

F. McClure Wallace, Esq.

Nevada Bar No.: 10264

Patrick R. Millsap, Esq.

Nevada Bar No.: 12043

Wallace & Millsap

510 W Plumb Lane., Ste. A

Reno, Nevada 89509

(775) 683-9599

mcclure@wallacemillsap.com

patrick@wallacemillsap.com

Attorneys for Tara M. Flanagan, as Personal

Representative for the Estate of Thomas J.

Harris, and as Successor Trustee of the

Thomas J. Harris Trust

Electronically Filed
Jun 15 2023 02:55 PM
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE
OF THOMAS JOSEPH HARRIS,
DECEASED,

Supreme Court Case No.
86096

District Court Case No.
2022-PB-00119

TODD ROBBEN,

Appellant,

vs.

THE ESTATE OF THOMAS JOSEPH
HARRIS, AND THOMAS J. HARRIS
TRUST,

Respondents.
_____ /

MOTION FOR EXTENSION TO FILE ANSWERING BRIEF

The Estate of Thomas J. Harris, by and through its Personal Representative, the Honorable Tara M. Flanagan (the "Estate"), and the Thomas J. Harris Trust, by and through its Successor Trustee, Ms. Flanagan, (the "Trust") jointly move this Court for an extension of time in which to file their Answering Brief pursuant to NRAP 26(b)(1)(A) and NRAP 31(3)(b)(3).¹

This Motion is based upon the following Memorandum of Points & Authorities, any exhibits attached to this Motion, any oral argument this Court wishes to entertain on the Motion, and the papers and orders on file before the Court in this Appeal.

MEMORANDUM OF POINTS & AUTHORITIES

I. RELEVANT PROCEDURAL HISTORY

On March 22, 2023 Respondents filed their Motion to Dismiss Mr. Robben's appeal. *See* Docket. Mr. Robben filed his Objection to the Respondents' Motion to Dismiss on April 27, 2023. Thereafter, on May 3, 2023 the Respondents filed their Reply in support of their Motion to Dismiss, concluding the briefing on the Motion which is now pending

¹ The Trust and Estate may be collectively referred to herein as the "Respondents."

before the Court. Thereafter, on May 26, 2023, Mr. Robben filed what is purported to be his Opening Brief. *See* Docket.

II. COMPLIANCE WITH NRAP 31(b)(3)(A)

In presenting this motion, the Respondents provide the following information in compliance with NRAP 31(b)(3)(A):

- i. The Respondents Answering Brief is due on June 26, 2023. *See* NRAP 31(a)(1)(B).
- ii. No prior extension of time has been granted regarding Respondents filing of their Answering Brief.
- iii. This is the Respondents first request for an extension of time to file their Answering Brief, as such no prior requests for extension of time have been denied.
- iv. The grounds for the Respondents request for an extension of time are presented in detail below.
- v. The Respondents request their Answering Brief be due thirty (30) days after the Court rules on the Motion to Dismiss, if the Motion to Dismiss is denied.

III. GOOD CAUSE EXISTS TO GRANT AN EXTENSION

NRAP 26(b)(1)(A) allows the Court, for good cause, to extend the time prescribed by the Rules. Appellant filed his Opening Brief on May

26, 2023 which currently necessitates Respondents to file their Answering Brief no later than Monday, June 26, 2023.

However, prior to Mr. Robben filing his Opening Brief, the Respondents filed their Motion to Dismiss Mr Robben's Appeal in its entirety because 1) Mr. Robben has never divested the District Court of jurisdiction, and 2) Mr. Robben has no standing to bring this Appeal. Because there is currently a Motion to Dismiss Mr. Robben's Appeal pending before the Court, Respondents respectively submit good cause exists to continue the time for Respondents to file their Answering Brief until 30 days after their Motion to Dismiss is decided by the Court.

If this Court grants the Respondents' Motion to Dismiss, there will be no need for Respondents to file an Answering Brief in this Appeal. Thus, to require the Respondents to prepare and file an Answering Brief prior to this Court ruling on the pending Motion to Dismiss could result in severe prejudice to the Respondents, as they would be forced to incur significant attorney's fees which may well prove unnecessary. The Respondents have already been forced to expended considerable expense in attorney's fees and costs addressing Mr. Robben's numerous Court filings in the District Court, as well as in this Court, including in Appeal No. 84948, which was brought by Mr. Robben on similar issues and

dismissed by the Court on July 8, 2022. Moreover, if the Court were to require Respondents to file their Answering Brief before their Motion to Dismiss is decided, Respondents likely have no avenue in which to recoup their attorney's fees and costs from Mr. Robben, as Mr. Robben has presented to this Court he is without resources. See Application to Proceed in Forma Pauperis attached hereto as **Exhibit 1**. Thus, it would be highly prejudicial to the Respondents to require them to expend thousands of dollars in attorney's fees preparing an Answering Brief when this appeal is currently subject to dismissal.

IV. CONCLUSION

Based on the above, Respondents submit there is good cause for the extension of time requested by this Motion. Therefore, the Respondents ask the Court extend the time in which they may file their Answering Brief until 30 days after the Court rules upon the Respondents' pending Motion to Dismiss Appeal.

DATED this 15th day of June 2023.

/s/ F. McClure Wallace

By: _____
F. McClure Wallace, Esq.
Patrick R. Millsap, Esq.
Attorneys for Tara M. Flanagan

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am an employee of *WALLACE & MILLSAP* that I am over the age of eighteen (18) years, and that I am not a party to, nor interested in this action. On this date, I caused to be served a true and correct copy of the foregoing document on all parties to this action by placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada postage paid, following the ordinary course of business practices as follows:

Todd Robben
P.O. Box 4251
Sonora, California 95370

The foregoing document was also served upon Todd Robben through the Nevada Supreme Court's e-filing system.

DATED this 15th day of June 2023.

By: /s/ Caroline Carter.

Employee of Wallace & Millsap

LIST OF EXHIBITS

Exhibit 1 - Application to Proceed in Forma Pauperis

Exhibit 1

Exhibit 1

Your Name: Todd Robben
Address: PO Box 4251
City, State, Zip Sonora, CA 95370
Telephone: 209-540-7713
Email Address: robben.tv@gmail.com
Self-Represented

RECEIVED

JUL 22 2022

Douglas County
District Court Clerk

FILED

2022 JUL 22 PM 2:42

BOBIE R. WILLIAMS
CLERK

[Signature] DEPUTY

DISTRICT COURT
DOUGLAS COUNTY, NEVADA

TODD ROBBEN

Plaintiff,

vs.

THOMAS J. HARRIS TRUST et al

Defendant.

CASE NO.: 2022-PB-00119

DEPT: II

Application to Proceed in Forma Pauperis

Pursuant to NRS 12.015, and based upon the information contained in this Application and Affidavit, I request permission from this Court to proceed without paying filing fees, or other costs and fees as provided in NRS 12.015 because I lack sufficient financial ability.

I understand that if approved, the order allowing me to proceed in forma pauperis will be valid for one year. I will be required to file a new Application to Proceed in Forma Pauperis if I need further filing fees and court costs and fees waived after one year.

EMPLOYMENT: (☒ check one)

☒ I am unemployed.

☐ I am employed. My employer is _____ and my job title is _____.

☐ I am self-employed. The name of my business is _____.

Personal Income (write "0" for any income you do not have)		
A	Monthly Wages from Employment (before taxes)	\$ 0
B	Monthly Tip Income	\$ 0
C	Monthly Unemployment Benefits	\$ 0
D	Public Benefits/Assistance received each month <input type="checkbox"/> TANF <input type="checkbox"/> SSD <input type="checkbox"/> SSI <input type="checkbox"/> food stamps <input type="checkbox"/> other: _____	\$ 0
E	Social Security	\$ 0
F	Retirement / Pension	\$ 0
G	Monthly Child Support received	\$ 0
H	Other: _____	\$ 0
TOTAL INCOME (add lines A-H)		\$ 0

Household Information		
A	How many adults (18 and up) live in the home (include yourself)?	0
B	How many children (under 18) live with you?	0
TOTAL HOUSEHOLD SIZE (add A+B)		0

Household Income		
List the names of the adults you live with and their estimated monthly earnings:		
Name:	Relationship:	\$
Name:	Relationship:	\$
Name:	Relationship:	\$

Monthly Expenses (write "0" for any expense you do not have)		
A	Rent / Mortgage	\$ 600.00
B	Utilities (electricity, gas, phone, other utilities)	\$ 0
C	Food	\$ 400.00
D	Child Care	\$
E	Medical Expenses (including health insurance)	\$
F	Transportation (insurance, gas, bus fare, etc.)	\$
G	Other: _____	\$
TOTAL EXPENSES (add lines A-G)		\$ 1000

Assets (write "n/a" and "0" for any assets you do not have)		
Asset	What It's Worth	What you Owe
Checking Account	\$ -700.00	n/a
Savings Account	\$ 0	n/a
Car (year/make/model): _____	\$ 1,000.00	\$ 0
House / Real Estate You Own (address: _____)	\$ 0	\$ 0
Other:	\$ 0	\$ 0

Declaration in Support of Request to Proceed In Forma Pauperis

Briefly explain your current financial situation and why you are unable to pay the filing fee. For example, if you are unemployed explain why, for how long, and what efforts you are making to obtain employment. If you are temporarily living with a friend or relative explain for how long and how they help you financially.

I lost my job on 07/08/2022 and have applied for unemployment and EBT (food stamps). I currently receive State of California Medical.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

07/22/2022
Date

Todd Robben
Printed Name

T.R.
Signature