ACCEPTED
05-19-00607-CV
FIFTH COURT OF APPEALS
DALLAS, TEXAS
11/6/2019 10:31 PM
LISA MATZ
CLERK

NO. 05-19-00607-CV

PETER BEASLEY,	§	**IN THE 5th DISTRICT**
	§	
Appellant,	§	
	§	
v.	§	**COURT OF APPEALS**
	§	
SOCIETY OF INFORMATION MANAGEMENT, ET. AL,	§	
	§	
	§	**DALLAS, TEXAS**
Appellees.	§	

FILED IN
5th COURT OF APPEALS
DALLAS, TEXAS
11/6/2019 10:31:49 PM
LISA MATZ
Clerk

Appellant's 1st Amended Unopposed Motion for Extension of Time to File Amended Brief

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TO THE HONORABLE JUSTICES OF SAID COURT:

Appellant seeks a 3-day extension of time to file his amended brief on the following basis:

1. On October 17, 2019, this court consolidated case No. 05-19-01111-CV into this appeal, and gave Appellant fifteen (15) days to file an amended brief to challenge the June 11, 2019, dismissal of the underlying lawsuit. The amended brief was due November 1, 2019.

2. The briefing schedule gives Appellees a subsequent seventeen (17) days to respond – or by November 18.

3. Appellant seeks a 3-day extension to make his brief due November 4, 2019.

4. This is Appellant's first request for an extension of time for the filing of the amended brief to challenge the June 11, 2019, dismissal order.

5. Further, Appellant already tendered the subject amended brief to the court, in the wee hours of November 4, 2019, at 12:14 a.m. – just a wee bit over 2 days late.

6. Appellees do not oppose this request.

_____

7. October 20, 2019, North Texas and Beasley's neighborhood were hammered by tornados, with damage on his street, and houses destroyed just a few hundred yards away. Beasley's house was spared, but he was without electricity for a day and a half.

8. At 2:05 pm, on November 1, (the due date), Appellant informed Appellees' counsel of his situation, and the need for an extension. At 3:11 pm, that day, Appellees indicated they were not opposed.

Supplemental Facts

9. October 23, 2019, in a companion case in the Texas Supreme Court, No. 19-0041, Appellant's lawyer also filed an unopposed motion for a 3-day extension. The reason cited for the extension was the same tornado that affected Beasley, *pro se*, in this case. Exhibit A. It was the first request for an extension to file the Reply Brief, but it was the third unopposed request for an extension appellant had requested including other items. The Supreme Court granted the motion.

10. Earlier in this case, appellant's 1st Amended Brief, an appeal of the December 11, 2018 trial court order, was due on September 9, 2019. It was tendered 1-day late on September 10, 2019. Appellant filed a motion for a 1-day extension, which this court deemed as Moot, as the court had accepted and filed the brief, regardless that it was 1 day late.

11. Further, appellant is on the Risk Mitigation team for his church, Christ Community of Richardson. Power to the church from the October 20, tornado was not restored until October 31. The Risk Management team had a 6:00 p.m. meeting that night, for which his attendance was significant. Exhibit B.

12. Lastly, on Friday, November 1, the due date, the high-speed color printer Beasley used for editing his brief malfunctioned, and would no longer print. That printer's speed is 45 PPM (pages per minute), whereas the back-up black and white printer is rated at 9 PPM. Exhibit C.

Facts Relied on to Reasonably Explain the Need

13. The tornado, while it occurred at the beginning of the briefing period, its magnitude and disruption to the area where appellant resides had and still has lingering effects. Activities in the whole area have been slowed with electricity outages, traffic disruptions, debris clean-up and the associated mental fatigue from experiencing and surviving a natural disaster. All of these delays, including the need to and attendance at the church risk mitigation meeting delayed completing the brief on time.

14. The printer failure and the other delays caused by the tornado were unexpected accidents, which caused the amended brief to be late. Due to the trial judge not entering any findings in the case, the failure of the high speed printer was material too. The precedents for this situation require that every possible reason the underlying judgment could have been upheld must be challenged in the appeal, which resulted in a long brief – which took extra time to print and edit. *See Cherne Indus., Inc., v. Magallanes*, 763 S.W.2d 768, 772 (Tex.1989).

15. Appellant was diligent in informing appellees of the briefing delay and progress during the weekend. The amended brief was filed well before the start of day Monday.

16. There is no harm to appellees and they do not oppose the extension.

Argument

17. The delay was due to an accident, which is good cause for allowing the 3-day extension. Good cause is established by showing the failure involved was due to an accident, not intentional or the result of conscious indifference. *See*, *Stelly v. Papania*, 927 S.W.2d 620, 622 (Tex.1996) (per curiam).

18. Of course, Appellant would not oppose any request appellees may need to have an additional 3-days added back to their briefing due date.

Based on the foregoing, appellant asks that the deadline to file his amended brief on the merits be extended to November 4, 2019.

Respectfully submitted,
/s/ Peter Beasley
Peter Beasley
P.O. Box 831359
Richardson, Texas 75083
972-365-1170

DECLARATION

STATE OF TEXAS §
COUNTY OF DALLAS §

My first, middle, and last name is Peter Morell Beasley, my date of birth is September 20, 1958, and my address is 12915 Fall Manor, Dallas, Texas, 75243, United States. I declare under penalty of perjury that the foregoing statements are true and correct.

1. My name is Peter Beasley. I am over the age of twenty-one years, of sound mind, have never been convicted of any felony offense and I am fully competent and authorized to make this declaration. I have personal knowledge of the facts stated herein the attached motion due to my personal involvement in the events and occurrences set forth.

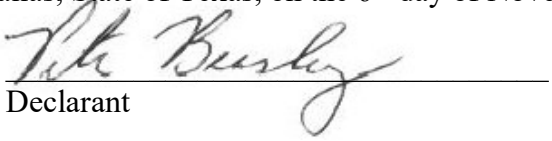
2. I am the Appellant in the above entitled and numbered matter.

3. To deal with advancing eye strain, I have to print long documents to edit them.

4. All of the facts stated in the motion herein are true.

5. All documents attached are true copies of documents and of information which they represent.

Executed in Dallas, State of Texas, on the 6th day of November, 2019.



Declarant

CERTIFICATE OF CONFERENCE

I conferred with opposing counsel and the motion is not opposed.

/s/ Peter Beasley
Peter Beasley

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of November 2019, a true copy of the foregoing instrument was served on opposing counsel through the court's electronic filing system.

/s/ Peter Beasley
Peter Beasley

FILED
19-0041
10/23/2019 11:32 AM
tex-37889421
SUPREME COURT OF TEXAS
BLAKE A. HAWTHORNE, CLERK

No. 19-0041

In the Supreme Court of Texas

Peter Beasley,
Petitioner,

vs.

Society of Information Management, Dallas Area Chapter
Respondent.

On Petition for Review from the
Fifth District Court of Appeals at Dallas, Texas
No. 05-17-01286-CV

Petitioner's Unopposed Motion to Extend Time to File Reply Brief on the Merits

Petitioner seeks a 3-day extension to file his brief on the merits on the following basis:

1. The brief is due on October 25, 2019.

2. Petitioners seek a 3-day extension to make the brief due on October 28, 2019.

3. This is petitioner's first request for an extension on this brief.

4. Respondent does not oppose this request.

EXHIBIT A

5. North Dallas was hammered by a tornado last weekend. The undersigned counsel's office building was without power for two days—just as counsel intended to be working on this brief.

Based on the foregoing, petitioner asks that the deadline to file his reply brief on the merits be extended to October 28, 2019.

Respectfully submitted,

/s/Charles "Chad" Baruch
Texas Bar Number 01864300
chad@jtlaw.com
Randy Johnston
Texas Bar Number 10834400
randy@jtlaw.com
Johnston Tobey Baruch, PC
Post Office Box 215
Addison, Texas 75001-0215
Telephone: (214) 741-6260
Facsimile: (214) 741-6248

Counsel for Petitioners

Certificate of Conference

The undersigned certifies that Robert Bragalone, counsel for respondent, confirmed in writing that he does not oppose the relief sought by this motion.

/s/Charles "Chad" Baruch

EXHIBIT A

Certificate of Service

The undersigned certifies that a true and correct copy of this instrument was served on October 23, 2019, by efiling and email, upon the following counsel of record:

Robert A. Bragalone
bbragalone@gordonrees.com
Sona J. Garcia
sjgarcia@gordonrees.com
Gordon & Rees Scully Mansukani LLP
2100 Ross Avenue, Suite 2800
Dallas, Texas 75201

Peter S. Vogel
pvogel@foley.com
Foley & Larnder
2021 McKinney Avenue, Suite 1600
Dallas, Texas 75201

/s/Charles "Chad" Baruch

EXHIBIT A

Peter Beasley

From: Lisa Miller Autry (CC) <lautry@ccrichardson.org>
Sent: Thursday, October 31, 2019 3:53 PM
To: Peter Beasley; [redacted]
Cc: [redacted]
Subject: Re: Meeting this evening

Great news - power has been restored at the church! I'll see you all there at 6:00pm for our meeting.

Sent from my iPad.

On Oct 31, 2019, at 2:28 PM, Lisa Autry <lautry@ccrichardson.org> wrote:

> Good afternoon,
>
> The electricians are working on our power. I'll update everyone by 4:00pm with a status update and final determination on our meeting location. Thanks!
>
> For God's Glory,
>
> Lisa Miller Autry
>
> *Leadership Development*
> *Ministry Partner Mobilization*
>
> <image001.jpg>
>
> ***Ephesians 2:10 For we are His workmanship, created in Christ Jesus for good works, which God prepared beforehand, that we should walk in them.***
>
> ---
>
> **From:** Lisa Autry
> **Sent:** Thursday, October 31, 2019 8:34 AM
> **To:** Peter Beasley <pbeasley@netwatchsolutions.com>; [redacted]
> **Cc:** [redacted]
> **Subject:** Meeting this evening
>
> Good morning everyone,
>
> My hope is that electricity will be restored to the church today and that we'll be able to meet on-site. I will let you know once I have confirmation.
>
> IF electricity is not restored, then I would recommend meeting at Jersey Mike's on Campbell as the back-up plan. It's typically less crowded than Panera.
>
> Back in touch soon – thanks very much.
>
> For God's Glory,
>
> Lisa Miller Autry
>
> *Leadership Development*

EXHIBIT B

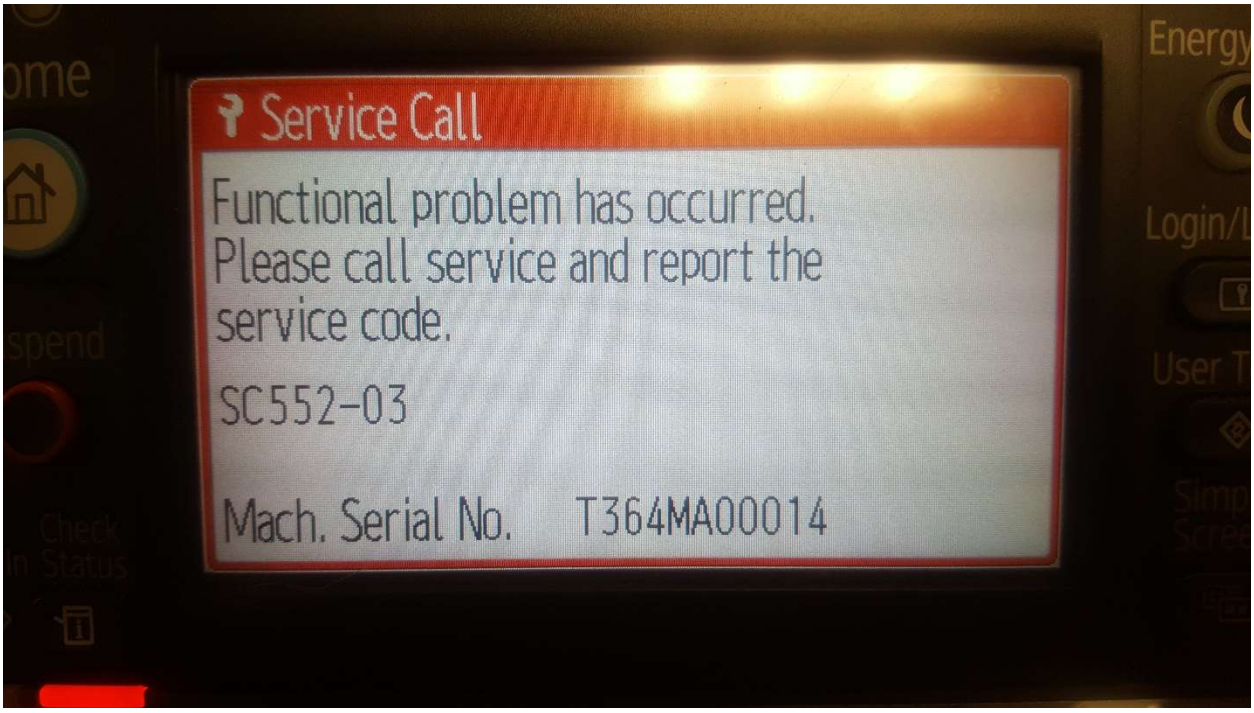

Service Call
Functional problem has occurred.
Please call service and report the
service code.
SC552-03
Mach. Serial No. T364MA00014

EXHIBIT C