondent in Proper Person

**CERTIFICATE OF MAILING**

I certify that on the November 15, 2022, I served a copy of this  
**RESPONDENT'S MOTION TO EXTEND TIME TO FILE ANSWERING  
BRIEF AND APPENDIX TO NOVEMBER 15, 2022** upon Appellant through the  
Court's electronic service system to the following:

Evan Schwab, Esq.  
[evan@schwablawnv.com](mailto:evan@schwablawnv.com)

Dated this 15<sup>th</sup> Day of November, 2022.

*/s/ Alex Ghibaud*

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Alex B. Ghibaud

# EXHIBITS









