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MASSACHUSETTS APPEALS COURT

No. 2018-P-1605

Lower Court NO. 1781CV02701

**MOTION TO EXTEND TIME TO FILE APPELLEE
BRIEF**

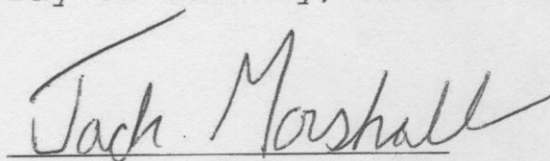
Walter Tuvell, plaintiff

v.

Jack Marshall, defendant

Appellee hereby moves extend time to respond to Appellant Brief. The justifications for this Motion are set forth in the accompanying memorandum.

Dated this 29 Day of January, 2019



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Civil Docket NO. 1781CV02701

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BRIEF**

Walter Tuvell, plaintiff

v.

Jack Marshall, defendant

MEMORANDUM In SUPPORT OF

MOTION TO EXTEND TIME TO FILE APPELLEE BRIEF

Walter Tuvell, plaintiff

v.

Jack Marshall, defendant

FACTS

1. Plaintiff Walter Tuvell Plaintiff filed Complaint
in the case on Sep 13 2017.

Defendant Jack Marshall filed Motion-to-Dismiss on
Oct 16, 2017.

Plaintiff filed Opposition to Motion to Dismiss on Oct 25, 2017.

Oral Argument was held on June 7, 2018.

The Court granted Defendant's Motion To Dismiss on August 13, 2018.

2. On December 13, Plaintiff/Appellant filed an appeal with the Appellate Court.

The brief was rejected as non-compliant with Court rules. On December 17, Plaintiff/Appellant filed an amended brief, which was accepted.

3. In conversations with the Clerk of the Court, I explained that I needed a copy of the Appendix to the Tuvell brief in order to respond. The appendix was apparently too large to be transferred electronically, and none of the links provided to me for that purpose worked.

4. On January 2, I was informed by the clerk that I could order a copy of the document to be mailed to me at

<https://www.paybill.com/V2/Workflow/EntryPointWorkflow/Login> However, that link did not work.

5. On January 7, I received a notice from the Clerk that stated **"The court is mailing a copy of the appendix on a CD to your address today. For further assistance, please contact the Clerk's Office. "**

6. On January 10, I received an e filing notice from the Court titled **"Notice of Rejection for Case: 2018-P-1605; Walter E Tuvell v Jack Marshall; Appendix."** I received a similar notice from Plaintiff. I apparently misunderstood the meaning of this notice, which I believed meant that there would be a new filing and new deadline. This was my error.

7. The CD from the Clerk did not arrive at my home until January 17, the original deadline for the return brief. The containing envelope was torn and the originating address was crossed out.

8. I was confused regarding the deadline for filing my appeal as a result of the delay in receiving the appendix and the rejection of Appellant's amended Appendix.

9. On January 22, I was informed by phone that my brief was late, as the January 17 deadline had passed.

10. On January 22, I filed a motion to extend the time for a response (Motion for Enlargement).

11. I foolishly underestimated the time it would require to answer Appellant's long, frivolous brief, and failed to check the amount of time I could be allowed in an extension. I only requested an extension until January 28, less than a week away.

12. The extension was granted by the Court.

13. For various reasons, including the onset of serious bronchitis over the weekend of January 26-27, I was unable to complete the brief in time to efile it on the deadline.

14. I apologize to the Court for this. I train Massachusetts lawyers in legal ethics, and I am embarrassed that in this matter I managed my own time so poorly.

15. My appellee brief is short (12 pages) excluding the attached lower court order, and it is almost complete.

12. I request a one-month extension for filing my return brief, giving me until **March 1, 2019**.

13. Again, I apologize for the confusion in this matter.

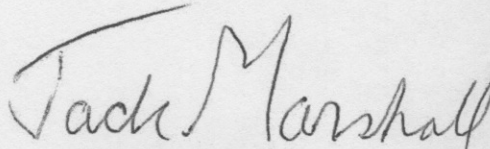
Conclusion

For the reasons stated, Defendant's Motion To Extend the deadline to response to Appellant's brief until March 1, 2019, should be granted.

CERTIFICATE OF SERVICE

Pursuant to Mass.R.A.P. 13(d), I hereby certify, under the penalties of perjury, that on January 29, 2019, I have made service of this Motion upon the attorney of record for each party, or if the party has no attorney then I made service directly to the self-represented party, by Federal Express on:

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