

1
2 **IN THE COURT OF APPEALS OF THE STATE OF NEVADA**

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Electronically Filed
Mar 05 2024 03:46 PM
Elizabeth A. Brown
Clerk of Supreme Court

ROCHELLE MEZZANO,

Appellant,

No. 87863-COA

vs.

JOHN TOWNLEY,

Respondent.

_____/

**OPPOSITION TO MOTION FOR LEAVE TO EXTEND TIME TO FILE
TRANSCRIPT ESTIMATE (Third Request)**

This matter proceeded to trial on November 2, 2023. The Court announced its decision on November 3, 2023. Pursuant to NRS 3.380, the trial court's official record of the proceedings was its audio-video recording system, JAVS. On November 7, 2023, a copy of the Zoom Closed Captioning text—provided for Ms. Mezzano as an accommodation—was filed in the trial court under the title “transcript”. The decree was entered on November 28, 2023. Ms. Mezzano's counsel on appeal appeared in the trial court on December 4, 2023. The trial court filed the minutes of the trial on December 20, 2023. Those minutes, on the left side, state the date, judge, and officers of the court present. The minutes list no court reporter. Ms. Mezzano filed her notice of appeal on December 28, 2023. This Court filed a Notice of Potential Dismissal for Failure to Pay Supreme Court Filing

1 Fee on January 9, 2024. On January 31, 2024, the day her transcript request form
2 was due, Ms. Mezzano filed an Ex Parte Motion for Order Releasing Copies of
3 Transcripts to Counsel in the trial court. That same day, Ms. Mezzano filed a
4 Motion for Leave to Extend Time to File Transcript Estimate in this Court. This
5 Court granted Ms. Mezzano an extension through February 14, 2024, to file the
6 transcript request form. Ms. Mezzano then requested a second extension on
7 February 14, 2024. The Court has not granted that request. On February 27, 2024,
8 the trial court ruled on Ms. Mezzano's Ex Parte Motion. On February 28, 2024,
9 Ms. Mezzano filed a third Motion for Leave to Extend Time to File Transcript
10 Estimate.
11

12 Good cause to extend the time to act generally exists when "the time to act
13 has expired and the party seeking an extension demonstrates good faith, a
14 reasonable basis for not complying within the specified period, and an absence of
15 prejudice to the nonmoving party." *Moseley v. Eighth Judicial Dist. Court of Nev.*,
16 124 Nev. 654, 665, 188 P.3d 1136, 1144 (2008). Here, Ms. Mezzano blames the
17 trial court for her delay. Her failure to act while awaiting the trial court's decision
18 on her unnecessary ex parte motion is not good cause for the Court to continue to
19 excuse procedural errors.
20

21 This matter proceeded to trial four months ago. At that trial, Ms. Mezzano
22 was aware the Court's recording system, JAVS, would be the official record of the
23
24
25
26
27
28

1 proceeding. Her counsel appeared on December 4, 2024. In the four months since
2 trial and the three months since her counsel appeared, Ms. Mezzano did not obtain
3 a copy of the JAVS recordings of any proceeding. Had Ms. Mezzano considered
4 the minutes of the proceedings and reviewed the recordings, she could have
5 determined which proceedings she wished to have transcribed and filed a transcript
6 request form seeking transcription of each proceeding. Ms. Mezzano could have
7 included a transcript of the trial proceedings in her request. Had the trial court
8 already transcribed the trial recording pursuant to NRS 3.380, Ms. Mezzano would
9 have learned a new transcription was unnecessary.

13 Instead, Ms. Mezzano delayed, and delayed, and delayed, and now, well past
14 the Court's February 14, 2024, deadline, asks the Court to permit her further delays
15 because she waited four months to order copies of the JAVS recordings to
16 determine which proceedings she wishes transcribed. Ms. Mezzano's choice not to
17 promptly order the JAVS recordings and review the minutes was not reasonable
18 and is not good cause to extend the time to file a transcript request form under
19 NRAP 9.

23 Therefore, Mr. Townley requests the Court deny Ms. Mezzano's Motion and
24 impose all appropriate sanctions on Ms. Mezzano. Mr. Townley submits the Court
25 should substantially sanction Ms. Mezzano to deter her—and other litigant's—
26 violations of the Court's rules.

1 Under NRS 239B.030 the undersigned affirms the preceding contains no
2 social security number.

3 Dated this 5 day of March 2024.
4
5

6 
7 ALEXANDER MOREY
8 SILVERMAN KATTELMAN SPRINGGATE,
9 CHTD.

10 Nevada State Bar No. 11216
11 500 Damonte Ranch Pkwy. #675
12 Reno, NV 89521
13 (775) 322-3223
14 Attorney for Respondent
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Pursuant to NRCP 5 (b), I hereby certify that I am an employee of Silverman, Kattelman Springgate, Chtd, and on the date set forth below, I served a true copy of the foregoing **Opposition to Motion for Leave to Extend Time to File Transcript Estimate (Third Request)** the party(ies) identified below by:

9 — Placing an original or true copy thereof in a sealed envelope, postage
10 prepaid for collection and mailing in the United States Mail at Reno,
11 Nevada to

13 X Electronically, using Supreme Court's Eflex system.

14 _____ Email: _____

16 addressed to:

17 F. Peter James, Esq.
18 Law Offices of F. Peter James, Esq.
19 3821 West Charleston Blvd., Ste. 250
Las Vegas, NV 89102

Under NRS 239B.030 the undersigned affirms the preceding contains no social security number.

24 Dated this 5 day of March 2024.

24 Dated this 5 day of April 2024.
25
26
27