

No. H030169

ORIGINAL

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

EAGLE BROADBAND, INC.,
Plaintiff and Respondent,

v.

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

Court of Appeal - Sixth App. Dist.

FILED

DEC 01 2006

MICHAEL J. YERLY, Clerk

DEPUTY

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

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

6/29/06
9/15/06
11/17/06
11/22/06
RECORDS PLING
ATTY'S OPENING OF BIF
RESP'S BREF
MOTOR EXTENSIONS

Mark Goldowitz, # 96418
Paul Clifford, # 119015
CALIFORNIA ANTI-SLAPP PROJECT
2903 Sacramento Street
Berkeley, CA 94702
Phone: (510) 486-9123 x 301
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Counsel for Defendant and Appellant
RICHARD WILLIAMS, a/k/a Doe 4

By the Court
So ordered
RUSHING

Presiding Justice

[Handwritten signature]

**APPLICATION FOR ADDITIONAL 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 seven-day extension of time within which to file his Reply Brief in the above-captioned appeal, from the current due date of December 12, 2006, to and through December 19, 2006, a Tuesday. The Court previously granted Williams a 15-day extension of time within which to file this Brief.

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, as set forth in more detail in the accompanying declaration of Mark Goldowitz. Appellant's counsel has had deadlines and time-limited commitments in other cases and matters that preclude Appellant's counsel from filing Appellant's Reply Brief by the current deadline of December 12, 2006, without impairing its quality.

Appellant supports this application for extension of time. Respondent has not stipulated to an extension of time for Appellant to file his Reply Brief and did not stipulate to Appellant's previous request.

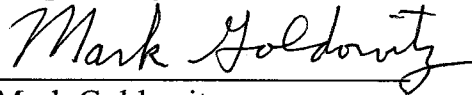
Respondent will not be prejudiced by such an extension of time.

Respondent recently sought and received an extension of time for filing its Reply Brief in its appeal of the granting of Thomas Mould's anti-SLAPP motion in this case.

Appellant therefore respectfully requests an extension of seven days within which Appellant must file his Reply Brief, to and through December 19, 2006, a Tuesday.

Dated: December 11, 2006

Respectfully submitted,



Mark Goldowitz

Counsel for Appellant

Richard Williams, a/k/a Doe 4

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 personal knowledge of the facts set forth herein, unless otherwise noted.

2. I have primary responsibility for Appellant’s Reply Brief.

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

3. Appellant filed his notice of appeal of the denial of his special motion to strike on March 6, 2006. The record in this appeal was filed on September 5, 2006, and is approximately 636 pages in length. On December 1, 2006, the Court ordered that the Joint Appendix in this case be corrected pursuant to a Joint Stipulation by the parties, which was filed by Respondent on or about November 22, 2006.

4. Appellant filed his Opening Brief on September 21, 2006.

Respondent filed its Respondent’s Brief on November 7, 2006.

5. Appellant has requested and received one extension of time of 15 days with regard to his Reply Brief.

6. Deadlines and time-limited commitments in other cases and matters preclude me from filing Appellant’s Reply Brief by December 12,

2006, without impairing its quality, so that it fully advances Appellant's interests in this appeal in an accurate, clear, concise, and complete manner. The primary competing deadline involved preparation and filing of a reply memorandum and two extensive supporting declarations by December 8, 2006. Now that that deadline is past, I anticipate that with seven additional days, I will be able to prepare the Reply Brief without impairing its quality.

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

8. 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.

9. On the morning of December 11, 2006, my office e-mailed Respondent's attorneys, Karineh Khachatourian and Jeffrey Ratinoff, and inquired whether Respondent would agree to a seven-day extension of time within which Appellant must file his Reply Brief. We received an automated e-mail from Ms. Khachatourian indicating that she would be out of the office on December 11, 2006. I am informed and believe that Mr. Clifford from my office also telephoned Mr. Ratinoff and left a message for him, and that Mr. Ratinoff has not responded to Mr. Clifford's e-mail or telephone message.

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 December 11, 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, CA 94702.

On this day, I caused envelope to be addressed to:

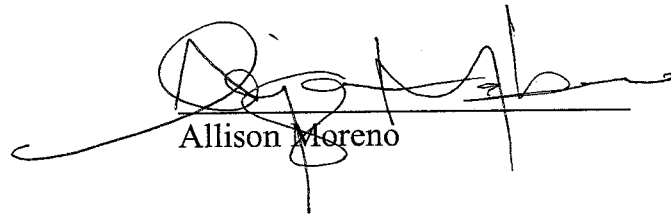
Karineh Khachatourian
Jeffrey Ratinoff
Gordon & Rees
275 Battery Street, Suite 2000
San Francisco, CA 94111

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

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

and I deposited said envelope, postage prepaid fully thereon, in a U.S. mail depository, in Berkeley, California; all on this day.

Date: December 11, 2006


Allison Moreno