

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

**SHERIFF CLAY PARKER, TEHAMA
COUNTY SHERIFF; HERB BAUER
SPORTING GOODS; CALIFORNIA RIFLE
AND PISTOL ASSOCIATION; ABLE'S
SPORTING, INC.; RTG SPORTING
COLLECTIBLES, LLC; AND STEVEN
STONECIPHER,**

Plaintiffs and Respondents,

v.

**THE STATE OF CALIFORNIA; KAMALA
D. HARRIS, in her official capacity as
Attorney General for the State of California;
AND THE CALIFORNIA DEPARTMENT
OF JUSTICE,**

Defendants and Appellants.

Case No. S215265

**SUPREME COURT
FILED**

MAY 12 2014

Frank A. McGuire Clerk

Deputy

Fifth Appellate District, Case Nos. F062490, F062079
Fresno County Superior Court, Case No. 10CECG02116
The Honorable Jeffrey Y. Hamilton, Judge

**RESPONDENTS' UNOPPOSED APPLICATION FOR EXTENSION
OF TIME TO FILE RESPONDENTS' BRIEF; DECLARATION OF
CLINTON B. MONFORT; DECLARATION OF ANNA M. BARVIR**

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Attorneys for Plaintiffs/Respondents

TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

Pursuant to California Rules of Court, Rules 8.520(a)(5), 8.60, and 8.63, Plaintiffs and Respondents Sheriff Clay Parker, Herb Bauer Sporting Goods, California Rifle and Pistol Association, Able's Sporting, Inc., RTG Sporting Collectibles, LLC, and Steven Stonecipher ("Respondents"), through their attorneys of record, hereby request an extension of time for Respondents to file their responsive brief. This application is based on the declarations of Clinton B. Monfort and Anna M. Barvir attached hereto.

Respondents' Brief is presently scheduled to be filed on or before June 5, 2014. For good cause, and not for reason of delay, Respondents request an additional 60 days to file their brief. Monfort Decl. ¶ 7; Barvir Decl. ¶ 7-8. Appellants have indicated that they do not oppose this application. Monfort Decl. ¶ 6. And respondents respectively request this Court grant an order to that effect. If approved by the Court, Respondents' Brief shall be due on or before August 4, 2014.

This Court previously granted Appellants' unopposed application for 31-day extension of time to file its opening brief, Appellants' unopposed application for an additional 15-day extension of time to file their opening brief. Respondents have not made, and this Court has not yet granted, any previous request for an extension of time to file Respondents' Brief.

Pursuant to California Rules of Court, Rule 8.63(b), good cause for this request for an extension exists for the reasons summarized below.

Due to a sudden family medical emergency, Appellants' lead counsel, Clinton B. Monfort, began an indefinite leave of absence from employment on March 17, 2014. Monfort

Decl. ¶ 2; Barvir Decl. ¶ 2. His emergency was unforeseeable and unavoidable. Monfort Decl. ¶ 2; Barvir Decl. ¶ 2. Although Mr. Monfort tentatively returned to work on March 31, 2014, he is regularly out of the office to assist with the continued care of an immediate family member. Monfort Decl. ¶ 2; Barvir Decl. ¶ 2. As a result, Ms. Anna M. Barvir is now the attorney primarily responsible for preparing Respondents' Brief. Barvir Decl. ¶ 2. For the same reason, she is the attorney primarily responsible for two complex, federal appeals, *Fyock v. City of Sunnyvale*, Ninth Cir. No. 14-15408, and *Jackson v. City and County of San Francisco*, Ninth Cir. No. 12-17803. Barvir Decl. ¶ 3.

Unfortunately, on April 9, 2014, Ms. Barvir learned that she would be undergoing a necessary operation on April 25, 2014. Barvir Decl. ¶ 4. Ms. Barvir has been out of the office since April 17 and remains at home on bed rest, largely unable to work, until May 19, 2014. Barvir Decl. ¶ 4. She thus will only have 18 days to work on Respondents' Brief after she returns to work—compared to the 76 days Appellants had to draft their opening brief. Barvir Decl. ¶ 4. The scheduling of this procedure during the time in which Ms. Barvir must prepare Respondents' Brief to meet the current June 5 deadline was unexpected and unavoidable. Barvir Decl. ¶ 4.

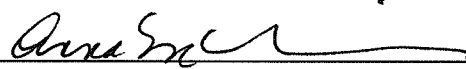
Since the filing of Appellants' Petition, but before Ms. Barvir went on medical leave, she was working full-time on researching and drafting documents with set deadlines for filing in federal appeals involving complex constitutional challenges. Barvir Decl. ¶ 3. Specifically, she was working on researching, drafting and filing an opening brief due on or before May 16, 2014, in *Fyock*, and a petition for rehearing or rehearing en banc due on or before June 23, 2014, in *Jackson*. Barvir Decl. ¶ 3. Ms. Barvir will also be preparing a reply brief in *Fyock*, due on or before June 30, 2014. Barvir Decl. ¶ 3.

In addition, Respondents' counsel are both involved in legislative matters. Monfort Decl. ¶ 4; Barvir Decl. ¶ 5. Mr. Monfort has been, in his multiple roles as litigator and state legislative and policy analyst, heavily involved in *state* legislative matters with pending deadlines. Monfort Decl. ¶ 4. Similarly, Ms. Barvir, in her multiple roles as litigator and local legislative and policy analyst, has also been heavily involved in *local* legislative matters. Barvir Decl. ¶ 5. Deadlines in both state and local legislative matters regularly arise with just a moment's notice, and Respondents' counsel anticipates that they both will have to devote many hours to such matters in the coming weeks. Monfort Decl. ¶ 4; Barvir Decl. ¶ 5.

The above reasons preclude Respondents' counsel from filing Respondents' Brief by the current expected deadline of June 5, 2014, without significantly impairing its quality. Monfort Decl. ¶ 5; Barvir Decl. ¶ 6. An extension of time will serve the policy favoring adequate time to prepare briefs "that fully advance the parties' interests," and are "accurate, clear, concise, and complete submissions that assist the courts." Cal. Rules of Court, Rule 8.63(a)(2).

Dated: May, 9 2014

MICHEL & ASSOCIATES, P.C.

By: 
Anna M. Barvir
Counsel for Plaintiffs/Respondents

DECLARATION OF CLINTON B. MONFORT

I, Clinton B. Monfort, declare as follows:

1. I am an attorney licensed to practice law before the courts of the State of California. I am an associate attorney of the law firm Michel & Associates, P.C., counsel for Respondents Sheriff Clay Parker, Herb Bauer Sporting Goods, California Rifle and Pistol Association, Able's Sporting, Inc., RTG Sporting Collectibles, LLC, and Steven Stonecipher, in this action. I have personal knowledge of each fact stated in this declaration and if called as a witness I could and would competently testify thereto.

2. Due to an unexpected family medical emergency, I began an indefinite leave of absence from my employment on March 17, 2014. The emergency was unforeseeable and unavoidable. Although I tentatively returned to work on March 31, 2014, I am regularly out of the office to assist with the continued care of an immediate family member.

3. I am also currently responsible for assisting in the drafting of a number of litigation filings in cases of first impression, including but not limited to, appellants' opening brief in *Fyock v. City of Sunnyvale*, Appeal No. 14-15408, due on or before May 16, 2014, a petition for rehearing or rehearing en banc in *Jackson v. City and County of San Francisco*, Appeal No. 12-17803, due on or before June 23, 2014, and appellants' reply brief in *Fyock*, due on or before June 30, 2014.

4. In addition to my role as a litigator, I am responsible for state legislative and policy analysis and regularly must weigh in on laws pending before the California legislature. Deadlines in these matters regularly arise with just a moment's notice, and I anticipate that I will have to

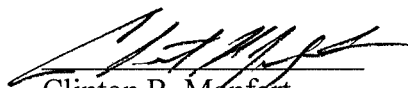
devote many hours to such matters in the coming weeks.

5. All of the above reasons have greatly limited and will continue to so limit my ability to review and analyze Appellants' opening brief and research and prepare Respondents' Brief by the current deadline without impairing its quality.

6. On or about May 2, 2014, I sent Mr. Ross Moody, Appellants' counsel of record, an e-mail asking whether Appellants opposed Respondents' application for a 60-day extension to file Respondents' Brief. On the same day, I received an e-mail from Mr. Ross Moody indicating that Appellants do not object to Respondents' request.

7. Respondents' application for an extension is made in good faith for the reasons of actual need set forth herein and not merely for the purpose of delay. To my knowledge, the requested extension will not prejudice any party. (Cal. Rules of Court, rule 8.63(b)(1).).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed on May 7, 2014, in Long Beach, California.


Clinton B. Monfort
Declarant

DECLARATION OF ANNA M. BARVIR

I, Anna M. Barvir, declare as follows:

1. I am an attorney licensed to practice law before the courts of the State of California. I am an associate attorney of the law firm Michel & Associates, P.C., counsel for Respondents Sheriff Clay Parker, Herb Bauer Sporting Goods, California Rifle and Pistol Association, Able's Sporting, Inc., RTG Sporting Collectibles, LLC, and Steven Stonecipher, in this action. I have personal knowledge of each fact stated in this declaration and if called as a witness I could and would competently testify thereto.

2. Due to an unexpected family medical emergency, Appellants' lead counsel, Clinton B. Monfort, began an indefinite leave of absence from employment on March 17, 2014. His abrupt absence was unforeseeable and unavoidable. Through Mr. Monfort has returned to work, his return is tentative and, as he continues to care for an immediate family member, he is frequently out of the office. As a result, I became the attorney primarily responsible for preparing Respondents' Brief.

3. For the same reason, I am also now the attorney primarily responsible for drafting the opening brief in *Fyock v. City of Sunnyvale*, Appeal No. 14-15408, due on or before May 16, 2014, and a petition for rehearing or rehearing en banc in *Jackson v. City and County of San Francisco*, Appeal No. 12-17803, due on or before June 23, 2014. Because of the proximity of the deadlines, I have been preparing, researching, and drafting these documents simultaneously. I am also primarily responsible for preparing a reply brief in *Fyock*, due on or before June 30, 2014.

4. I learned on April 9, 2014, that I would be undergoing a necessary surgical

procedure on April 25, 2014. After the surgery, I was ordered to stay at home on bed rest, largely unable to work, until May 19, 2014. After I return to work, I will only have 18 days to prepare on Respondents' Brief, in contrast to the 76 days Appellants had to draft and file their opening brief. The scheduling of this procedure during the time in which I must prepare Respondents' Brief was unexpected and unavoidable.

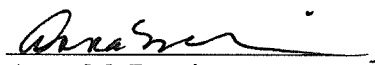
5. In addition to my role as a litigator, I am responsible for local legislative and policy analysis. Deadlines in these matters regularly arise with just a moment's notice, and I anticipate that I will have to devote many hours to such matters in the coming months.

6. All of the above reasons have greatly limited and will continue to so limit my ability to review and analyze the Appellants' Opening Brief and research and prepare Respondents' Brief by the current deadline without impairing its quality.

7. I recognize the Court's current schedule and the necessity of handling cases in a timely manner. But in light of the circumstances, Respondents request a 60-day extension of time to file their Brief so that it will be due on or before August 4, 2014.

8. Respondents' application for an extension is made in good faith for the reasons of actual need set forth herein and not merely for the purpose of delay. To my knowledge, the requested extension will not prejudice any party. (Cal. Rules of Court, Rule 8.63(b)(1).).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed on May 9, 2014, in Long Beach, California.


Anna M. Barvir
Declarant

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I, Christina Sanchez, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Blvd., Suite 200 Long Beach, CA 90802.

On May 9, 2014, I served the foregoing document(s) described as:

**RESPONDENTS' UNOPPOSED APPLICATION FOR EXTENSION OF TIME
TO FILE RESPONDENTS' BRIEF; DECLARATION OF CLINTON B.
MONFORT; DECLARATION OF ANNA M. BARVIR**

on the interested parties in this action by placing
[] the original
[X] a true and correct copy
thereof enclosed in sealed envelope(s) addressed as follows:

SEE ATTACHED "SERVICE LIST"

X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after date of deposit for mailing an affidavit. Executed on May 9, 2014, at Long Beach, California.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 9, 2014, at Long Beach, California.


CHRISTINA SANCHEZ

SERVICE LIST
SHERIFF CLAY PARKER ET AL. v. STATE OF CALIFORNIA ET AL.
CASE NO. S215265

Kamala D. Harris Attorney General of California Peter A. Krause, Deputy Attorney General Ross Moody, Deputy Attorney General 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004	Attorney for Defendants/Appellants
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California Court of Appeal Fifth District Court of Appeal 2424 Ventura Street Fresno, CA 93721	California Court of Appeal
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County of Fresno B.F. Sisk Courthouse Superior Court of California 11300 Street Fresno, CA 93721-2220	Superior Court of California
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