

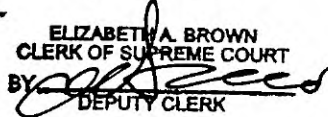
IN THE SUPREME COURT OF THE STATE OF NEVADA

LEIDIANNE L. BAUTISTA; AND
CONSTANTINE S. NACAR,
Appellants,
vs.
NEVADA ASSOCIATION SERVICES,
INC., A NEVADA CORPORATION; AND
SATICOY BAY LLC SERIES 10449
FORKED RUN, A NEVADA LIMITED
LIABILITY COMPANY,
Respondents.

No. 85204

FILED

AUG 21 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER

The appeal was docketed in this court on August 23, 2022. On September 9, 2022, this court dismissed the appeal based on appellants' failure to pay the filing fee. The remittitur issued on October 4, 2022. On November 4, 2022, this court granted appellants' motion for reconsideration, recalled the remittitur, and reinstated the appeal. This court referred the appeal to the settlement program and the court issued a notice to appellants to file the case appeal statement. No case appeal statement was timely filed and an order to file the case appeal statement was entered. Appellants again failed to file the case appeal statement and this court entered an order conditionally imposing sanctions on counsel for appellants, Joseph A. Scalia, II, for his continued failure to file the case appeal statement. Appellants finally filed the case appeal statement and the conditional sanction was automatically vacated.

Subsequently, this appeal was removed from the settlement program and appellants were directed to file the transcript request form within 14 days and the opening brief and appendix within 90 days. They failed to comply with the notice, and on February 7, 2023, this court entered

an order directing appellants to file the transcript request form within 7 days. The transcript request form was finally filed on February 21, 2023.


When appellants failed to file the opening brief and appendix, this court entered an order directing appellants to file the documents by August 1, 2023, and cautioning that failure to comply with the order could result in the imposition of sanctions, including dismissal of the appeal. NRAP 31(d).

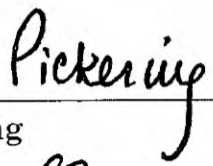
To date, appellants have not filed the opening brief and appendix. Respondent Saticoy Bay LLC Series 10449 Forked Run (Saticoy) has filed a motion to dismiss based on appellants' continued failures to comply with this court's deadlines and orders. Appellants have filed a motion to reinstate briefing, for an extension of time to file the opening brief, and opposition to the motion to dismiss. Saticoy has filed a reply. Counsel for appellants explains that he failed to calendar the deadline for filing the opening brief. He states that he believed this court would set a deadline for the opening brief after the transcripts were prepared and delivered, and therefore he continued not to file a brief because this court did not issue a notice of a deadline. This excuse fails to explain why counsel has repeatedly disregarded this court's rules of procedure as well as the notices issued by the court and the court's orders.

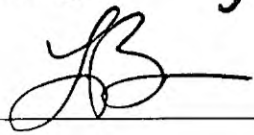
However, in light of this court's preference for deciding cases on their merits rather than on technicalities, Saticoy's motion to dismiss the appeal is denied. *See Stoecklein v. Jonson Elec., Inc.*, 109 Nev. 208, 271, 849 P.2d 305, 307 (1993) (noting that this court's general underlying fundamental policy is to decide cases on the merits whenever possible). Appellants' motion for an extension of time is granted to the following extent. Appellants shall have 7 days from the date of this order to file and

serve the opening brief and appendix. Failure to timely file the opening brief and appendix may result in the imposition of sanctions, including dismissal of this appeal.

It is so ORDERED.


_____, J.
Cadish


_____, J.
Pickering


_____, J.
Bell

cc: Senior Counsel, LLC
Joseph A. Scalia, II
Brandon E. Wood
Roger P. Croteau & Associates, Ltd.