

Case No. 19-1413
UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

303 CREATIVE LLC and LORIE SMITH,
Plaintiffs-Appellants,

v.

AUBREY ELENIS, et al.,
Defendants-Appellees,

On appeal from the United States District Court
for the District of Colorado
The Honorable Chief Judge Marcia S. Krieger
Case No. 1:16-cv-02372-MSK

**PLAINTIFFS-APPELLANTS' UNOPPOSED MOTION FOR
EXTENSION OF TIME TO FILE OPENING BRIEF**

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Attorneys for Plaintiffs-Appellants 303 Creative LLC and Lorie Smith

1. Appellants 303 Creative LLC and Lorie Smith respectfully request a 30-day extension of time to file their opening brief. This is Appellants' first request for an extension. This motion is unopposed.

2. Appellants' opening brief is currently due on December 23, 2019. A 30-day extension would make this opening brief due on January 22, 2020.

3. This extension is justified because Appellants' counsel has numerous filing deadlines at the United States Supreme Court in December and January. These include the following, all of which were set before the appellate briefing deadlines in this case.

a. Appellants' counsel represents Petitioner Thomas More Law Center in its petition for writ of certiorari to the United States Supreme Court. *Thomas More Law Center v. Becerra*, No. 19-255. The reply brief in support of that petition is due to the Supreme Court on December 9, 2019.

b. Appellant's counsel represents Barronelle Stutzman and Arlene's Flowers in their petition for writ of certiorari to the United States Supreme Court. *Arlene's*

Flowers Inc. v. Washington, No. 19-333. The reply brief in support of that petition is due to the Supreme Court on December 19, 2019.

c. Appellants' counsel represents two additional clients who will be filing petitions for writs of certiorari to the United States Supreme Court in January 2020.

d. Appellants' counsel will be filing an amicus brief in support of Mark Elster's and Sarah Pynchon's petition for certiorari before the United States Supreme Court.

Elster v. City of Seattle, No. 19-608. That amicus brief is due to the Supreme Court on December 9, 2019.

e. Appellants' counsel will also be filing an amicus brief in support of June Medical which was granted certiorari before the United States Supreme Court. *June Medical Services L.L.C. v. Gee*, No. 18-1323. That amicus brief is due to the Supreme Court on January 2, 2020.

4. Appellants' counsel also have many other litigation deadlines in December and January. For example, Appellants' counsel represents Steve Tennes and Country Mill Farms in *Country Mill Farms v. East*

Lansing, No. 1:17-cv-00487-PLM-RSK (W.D. Mich.), which is currently set for a bench trial on January 27, 2020, with numerous trial related deadlines and preparation throughout December and January. Appellants' Counsel John Bursch is lead counsel in *TCF National Bank v. Dep't of Treasury*, No. 344892, and *Flagstar Bancorp Inc. v. Dep't of Treasury*, No. 344906 (cases consolidated), and will be arguing before the Michigan Court of Appeals on December 4 on behalf of Plaintiffs. All these deadlines were set before the appellate briefing deadlines in this case.

5. Lastly, Appellants' counsel John Bursch has a prescheduled trip and will be out of the country from December 19, 2019 to December 30, 2019. And Appellants' counsel Kate Anderson has a prescheduled vacation from December 21, 2019 to January 1, 2020.

6. Currently, Appellees' response brief is due January 22, 2020. If the deadline for Appellants' opening brief is moved to January 22, 2020 as requested, Appellees' response brief would be due on February 21, 2020.

7. Counsel for Appellants and Appellees have conferred, and both parties agree that this motion is unopposed.

For these reasons, Appellants respectfully request that this Motion for Extension of Time to file their Opening Brief be granted.

Dated: November 18, 2019

Respectfully submitted,

s/ Katherine L. Anderson

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CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because this motion contains 544 words, excluding the parts exempted under Fed. R. App. P. 32(f).

2. This motion complies with the typeface and type-style requirements of Fed. R. App. P. 27(d)(1)(E), 32(a)(5), and 32(a)(6) because it has been prepared in a 14-point proportionally spaced Century Schoolbook typeface using Microsoft Word 2013.

3. All required privacy redactions have been made pursuant to 10th Cir. R. 25.5.

4. Paper copies are not required for this motion.

5. This motion has been scanned for viruses with the most recent version of a commercial virus scanning program, Traps version 4.2.5, and is free of viruses according to this program.

Date: November 18, 2019

s/ Katherine L. Anderson

Katherine L. Anderson

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2019, a true and accurate copy of the foregoing document was electronically filed with the Court using the CM/ECF system, which will send notification of such filing to the following:

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