

No. 14-55873 [DC No.: 2:11-cv-09916-SJO-SS]

IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Charles Nichols,

Plaintiff-Appellant

v.

Edmund Brown, Jr., et al

Defendants-Appellees.

APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

**APPELLANT'S MOTION FOR EXTENSION OF TIME TO FILE
OPENING BRIEF; DECLARATION OF CHARLES NICHOLS**

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Plaintiff-Appellant In Pro Per

REQUEST FOR EXTENSION OF TIME

To the Clerk of the United States Court of Appeals for the Ninth Circuit:
Pursuant to Federal Rule of Appellate Procedure 26 and Ninth Circuit Rule 31-2.2(b), Appellant-Nichols respectfully submits this unopposed motion for a sixty (60) day extension of time, through and including February 2, 2015, to file his Opening Brief.

Appellant's Opening Brief is currently due on, or before, December 2, 2014. As set forth below in the Declaration of Charles Nichols, Plaintiff-Appellant In Pro Per, an extension of that deadline has become necessary. Nichols Decl. ¶ 4.

Appellant's Opening Brief was originally due on November 3, 2014 which was extended to December 2, 2014 via a streamlined request.

It was Appellees who had initially contacted Appellant Nichols seeking an indefinite postponement of briefing and oral argument in this appeal pending final resolution of *Peruta v. County of San Diego*, 742 F.3d 1144 (9th Cir. 2014) "or whichever other already existing case becomes the lead case."

Given that it was problematic that Appellant-Nichols would be able to significantly reduce the size of his grossly oversized Opening Brief for the reasons given in his Declaration, Appellant Nichols proposed instead the filing of an unopposed motion for a sixty/thirty day extension of time to which Appellees' counsel agreed.

Appellant Nichols had hoped that with an uninterrupted 30 day extension of time he would be able to significantly reduce the size of his oversized Opening Brief. Now that Appellees' counsel has filed an opposed motion seeking a stay far beyond the date (December 30, 2014) this Court granted in the joint motion made in *Rothery v. County of Sacramento* No.: 09-16852 (*Rothery* Dkt 60) Appellant Nichols is forced to request a 60 day extension of time because the time he spends preparing his opposition to Appellees' opposed motion to stay is time lost to reducing the size of his grossly oversized Opening Brief.

Appellant Nichols expects that should Appellees' opposed motion for a stay be denied, Appellees will file additional opposed motions requiring a response from Appellant Nichols further subtracting from whatever time he has left to prepare and file his Opening Brief.

Appellant Nichols, In Pro Per, hereby requests that this Court grant a sixty (60) day extension of time for Appellant Nichols to file his Opening Brief, through and including February 2, 2015 or grant a shorter extension of time the Court deems appropriate.

Dated: November 23, 2014

Respectfully submitted,
Charles Nichols

By: /s/ Charles Nichols
Plaintiff-Appellant
In Pro Per

DECLARATION OF CHARLES NICHOLS

I, Charles Nichols, Plaintiff-Appellant In Pro Per declare:

1. Appellant-Nichols' Opening Brief is due on December 2, 2014.
2. The Opening Brief was first due on, or before, November 3, 2014.
3. The length of the requested extension is sixty (60) days. The end date was calculated pursuant to Federal Rule of Appellate Procedure 26(a)(1)(C). The request for extension of time is made pursuant to Federal Rule of Appellate Procedure 26(b) and Ninth Circuit Rule 31-2.2(b).
4. The extension of time is necessary because:
 - (a) I am the primary care-giver of my 88 year old mother and disabled brother. This summer my mother's condition grew progressively worse requiring me to devote more and more time to her care. Eventually she had to undergo an emergency, life-saving, operation and was discharged from the hospital to home care which required my full time attention thus preventing me from preparing a reasonably sized Opening Brief. Providing care for my family members who require assistance with their medical needs and personal needs has, and will continue, to take time away from my preparing my Opening Brief. Time which is essential given that I am

proceeding pro se, unrepresented by counsel and without the vast resources at the disposal of the Appellees.

(b) The nature of my appeal is unique among the related cases. For example, the *Peruta* appeal (which alleges no in-home challenge) consisted of a 62 page Opening Brief (excluding TOC/TOA/etc) and presented but five (5) issues on appeal, four of which were limited to the Second Amendment and the fifth relating to residency which the *Peruta* Defendant's appear to have conceded on appeal. The current draft of my Opening Brief presents thirty-four (34) Constitutional and procedural issues on appeal and is 187 pages in length (excluding TOC/TOA/etc). Unlike the *Peruta* appeal which had but one procedural issue (5) arising from a single denied motion for summary judgment, there were 167 docket entries in my case up to, and including, final judgment (Dkt 167).

(c) I cannot promise an Opening Brief falling within the 14,000 word limitation but if granted an extension of time, I will diligently work at significantly reducing the size of my Opening Brief.

5. I have exercised diligence and my Opening Brief will be filed within the time requested.

6. Appellees are represented by the same counsel who does not oppose this motion. There are no other parties separately represented.
7. The court reporter is not in default with regard to any designated transcripts. As there were no hearings before the district court there are no transcripts.
8. This motion is made in good faith for the reasons of actual need set forth herein and not for the purpose of delay. In fact, it is in Appellant's interest to expedite a resolution of this matter, but not at the expense of the brief's quality. Indeed, had it been up to Appellant, this appeal would have been fully briefed and argued in 2012.
9. To my knowledge, the requested extension will not prejudice any party.
10. I am the Plaintiff-Appellant in this case. I have personal knowledge of the facts set forth herein and, if called as a witness, I could and would competently testify thereto.

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

Executed this 23rd day of November 2014 at Lawndale, California.

By: /s/ Charles Nichols
Plaintiff-Appellant
In Pro Per

9th Circuit Case Number(s) 14-55873

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) November 23, 2014.

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) /s/ Charles Nichols

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) .

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

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)