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**IN THE SUPREME COURT OF THE STATE OF MONTANA
CASE NO. DA 22-0498**

GREENER MONTANA PROPERTY MANAGEMENT, LLC,
TRAVIS MARTINEZ, Individually, and
KRISTYN MARTINEZ, Individually,

Plaintiffs & Appellants,

v.

HYDI CUNNINGHAM,

Defendant & Appellee.

On Appeal from the Montana Twenty-First Judicial District
Ravalli County Cause No. DV-22-187
Hon. Judge Howard F. Recht

**APPELLEE'S RESPONSE TO APPELLANT'S SECOND MOTION FOR EXTENSION
OF TIME TO FILE TRANSCRIPTS**

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Appellees Greener Montana Property Management, LLC, Travis Martinez, individually, and Kristyn Martinez, individually (hereinafter collectively “GMP”), hereby submits its response to Appellant Hydi Cunningham’s Second Motion For Extension of Time To File Transcripts.

ARGUMENT

Hydi seeks a second extension of time to file transcripts under Rule(4), M.R.App.P. Hydi received one extension in this regard from the District Court. (Dkt. 39.00). The District Court transmitted the record to the Montana Supreme Court on September 9, 2022. (Dkt. 36.00). This Court received the record on September 12, 2022, and issued a notice, per Rule 9(8), M.R.App.P., advising of receipt of the record and setting the due date for Hydi’s opening brief as “30 days from September 12, 2022.”

Generally, transcripts are due with the 40 days provided for transmission of the record on appeal. Rule 8(8), M. R. App. P. There is a presumption against granting additional time to transmit the record under Rule 9(4), M.R.App.P., and the Court should not grant additional time. Here, Hydi did not file her opening brief by the Rule 13(3), M.R.App.P. briefing deadline, nor did she timely request an extension of time to do so. GMP has separately filed a Motion to Dismiss and cited to applicable supporting case law. In response to that motion, Hydi has relied on an (apparently as of now) unpublished opinion decided earlier this year by this

Court, namely *Wells Fargo Bank N.A., v. Zinvest, LLC*, 22 LEXIS Mont. 139.

GMP notes that the *Wells Fargo Bank N.A., v. Zinvest* is distinguishable, since the parties in that matter were waiting on an Order from the District Court on a motion for attorney fees filed by Defendant and Appellee Zinvest, LLC such that the District Court record was not complete. That is not an issue in this matter, since the District Court record is complete and this Court certified receipt of said record on September 12, 2022.

Accordingly, per Rule 9(4), M.R.App.P. and per GMP's Motion to Dismiss, Hydi's Motion should be denied.

Respectfully submitted this 2nd day of December, 2022.

/s/ Katherine C. Holliday
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CERTIFICATE OF COMPLIANCE

I, Katherine C. Holliday hereby certify that this brief is proportionally spaced and, exclusive of headings or certificates of service, consists of 564 words.

/s/ Katherine C. Holliday
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CERTIFICATE OF SERVICE

I, Katherine Carmody Holliday, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Response to Motion to the following on 12-02-2022:

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Dated: 12-02-2022