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Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

LEIDIANNE L BAUTISTA, an individual,
and CONSTANTINE S. NACAR, an
individual,

APPELLANTS

v.

ROC TITLE, LLC, a Nevada Limited
Liability Company, NEVADA
ASSOCIATION SERVICES, INC., a
Nevada Corporation, SATICOY BAY
LLC SERIES 10449 FORKED RUN, a
Nevada Limited Liability Company and
DOES 1 through 10 and ROE
CORPORATIONS I
through X, inclusive.

RESPONDENTS

SC Case No. 85204

Dist Ct. Case No.: A-22-852903-C

**MOTION TO REINSTATE
BRIEFING PURSUANT TO RULE
26 and 31 FOR GOOD CAUSE and
OPPOSITION TO MOTION TO
DISMISS**

JOSEPH SCALIA Nevada Bar Number: 5123 Senior Counsel, LLC 3355 S. Highland Dr., #111 Las Vegas, NV 89109 Phone: (702) 440-8000	Brandon Wood - brandon@nas-inc.com Counsel for Nevada Association Services Christopher Benner – Chris@croteaulaw.com Roger P. Croteau – croteaulaw@corteaulaw.com
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Email: joe@josephscalvia.com <i>Attorney for Plaintiffs</i>	Counsel for Saticoy Bay LLC Series 10449 Forked Run
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MEMORANDUM OF POINTS AND AUTHORITIES

Comes now APPELLANTS, LEIDIANNE L. BAUTISTA and CONSTANTINE S. NACAR, and hereby petition this court pursuant to NRAP 26 to reinstate the briefing schedule to allow Appellants an additional 14 days to file their Opening brief and Appendix.

FACTS

On August 16, 2022, Appellants timely filed a Notice of Appeal with the Eighth Judicial District Court in case A-22-852903-C. On January 4, 2023, APPELLANT received notice of the briefing schedule however, Counsel for Appellant only calendared the deadlines for the Transcript request. Counsel believed the deadline to file the brief would not come until the transcripts were prepared since he would be unable to file a brief prior to having the transcripts in his possession. The transcripts were not provided by the court reporter until March 22, 2023. Although it wasn't calendared, the brief due date was April 4, 2023, only 13 days after receipt of the transcripts. As the due date for the brief was not calendared, Appellant did not timely file the brief or request an extension, believing, incorrectly, that the court would issue a briefing schedule. When the

Supreme Court issued its 7-day notice on July 25, 2023. At that time counsel pulled the file to review and schedule work, only to be served with the Defendant's subsequent Motion to Dismiss. Despite communications issues with his clients, Counsel believes that the issue raised in this matter are of important public policy issue regarding the ability of homeowner's ability to sell a property during a redemptions period are of sufficient importance to waive a technical violation of the briefing schedule.

LEGAL ARGUMENT

This Court expects all appeals to be "pursued in a manner meeting high standards of diligence, professionalism, and competence." Cuzdey v. State, 103 Nev. 575, 578, 747 P.2d 233, 235 (1987); accord Polk v. State, 126 Nev. 180, 184, 233 P.3d 357, 359 (2010); Barry v. Lindner, 119 Nev. 661, 671, 81 P.3d 537, 543 (2003); State, Nev. Emp't Sec. Dep't v. Weber, 100 Nev. 121, 123, 676 P.2d 1318, 1319 (1984). The Nevada Rules of Appellate Procedure have been implemented to promote cost-effective, timely access to the courts – and this Court has held that it is "imperative" that all appellees and their counsel follow these rules and timely comply with the Court's directives. Weddell v. Stewart, 127 Nev. Adv. Op. No. 58, 261 P.3d 1080, 1084 (2011). Counsel, in particular, is "not at liberty to disobey notices, orders, or any other directives issued by this court." *Id.* at 261 P.3d at 1085.

NRAP 26 allows time to be extended for good cause after time for the act has expired. NRAP 31 allows time to be extended upon an initial motion upon a clear showing of good cause. This is the first such motion.

It is well settled that this Court's policy preference is merits-based dispositions. Price v. Dunn, 106 Nev. 100, 105, 787 P.2d 785, 787 (1990); Hotel Last Frontier v. Frontier Prop., 79 Nev. 150, 155, 380 P.2d 293, 295 (1963).

Although Attorney Scalia acknowledges the calendaring error, it was unintentional. As undersigned did not properly calendar the brief due date and believed the schedule would not be set until the transcripts were delivered, there is good cause to reinstate the briefing schedule. Appellant is not at fault and Respondents will not suffer prejudice by the short delay in pursuit of the appeal.

On that basis, Appellant requests the briefing schedule be reinstated to allow him 14 days, a reasonable and minimally prejudicial time, to file his opening brief and appendix.

As Respondent Saticoy Bay's Motion to Dismiss is based upon the failure to file the opening brief, Appellant requests it be denied if this motion is granted.

DATED this 9th of August 2023.

/s/ Joseph A. Scalia, Esq.
Nevada Bar 5123
3355 S Highland Ave, Ste 111
Las Vegas, NV 89109
Phone (702) 825-2627
Attorney for Appellants

Attorney's Certificate of Compliance

1. I certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14 point Times New Roman.
2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 40 or 40A because it:
 - a. Does not exceed 10 pages as required under NRAP 40(b)(3) and has a word count of 1159 words.
3. Finally, I certify that I have read this petition, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this petition complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the petition regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found.
4. I understand that I may be subject to sanctions in the event that the accompanying petition is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 29th day of August, 2023

/s/ Joseph A. Scalia, Esq.
Nevada Bar 5123
3355 S Highland Ave, Ste 111
Las Vegas, NV 89109
Attorney for Appellants

AFFIRMATION

The undersigned does hereby affirm that pursuant to NRS 239B.030, the preceding document does not contain the social security number of any person.

Dated this 9th day of August, 2023

/s/ Joseph A. Scalia, Esq.
Nevada Bar 5123
3355 S Highland Ave, Ste 111
Las Vegas, NV 89109
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of KAREN A. CONNOLLY, LTD., and on the 9th day of August, 2023, I served a true and correct copy of the above and foregoing Respondent's Motion to Reinstate Briefing and Opposition to Motion To Dismiss by the method or methods indicated below:

Susan Moses – Susan@nas-inc.com

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Counsel for Saticoy Bay LLC Series 10449 Forked Run

Dated: September __, 2022

Employee of Senior Counsel, LLC