

**NO. 17-1593**

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**UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT**

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**SEXUAL MINORITIES UGANDA**

**Plaintiff-Appellee,**

**v.**

**SCOTT LIVELY, individually and as President of Abiding Truth Ministries,**

**Defendant-Appellant.**

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**APPELLANT SCOTT LIVELY'S UNOPPOSED MOTION  
FOR EXTENSION OF TIME TO FILE OPENING BRIEF  
*NUNC PRO TUNC***

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Mathew D. Staver  
Horatio G. Mihet  
Roger K. Gannam  
Daniel J. Schmid  
Mary E. McAlister  
LIBERTY COUNSEL  
P.O. Box 540774  
Orlando, FL 32854  
Phone: (407) 875-1776  
Facsimile: (407) 875-0770  
Email: court@LC.org

Pursuant to Fed R. App. P. 26(b), and with the consent of all parties, Defendant-Appellant Scott Lively (“Lively”), by and through the undersigned counsel, moves this Court for a 24-minute extension of time, *nunc pro tunc*, for Lively to file his Opening Brief. In support, Lively shows unto the Court as follows:

1. Lively’s Opening Brief was due to be filed by midnight on October 2, 2017.

2. As shown to the Court in Lively’s Second Unopposed Motion for Extension of Briefing Deadline (Doc. 00117198091, Entry ID: 6118018, the “Second Motion”), the effects of Hurricane Irma, which were entirely beyond the control of Lively’s counsel, and previously scheduled international travel of both of Lively’s primary counsel, combined to necessitate the prior extension to October 2. (Second Mot., ¶¶ 2-4.) That travel concluded for both of Lively’s counsel shortly before the October 2 deadline (and in the case of one, the night before), but Lively’s counsel had been working diligently on the brief to be in a position to file it by the midnight deadline. Unforeseen technical issues in processing the pdf documents and electronically filing them on the Court’s system, however, delayed the filing until 12:23:50 AM EDT on October 3.

3. Accordingly, Lively respectfully requests that the filing deadline for his opening brief be extended by 24 minutes, *nunc pro tunc*, so that his already-filed brief may be deemed timely.

4. This request is submitted in good faith, and not for purposes of undue delay. No party will be prejudiced by the relief requested herein.

5. Prior to filing this motion, counsel for Lively conferred with counsel for Plaintiff-Appellee, who indicated that Plaintiff-Appellee consents to the relief requested. Lively's motion is therefore unopposed.

WHEREFORE, for good cause shown, Lively respectfully requests that this Court grant his request for a 24-minute extension of time, *nunc pro tunc*, to October 3, 2017, at 12:24 AM EDT, to file his opening brief.

Respectfully submitted,

/s/ Horatio G. Mihet

Mathew D. Staver

Horatio G. Mihet

Roger K. Gannam

Daniel J. Schmid

Mary E. McAlister

LIBERTY COUNSEL

P.O. Box 540774

Orlando, FL 32854

Phone: (407) 875-1776

Facsimile: (407) 875-0770

Email: dschmid@LC.org

*Attorneys for Defendant-Appellant,  
Scott Lively*

**CERTIFICATE OF SERVICE**

I hereby certify that on this October 3, 2017, I caused the foregoing to be electronically filed with this Court. Service will be effectuated on all counsel of record via this Court's ECF/electronic notification system.

/s/ Horatio G. Mihet  
Horatio G. Mihet  
*Attorney for Defendant-Appellant*