

ORIGINAL

No. H030169

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

FILED

EAGLE BROADBAND, INC.,
Plaintiff and Respondent,

NOV 21 2006

Court of Appeal - Sixth App. Dist.

v.

By _____
DEPUTY

RICHARD WILLIAMS, a/k/a Doe 4.,
Defendant and Appellant.

Appeal from Order of the Santa Clara Superior Court
Case No. 105CV050179
The Honorable William J. Elfving

**APPLICATION FOR EXTENSION OF TIME TO FILE
APPELLANT'S REPLY BRIEF; DECLARATION OF MARK
GOLDOWITZ**

RECORD FILING 9/29/06
APP'S OPENING BRIEF 9/27/06
RESP'S BRIEF 10/24/06
PRIOR EXTENSIONS None

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Counsel for Defendant and Appellant
RICHARD WILLIAMS, a/k/a Doe 4

**APPLICATION FOR EXTENSION OF TIME TO FILE
APPELLANT'S REPLY BRIEF**

TO THE PRESIDING JUSTICE OF THE COURT OF APPEAL,
SIXTH APPELLATE DISTRICT:

Pursuant to Rules 45(b) and 45.5 of the California Rules of Court, defendant and appellant Richard Williams, a/k/a Doe 4 ("Appellant") hereby applies for a 15 day extension of time within which to file his reply brief in the above-captioned appeal from the current due date of November 27, 2006, to and through Tuesday, December 12, 2006.

Rules 45(b) and 45.5 permit the Court of Appeal, for good cause shown, to grant such an extension of time to file a reply brief. Good cause exists to grant this application, in that, as set forth in more detail in the accompanying declaration of Mark Goldowitz:

This is an appeal of the Superior Court's denial of Appellant's special motion to strike the complaint as a meritless SLAPP pursuant to C.C.P. section 425.16. The record for this appeal is approximately 636 pages in length.

Appellant's counsel has had deadlines and time-limited commitments in other cases, including briefs in two different Superior Courts.

All of the above preclude Appellant's counsel from filing

Appellant's Reply Brief by the current deadline of November 27, 2006,
without impairing its quality.

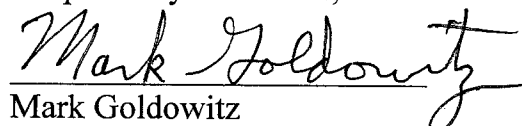
Appellant supports this application for extension of time.

Respondents have not stipulated to an extension of time for Appellant to
file his Reply Brief. Respondent will not be prejudiced by an extension of
time within which Appellant must file his Reply Brief. Respondent Eagle
just sought and received an extension of time for filing its Reply Brief in its
appeal of the granting of Thomas Mould's anti-SLAAP motion in this case.

Appellant therefore respectfully requests an extension of 15 days
within which Appellant must file his Reply Brief, to and through December
12, 2006, a Tuesday.

Dated: November 20, 2006

Respectfully submitted,


Mark Goldowitz
Counsel for Appellant

By the Court
So ordered
RUSHING
Presiding Justice

DECLARATION OF MARK GOLDOWITZ

I, Mark Goldowitz, declare as follows:

1. I am an attorney at law duly licensed to practice before all California courts and am counsel of record for defendant/appellant Richard Williams, a/k/a Doe 4 ("Appellant") in this matter. I have primary responsibility for Appellant's Reply Brief.
2. Appellant filed his notice of appeal of the denial of his special motion to strike on March 6, 2006.
3. The record in this appeal was filed on September 5, 2006, and is approximately 636 pages in length. I have executed a Joint Stipulation to correct the Joint Appendix adding documents, which was to be filed by Respondent on or about November 20, 2006.
4. Appellant filed his Opening Brief on September 21, 2006. Respondent filed its Respondent's Brief on November 7, 2006.
5. There have been no extensions of time requested with regard to this brief.
6. Deadlines and time-limited commitments in other cases and other matters, preclude me from filing Appellant's Reply Brief by November 27, 2006, without impairing its quality, and so that it fully advances Appellant's interests in this appeal in an accurate, clear, concise,

and complete manner. Those deadlines include:

a. I had to prepare a brief in support of a motion which was filed on November 13, 2006;

b. I was to prepare a reply brief and several supporting declarations which were due to be filed on November 15, 2006;

These proceedings involve two different cases in different Superior Courts.

7. My support staff of two was off for the court holiday on November 10, 2006. Additionally, due to the Thanksgiving Holiday, my support staff will not be available for most of the week of November 20-27, 2006. One starts a vacation on November 22, 2006 (through November 27, 2006), and the other will be unavailable from November 23 through November 26, 2006;

8. This case has not been granted priority on appeal.

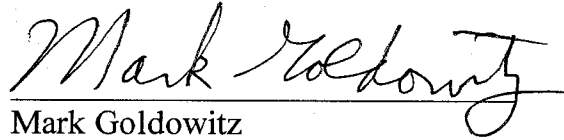
9. My office has complied with Rule 45(g) by advising our client of this request for an extension of time and delivering a copy of this application to our client. The client supports this request.

10. I am informed and believe that in the morning of November 20, 2006, Paul Clifford of this office attempted to contact Respondent's attorney, Jeffrey Ratinoff, and left a message for him about our situation, requesting that Respondent stipulate to an extension of time within which

Appellant must file his Reply Brief, and that Mr. Clifford placed another call to Mr. Ratinoff late in the day on November 20, 2006, and his call was again transferred to Mr. Ratinoff's voicemail, and that we have received no response to our request.

11. I was counsel of record in this case in the trial court.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct in this declaration was executed on November 20, 2006, at Berkeley, California.


Mark Goldowitz

PROOF OF SERVICE

The undersigned hereby states under the penalty of perjury under the laws of the State of California:

I am employed in Alameda County; I am over the age of eighteen and not a party to the within cause; and my business address is 2903 Sacramento Street, Berkeley, California, 94702-5209.

On this day, I addressed an envelope to:

Karineh Khachatourian
Jeffrey M. Ratinoff
GORDON & REES LLP
Embarcadero Center West
275 Battery Street, Suite 2000
San Francisco, CA 94111

and I placed in said envelope a copy of the following document:

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APPELLANT'S REPLY BRIEF; DECLARATION OF MARK
GOLDOWITZ**

and I deposited said envelope in the U.S. Mail, postage fully prepaid, all on this day.

Dated: November 20, 2006


Allison Moreno