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IN THE SUPREME COURT OF THE STATE OF MONTANA

<p>MOORE FAMILY COMPANY and MOORE REVOCABLE LIVING TRUST DATED NOVEMBER 14, 2019,</p> <p style="text-align: center;">Plaintiff and Appellants,</p> <p>v.</p> <p>TIMOTHY C. KELLY and MARTHA EVERT KELLY as TRUSTEE of the TIMOTHY C. KELLY AND MARTHA EVERT KELLY REVOCABLE TRUST, U/A/D/ DECEMBER 8, 2008,</p> <p style="text-align: center;">Defendants, Appellees and Cross- Appellants.</p>	<p>Supreme Court No. DA 24-0016</p> <p style="text-align: center;">FOURTH UNOPPOSED MOTION TO HOLD APPEAL IN ABEYANCE</p>
<p>TIMOTHY C. KELLY and MARTHA EVERT KELLY as TRUSTEE of the TIMOTHY C. KELLY AND MARTHA EVERT KELLY REVOCABLE TRUST, U/A/D/ DECEMBER 8, 2008,</p> <p style="text-align: center;">Counter Claimants,</p> <p>v.</p> <p>MOORE FAMILY COMPANY and ROBERT B. MOORE and ELIZABETH J. MOORE as TRUSTEES of the MOORE REVOCABLE LIVING TRUST DATED NOVEMBER 14, 2019,</p> <p style="text-align: center;">Counter-Defendants.</p>	

COME NOW Plaintiffs/Appellants, Moore Family Company, Moore Revocable Living Trust Dated November 14, 2019, Robert B. Moore, and Elizabeth J. Moore (collectively, the “Moores”), by and through undersigned counsel, and hereby move the Court to hold this appeal in abeyance for an additional 30 days to enable the parties to finalize the anticipated settlement. Montana Rule of Appellate Procedure 7 outlines the requirements for appellate mediation and provides, in part:

(7) Completion of mediation process.

(a) Immediately upon the conclusion of the mediation conference, the mediator shall file a mediator's report substantially complying with Form 8 in the Appendix of Forms with the clerk of the supreme court, and serve copies on the parties.

(b) If the mediator files a report, with proper notice to the parties, indicating that the matter has been settled, the court will dismiss the appeal 30 days later absent a motion to keep the cause number open.

Mont. R. App. P. 7(7).

Here, the parties conducted a Rule 7 mediation on April 2, 2024, which resulted in the parties executing a memorandum of understanding. A mediator’s report noting this was filed by C.J. Johnson on April 2, 2024. The parties then moved and were granted two 30-day extensions to hold the appeal in abeyance until July 31, 2024 while they worked towards finalizing the settlement agreement.

As previously noted, finalizing settlement documents has been more laborious than is typically the case as the settlement involves property and

easement rights, the minute details of which have complicated the settlement. On July 24, 2024, just as the parties were in the final stages of finalizing the settlement language, Missoula experienced a severe storm resulting in nearly all of the Missoula valley losing power, including both of the Moores' counsel of record. This delayed the parties' attention and halted the finalization process for several critical days.

The parties have resumed the process and remain close to reaching a full resolution and executing the necessary agreements, but unfortunately require more time to complete this process. Therefore, Plaintiffs/Appellants respectfully request the Court hold the appeal in abeyance for an additional 30 days, until August 30, 2024. We anticipate that on or before that date, the parties will file dismissal paperwork. If a settlement is not ultimately finalized, the parties anticipate stipulating a new briefing schedule and will seek the Court's approval of the same by August 30, 2024.

Opposing counsel has been contacted and does not oppose this motion.

DATED this 31st day of July, 2024.

MILODRAGOVICH, DALE
& STEINBRENNER, P.C.

By: _____



Liesel Shoquist
Alyssa L. Campbell

CERTIFICATE OF SERVICE

I, Alyssa Lanae Campbell, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 07-31-2024:

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Service Method: eService

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Revocable Living Trust Dated December 8, 2008

Service Method: eService

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Representing: Timothy C. Kelly, Martha Evert Kelly, Timothy C. Kelly and Martha Evert Kelly
Revocable Living Trust Dated December 8, 2008

Service Method: eService

Electronically signed by Kylie Burtsfield on behalf of Alyssa Lanae Campbell

Dated: 07-31-2024