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Attorneys for Doreen and James King

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Case No. DA-22-0284

IN RE THE ESTATE OF ELDA MARBLE,

JERRY MARBLE, Personal Representative
for the Estate of Elda Marble,

Plaintiff/Appellee,

v.

DOREEN KING and JAMES D. KING,
a/k/a JIM KING,

Defendants/Appellant.

**APPELLANT'S MOTION FOR EXTENSION OF TIME
TO FILE OPENING BRIEF**

Appellants James King and Doreen King, through counsel, move the Court for an extension to file their initial brief in this matter. Counsel for the opposing party has been contacted and opposing counsel objects to this motion.

Appellants move the Court to set a deadline of September 2, 2022 for Appellant to file their initial brief in this matter. Despite Appellee's counsel's objection, Appellants have good cause for the extension. Counsel for the Appellants have attached hereto an affidavit showing diligence and substantial need.

1. Appellants have filed a Mont. R. Civ. P. 60(b) motion with the district court and the district court retains jurisdiction over said motion. Appellants filed their Mont. R. Civ. P. 60(b) motion with the district court on May 4, 2022. In the event the district court denies said motion, Appellants intent to amend their appeal to include the district court's denial of Appellants' Mont. R. Civ. P. 60(b) motion. At present, Appellants' initial brief in this matter is due July 7, 2022. It would be more efficient for all parties and this Court if briefing on all appealed matters is set for a single time.

2. This matter is subject to mandatory mediation pursuant to the Montana Rules of Appellate Procedure. Appellants and Appellees have not had an opportunity to set a mediation date for this matter. The parties should mediate this

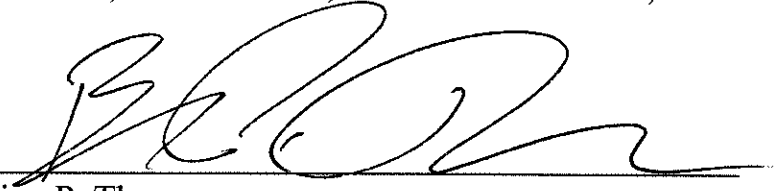
matter prior to expending judicial resources and attorney's fees on the briefing of this matter.

3. Co-Counsel for the Appellants, Mike Rausch, has been out of the country on vacation since June 20, 2022, and is expected to return July 9, 2022. For this reason, counsel for the Appellants have not been able to collectively work on this issue.

For the reasons set forth herein, Appellants request their initial brief be due on or before September 2, 2022.

Dated this 30th day of June, 2022.

BROWNING, KALECZYC, BERRY & HOVEN, P.C.

By 
Brian P. Thompson

Attorneys for Doreen and James King

**AFFIDAVIT OF
BRIAN P. THOMPSON**

STATE OF MONTANA)
 : ss.
County of Lewis and Clark)

The undersigned, under oath, does hereby swear or affirm:

1. I am an attorney of record for the Appellants, James King and Doreen King, in DA-22-0284.

2. This affidavit is prepared pursuant to Mont. R. App. P. 26 seeking an extension beyond 30 days as provided in Rule 26(2).

3. In support of this motion, Appellant provides the following information:

4. Appellants original brief is due July 7, 2022.

5. Neither Appellants, nor any other party, has sought or received any prior extension.

6. Appellants seek an extension from their original opening brief due date of July 7, 2022, to September 2, 2022.

7. The extension is necessary to give Appellants' counsel enough time to adequately brief the appealed issues. Further, Appellants' counsel points out that the district court in this matter retains jurisdiction over Appellants' Mont. R. Civ. P. 60(b) motion to set aside the judgment. If Appellants' outstanding 60(b) motion is denied by the district court, Appellants plan on amending their notice of appeal to include that issue. Allowing Appellants until September 2, 2022, to file Appellants' initial brief would mean there is one set of deadlines where all appealed issues can be briefed. Further, co-counsel for the Appellants, Mike Rausch, is out on a scheduled vacation beginning June 20, 2022, and returning July 9, 2022.

8. Counsel for the Appellants has acted diligently on this matter. Appellants counsel filed a Mont. R. Civ. P. 60(b) motion for relief from judgment

within 28 days of the district court entering judgment in favor of the Appellees. Undersigned counsel for the Appellants has also communicated with opposing counsel in an effort to gain stipulation and agreement regarding this sought-after extension.

9. Undersigned counsel for the Appellants certifies that Appellants' opening brief will be filed on or before September 2, 2022.

Further Affiant Sayeth Not.

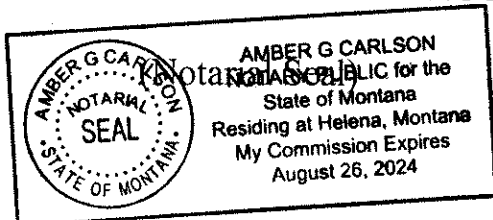
DATED this 30th day of June, 2022.

By


Brian P. Thompson

Subscribed and sworn to me this 30th day of June, 2022.


NOTARY PUBLIC FOR THE STATE OF MONTANA



CERTIFICATE OF SERVICE

I, Brian P. Thompson, hereby certify that I have served true and accurate copies of the foregoing Motion - Opposed to the following on 06-30-2022:

Colleen M. Dowdall (Attorney)
120 West Broadway Suite B
Missoula MT 59802
Representing: Estate of Elda Marble, Jerry Marble
Service Method: eService

Electronically signed by Amber G Carlson on behalf of Brian P. Thompson
Dated: 06-30-2022