

CIVIL NO.: 07-15763

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

RUSSELL ALLEN NORDYKE, et al.,

Plaintiffs and Appellants,

vs.

MARY V. KING, et al.,

Defendants and Appellees.

APPEAL FROM A JUDGMENT OF THE
UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA
HON. MARTIN J. JENKINS
CV-99-04389-MJJ

**PROCEDURAL MOTION FOR SIX-DAY EXTENSION OF TIME TO FILE
RESPONSE TO PETITION FOR REHEARING; DECLARATION OF
T. PETER PIERCE IN RESPONSE**

RICHARD R. KARLSSON
INTERIM COUNTY COUNSEL
COUNTY OF ALAMEDA

SAYRE WEAVER (Bar No. 116957)
T. PETER PIERCE (Bar No. 160408)
RICHARDS, WATSON & GERSHON
A Professional Corporation
355 South Grand Avenue, 40th Floor
Los Angeles, California 90071-3101
Telephone: 213.626.8484
Facsimile: 213.626.0078
ppierce@rwglaw.com

Attorneys for Defendants and Appellees

The Court filed an Order on June 13, 2011 directing Appellees County of Alameda, et al. (collectively “County”) to file a response to Appellants’ Petition for Rehearing and Petition for Rehearing En Banc. The County’s response brief must be filed no later than July 5, 2011.

By this procedural motion, filed under Rule 27 of the Federal Rules of Appellate Procedure, the County seeks an additional six days, until and including July 11, 2011, in which to file its response brief. The reasons for the County’s request, as set forth in more detail in the attached declaration of T. Peter Pierce, include (1) relocation of counsel of record’s residence; (2) attendance at a memorial service; (3) a planned vacation; and (4) other briefing deadlines.

Appellants previously were granted a one-week extension of time in which to file their Petition for Rehearing and Petition for Rehearing En Banc. The County is not aware of any way in which the six-day extension sought here would prejudice Appellants.

For these reasons, as more fully explained in the attached declaration, the County respectfully seeks the requested extension.

Dated: June 15, 2011

RICHARD R. KARLSSON
INTERIM COUNTY COUNSEL
COUNTY OF ALAMEDA

RICHARDS, WATSON & GERSHON
A Professional Corporation
SAYRE WEAVER
T. PETER PIERCE

By: _____
T. PETER PIERCE
Attorneys for Defendants and
Appellees

DECLARATION OF T. PETER PIERCE

I, T. Peter Pierce, declare:

1. I am an attorney licensed by the State of California and I am admitted to practice before this Court. My colleague Sayre Weaver and I are the attorneys responsible for representing the County of Alameda in this appeal.

2. My family will be relocating its place of residence between the dates of June 16, 2011 and June 21, 2011. I expect to be unable to devote any time to my caseload during that time period, and had planned accordingly to be unavailable during this time.

3. I am informed by my colleague Sayre Weaver that prior to receiving the Court's Order, she had made arrangements to attend the memorial service of a close friend and will be out of state June 23 through June 25. On her return, she has litigation filing deadlines of July 5 and July 11 in other matters.

4. I am leaving town for a short vacation from July 1 to July 5. I have already purchased airline tickets.

5. I have two substantial briefs in other cases that must be filed no later than July 1 and I must meet several litigation deadlines prior to that date.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 15, 2011.

T. Peter Pierce

9th Circuit Case Number(s) 07-15763

NOTE: To secure your input, you should print the filled-in form to PDF (File > Print > *PDF Printer/Creator*).

CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) 06/15/2011 .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

T. Peter Pierce

CERTIFICATE OF SERVICE

When Not All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) .

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I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Signature (use "s/" format)