

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALBERT ELLIS LINCICOME, JR. and )  
VICENTA LINCICOME, )

Appellants, )

v. )

SABLES, LLC, A NEVADA LIMITED )  
LIABILITY COMPANY, AS TRUSTEE )  
OF THE DEED OF TRUST GIVEN BY )  
VICENTA LINCICOME AND DATED )  
5/23/2007; FAY SERVICING, LLC, A )  
DELAWARE LIMITED LIABILITY )  
COMPANY AND SUBSIDIARY OF )  
FAY FINANCIAL, LLC; PROF-2013-M4 )  
LEGAL TITLE TRUST BY U.S. BANK, )  
N.A., AS LEGAL TITLE TRUSTEE; )  
BANK OF AMERICA, N.A.; )  
BRECKENRIDGE PROPERTY FUND )  
2016, A UTAH LIMITED LIABILITY )  
COMPANY; NEWREZ, LLC, D/B/A )  
SHELLPOINT MORTGAGE )  
SERVICING, LLC.; 1900 CAPITAL )  
TRUST II, BY U.S. BANK TRUST )  
NATIONAL ASSOCIATION; AND )  
MCM-2018-NPL2, )

Respondents. )

NEVADA SUPREME COURT

CASE NO.: 86324

Electronically Filed  
Apr 11 2024 10:16 AM  
Elizabeth A. Brown  
Clerk of Supreme Court

APPEAL FROM

THIRD JUDICIAL DISTRICT

COURT CASE NO.: 18-CV-01332

**MOTION FOR ORDER PERMITTING LATE FILING**

**OF APPELLANTS' REPLY TO ANSWERING BRIEF**

COME NOW, APPELLANTS ALBERT ELLIS LINCICOME and  
VICENTA LINCICOME, by and through their attorney, Michael G. Millward, Esq.,  
of Millward Law, Ltd., and hereby move this Court, pursuant to Nevada Rule of  
Appellate Procedure 26(b)(A), for an order extending time to allow consideration of

*Appellants' Reply to Answering Brief* which was submitted for filing with this Court on April 11, 2024.

This Motion is based on NRAP 26(b)(A), upon information and belief that the *Reply to Answering Brief* will be rejected or not considered by the Nevada Supreme Court for being filed untimely.

This Motion is supported by the accompanying Memorandum of Points and Authorities, Exhibits attached, and the Declaration of Counsel attached hereto.

### **POINTS AND AUTHORITIES**

Appellants timely attempted to file their *Reply to Answering Brief* ("Brief") at approximately 9:15 p.m. on April 10, 2024.<sup>1</sup>

However, because of an error with this Court's electronic filing system, counsel for Appellants was not able to submit the Brief for filing until 8:18 a.m. on April 11, 2024, which was beyond the time allowed for filing.

As established by the email attached as Exhibit 1, counsel for Appellants attempted to contact the Supreme Court Clerk's Office by email at about 9:20 p.m. to inquire if there was a problem with the electronic filing system.

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<sup>1</sup> See email sent to [efiling@nvcourts.nv.gov](mailto:efiling@nvcourts.nv.gov) attached hereto as Exhibit 1 (reflecting that the counsel attempted to contact the Court Clerk's Office at 9:20 p.m. regarding the electronic filing system).

Counsel for Appellants contacted the Supreme Court Clerk's Office on April 11, 2024 at about 8:35 a.m. and confirmed that their system had been down the previous evening and that they were working through a back log of filings.

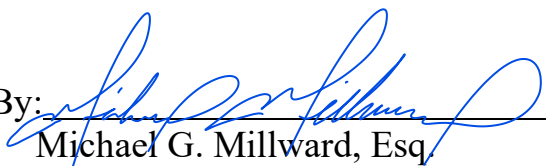
Based upon the foregoing, good cause exists to excuse Appellants' late filed *Reply to Answering Brief*.

### **CONCLUSION**

Based on the foregoing, Appellants Albert Ellis Lincicome and Vicenta Lincicome respectfully request that this Honorable Court enter an order extending the time for the filing of their *Reply to Answering Brief* to allow the late filed Brief to be considered.

Dated: April 11, 2024

MILLWARD LAW, LTD

By:   
Michael G. Millward, Esq.  
NSB# 11212  
1591 Mono Ave,  
Minden, NV 89423  
(775) 600-2776  
Attorney for Appellants

## DECLARATION OF COUNSEL

(Declaration pursuant to NRS 53.045)

STATE OF NEVADA                    )  
  )ss.  
COUNTY OF DOUGLAS            )

I, Michael G. Millward, Esq., declare under the penalty of perjury under the laws of the State of Nevada the following:

1. I am an attorney licensed to practice law in the State of Nevada. I represent Appellants Albert Ellis Lincicome and Vicenta Lincicome in connection with the appeal before the Nevada Supreme Court, Case No. 86324.

2. That I prepared Appellants' *Reply to Answering Brief* ("Brief") that was filed in Supreme Court Case No. 86324.

3. That the Brief was due to be filed on April 10, 2024.

4. That on April 10, 2024, at about 9:15 p.m., I attempted to file the Brief with the Nevada Supreme Court Clerk's Office by way of electronic filing.

5. That the system allowed me to login to the electronic filing system, however, each and every time I would click the "efile" link pertaining to this matter, the web browser would go blank for a number of minutes that then would populate with a page stating "Server Error, 502 - Web server received an invalid response while acting as a gateway or proxy server."

6. That I continued to attempt to file the Brief, until after midnight on April 11, 2024.

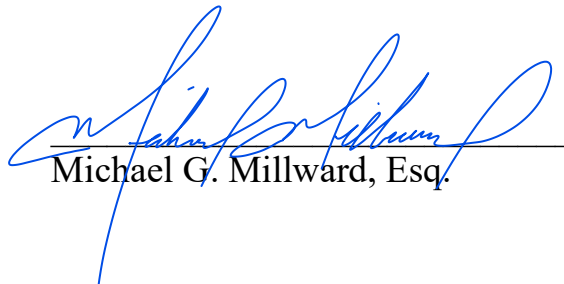
7. That at about 8:35 a.m., after filing the Brief on the morning of April 11, 2024 at 8:18 a.m. During the morning of April 11, 2024, I contacted the Nevada Supreme Court Clerk's Office to discuss my attempts to file the Brief. I was informed that it would require a motion to extend time to permit the late filing.

8. That I prepared the *Motion for Order Permitting Late Filing of Appellants' Reply to Answering Brief*.

9. That the assertions contained within the forgoing Motion are true, and based upon my own personal knowledge, except for those matters set forth herein upon information and belief stated to have been asserted by third parties, and as to those matters or statements, I believe them to be true.

Declarant further sayeth naught.

Dated this 11<sup>th</sup> day of April, 2024.



Michael G. Millward, Esq.

## **PROOF OF SERVICE**

I hereby certify that on April 11, 2024, the foregoing *Motion for Order Permitting Late Filing of Appellants' Reply to Answering Brief* shall be served via electronic service from the Court's eFlex system to:

Robert E. Werbicky, Esq.  
John T. Steffen, Esq.  
Brenoch R. Wirthlin, Esq.  
HUTCHINSON & STEFFEN, PLLC  
Peccole Professional Park  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145  
*Attorney for Breckenridge Property  
Fund 2016, LLC*

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WEDGEWOOD, LLC  
Office of the General Counsel  
2320 Potosi Street, Suite 130  
Las Vegas, NV 89146  
*Attorney for Breckenridge Property  
Fund 2016, LLC*



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Brittnie Brown

**michael@millwardlaw.com**

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**From:** michael@millwardlaw.com  
**Sent:** Wednesday, April 10, 2024 9:20 PM  
**To:** 'nvscclerk@nvcourts.nv.gov'  
**Subject:** Unable to E-File

I am attempting to file in two separate matters that I have deadlines in, and I am getting an error. Is E-file down?

Thanks.  
Best Regards,

Michael G. Millward



**Millward Law, Ltd.**

1591 Mono Ave, Minden, NV 89423  
(775) 600-2776

CONFIDENTIAL: This message is confidential and should only be reviewed by the intended recipient(s) to whom it is addressed. If you are the unintended recipient of this e-mail, please inform Millward Law, Ltd, by forwarding a copy of the e-mail to [reception@millwardlaw.com](mailto:reception@millwardlaw.com), and delete all copies from your e-mail inbox and trash on all devices. Thank you.