

ORIGINAL

No. H030719

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

EAGLE BROADBAND, INC.,
Plaintiff and Appellant,

v.

THOMAS MOULD, a/k/a Doe 5,
Defendant and Respondent.

Court of Appeal - Sixth App. Dist.

FILED

FEB 16 2007

MICHAEL J. YERLY, Clerk

By _____
DEPUTY

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

**APPLICATION FOR EXTENSION OF TIME TO FILE
RESPONDENT'S BRIEF; DECLARATION OF PAUL CLIFFORD**

Mark Goldowitz, # 96418
Paul Clifford, # 119015
CALIFORNIA ANTI-SLAPP PROJECT
2903 Sacramento Street
Berkeley, CA 94702
Phone: (510) 486-9123 x 301
Fax: (510) 486-9708

Counsel for Defendant and Respondent
THOMAS MOULD, a/k/a Doe 5

**APPLICATION FOR EXTENSION OF TIME TO FILE
RESPONDENT'S BRIEF**

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

Pursuant to Rule 8.212 of the California Rules of Court, defendant and respondent Thomas Mould, a/k/a Doe 5 ("Respondent") hereby applies for a 30-day extension of time within which to file his Respondent's Brief in the above-captioned appeal from the current due date of February 20, 2007, to and through Thursday, March 22, 2007.

Rule 8.212(b) permits the Court of Appeal, for good cause shown and in the event that it would be futile to seek an extension by stipulation, to grant such an extension of time to file. Good cause exists to grant this application, in that, as set forth in more detail in the accompanying declaration of Paul Clifford:

This is an appeal of the Superior Court's granting of Respondent's motion for attorneys fees and costs pursuant to C.C.P. section 425.16(c). The record in this appeal is approximately 836 pages in length.

Respondent's counsel has had deadlines and time-limited commitments in other cases, including an opposition to Appellant's application for an order to file documents under seal in this appeal, two ex parte applications by Respondent in the trial court in this matter, an ex parte

application in another Superior Court case, an Opposition to Third Party Claim and related documents in the trial court in this matter, and a reply brief and declaration in the trial court in this matter.

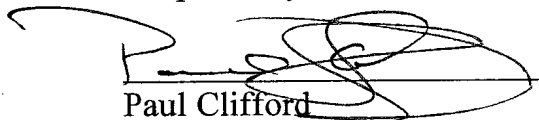
All of the above preclude Respondent's counsel from filing Respondent's Brief by the current deadline of February 20, 2007, without impairing its quality.

Respondent supports this application for extension of time. Appellant will not be prejudiced by an extension of time within which Respondent must file his Respondent's Brief.

Respondent therefore respectfully requests an extension of 30 days within which Respondent must file his Respondent's Brief, to and through March 22, 2007, a Thursday.

Dated: February 15, 2007

Respectfully submitted,


Paul Clifford
Counsel for Respondent

By the Court
So ordered
RUSHING
Presiding Justice

DECLARATION OF PAUL CLIFFORD

I, Paul Clifford, declare as follows:

1. I am an attorney at law duly licensed to practice before all California courts and am a counsel of record for defendant/Respondent Thomas Mould, a/k/a Doe 5 (“Respondent”) in this matter. I have a major responsibility for preparing the Respondent’s Brief in this matter. I was a counsel of record in this case in the trial court.
2. Appellant filed its notice of appeal of the granting of Respondent’s motion for attorneys fees and costs pursuant to C.C.P. section 425.16(c) on or about October 13, 2006.
3. Appellant filed its Appellant’s Appendix in this appeal on January 18, 2007, which is approximately 836 pages in length. Respondent anticipates filing a Respondent’s Appendix to supplement the record with documents from the trial court which were not included by Appellant in its Appendix.
4. Appellant filed its Opening Brief on January 18, 2007.
5. There have been no extensions of time requested with regard to Respondent’s Brief.
6. Deadlines and time-limited commitments in other cases and other matters preclude Mould from filing his Respondent’s Brief by the

current deadline of February 20, 2007, without impairing its quality, and so that it fully advances Respondent's interests in this appeal in an accurate, clear, concise, and complete manner. Those other matters and deadlines include:

- a. Our office had to prepare and file a major and complicated motion in the trial court in this case, which was filed on January 29, 2007;
- b. I had to prepare an opposition to Appellant's application for an order to file documents under seal in this appeal, which opposition was filed on February 2, 2007;
- c. I had to prepare and appear for two ex parte applications by Respondent in the trial court in this matter on February 6, 2007;
- d. Our office had to prepare and appear for an ex parte application in another Superior Court case on February 9, 2007;
- e. Our office had to prepare an Opposition to Third Party Claim and related documents in the trial court in this matter, which were filed on February 9, 2007;
- f. Our office had to prepare and file a reply brief and declaration in the trial court in this matter, which were filed on February 14,

2007.


7. My office is a two-attorney firm.

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

9. My office has complied with Rule of Court 8.60(f) and Local Rule 7 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. Appellant's attorneys have failed to cooperate with Respondent's attorneys with regard to extensions of time such as that requested by this application in the past, and it would be futile to seek their stipulation to an extension of time within which to file Respondent's Brief.

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 February 15, 2007, at Berkeley, California.


Paul Clifford

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 an envelope to be addressed to:

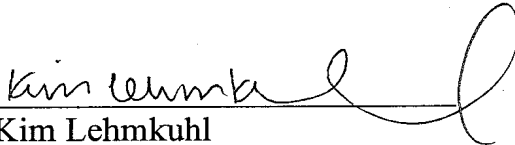
Karineh Khachatorian
Jeffrey Ratinoff
Buchanan Ingersoll & Rooney LLP
333 Twin Dolphin Drive, Suite 700
Redwood Shores, CA 94065-1418
[Attorneys for Plaintiff and Appellant Eagle Broadband, Inc.]

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

**APPLICATION FOR EXTENSION OF TIME TO FILE
RESPONDENT'S BRIEF; DECLARATION OF PAUL CLIFFORD**

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

Date: February 15, 2007


Kim Lehmkuhl