

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDGEWORTH FAMILY TRUST; AND
AMERICAN GRATING, LLC

Petitioners,

vs.

DANIEL S. SIMON; AND THE LAW
OFFICE OF DANIEL S. SIMON, A
PROFESSIONAL CORPORATION,

Respondents.

Supreme Court Case No. 86676
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Related Case No. 86467
Elizabeth A. Brown
Clerk of Supreme Court

(District Court A-16-738444-C)

**MOTION FOR AN EXTENSION OF TIME TO FILE AN ANSWERING
BRIEF**

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I. Introduction

Respondents, The Law Office of Daniel S. Simon, and Daniel S. Simon (hereinafter collectively “Simon”) hereby move for a 30-day continuation of the briefing schedule in which to file an answering brief in this direct appeal, with the 30-day continuation beginning on the date that the pending motions to consolidate filed in this case and in the related petition for extraordinary relief proceeding (case no. 86467) are heard.

It is respectfully submitted that the pending motions to consolidate constitute good cause for an extension of time in which to file an answering brief. If consolidation is granted, then this Court may also find that because the writ proceeding is fully briefed, that the consolidated matter is ready for decision without additional briefing in this direct appeal, which would result in a substantial savings of time and effort by the courts and the parties. This request is not an attempt to delay or prolong the appellate proceedings and will not cause undue delay.

II. Argument

On April 27, 2023, the Edgeworths filed their Petition for a Writ of Mandamus concerning the District Court's Fifth Amended Decision and Order on Motion to Adjudicate Lien, case no. 86467.

On May 24, 2023, the Edgeworths filed a Notice of Appeal of the District Court's Fifth Amended Decision and Order on Motion to Adjudicate Lien, case no. 86676.

The petition for extraordinary relief (case no. 86467) and the direct appeal (case no. 86676) both challenge the same district court order, involve the same parties, and seek similar relief from this Court. (See, e.g., The Edgeworths' Motion to Stay Briefing filed September 22, 2023, at page 2, "Because the issues on appeal will be nearly identical to those raised in the petition, Appellants ask that the Court stay briefing on the appeal until the writ petition is decided.".)

The request for extraordinary relief brought in case no. 86467 is fully briefed and is ready for decision while the Edgeworths just recently filed their opening brief in the direct appeal, case no. 86676.

On December 13, 2023, Simon filed motions in each case (86467 & 86676) to consolidate the writ proceeding with this direct appeal. Simon further requested that because the writ proceeding has been fully briefed, that this Court rule on the consolidated matter based on the briefing in the writ proceeding, without additional briefing in this direct appeal.

NRAP 26(b)(1)(A) permits this Court, for good cause, to extend time by order in which to perform any act, which includes the filing of an answering brief. Good cause exists to extend the time for filing an answering brief by Simon for 30 days after the pending motions to consolidate have been decided. Good cause exists because if this Court grants the pending motions to consolidate and finds that the matter has been fully briefed, then the Court will avoid the burden of reviewing additional briefing and the parties will avoid the time and expense of fully briefing the direct appeal, on top of the already fully briefed writ proceeding.

III. Conclusion

Simon respectfully requests a 30-day extension of time in which to file the answering brief in this direct appeal, to begin when this Court rules upon the pending motions to consolidate. Further, if this Court decides that because the writ proceeding is fully briefed and that the matter ready for

disposition, that the time, expense and burden of additional briefing in the direct appeal may be avoided.

Dated this 13th day of December 2023.

/s/ James R. Christensen

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th day of December 2023, I served a copy of the foregoing REQUEST FOR EXTENSION OF TIME TO FILE AN ANSWERING BRIEF electronically to all registered parties.

/s/ Dawn Christensen

an employee of JAMES R. CHRISTENSEN