

NO. 17-17144

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LORI RODRIGUEZ, et al.,

Plaintiffs-Appellants

v.

CITY OF SAN JOSE, et al.

Defendants-Appellees.

NO. 17-17144

D.C. No. 5:15-cv-03698-EJD
Northern District of California,
San Jose

**CITY OF SAN JOSE, ET AL.'S UNOPPOSED MOTION FOR EXTENSION
OF TIME TO FILE APPELLEES' ANSWERING BRIEF**

Appeal from the United States District
for the Northern District of California (San Jose)
D.C. No. 5:15-cv-03698-EJD

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Attorneys for Defendants-Appellees CITY OF SAN JOSE, CITY OF SAN JOSE
POLICE DEPARTMENT, and OFFICER STEVEN VALENTINE

TO THE COURT, TO APPELLANTS AND THEIR COUNSEL OF RECORD:

The City of San Jose, City of San Jose Police Department, and Officer Steven Valentine (“City Appellees”) seek a 90-day extension of time under Federal Rules of Appellate Procedure 26(b) and Ninth Circuit Rule 31-2.2(b) to file their answering brief.

The opening brief of appellants Lori Rodriguez, The Second Amendment Foundation, Inc. and The Calguns Foundation, Inc. (“Rodriguez Appellants”) was originally due on January 29, 2018. Rodriguez Appellants were granted a 30-day extension to file their brief on February 27, 2018.

City Appellees’ answering brief is due on March 27, 2018. This is the first request for extension by City Appellees. City Appellees seek a 90-day extension to file their answering brief on or before June 25, 2018.

The undersigned is responsible for preparation of an extensive administrative record in a California Environmental Quality Act matter entitled *Organizacion Comunidad de Alviso v. City of San Jose (Cilker Orchards Management Corp. et al.)* in the California Superior Court for the County of Santa Clara, matter number 18-CV-321687. The undersigned is required to have the record certified by April 6, 2018. The record is estimated at about 17,000 pages. In order to streamline this extensive record and ensure its accuracy, the undersigned

needs to review the documents and the index before its circulation to the other parties.

The undersigned is also responsible for having the administrative record certified in a California Environmental Quality Act matter entitled *San Jose Residents For Responsible Development et al. v. City of San Jose et al. (Brent Lee et al.)* in the California Superior Court for the County of Santa Clara, matter number 18-CV-321709. That will require review of the draft administrative record and draft index to the record provided by opposing counsel for completeness and accuracy by March 28, 2018, and then another review of the final administrative record and index for certification by April 13, 2018.

The extension is also necessary because in *Shahrivar v. City of San Jose et al.*, case number 15-17516 pending before this Court, the current briefing schedule in the Court's order of January 18, 2018, provides for a replacement of supplemental brief due from appellant Shahrivar on April 19, 2018, and the City respondents' replacement or supplemental brief due on May 21, 2018. The undersigned is the counsel of record for the City appellees in that case. The undersigned has a pre-paid vacation scheduled from May 7 to May 27, 2018, and therefore plans to file the City's brief in that case by May 4, 2018.

The extension is also necessary because in *Armstrong v. City of San Jose et al.*, case number 17-17287 pending before this Court, the current briefing schedule

in the Court's order of March 19, 2018, provides that the appellant's brief is due on April 20, 2018, and the City appellees' brief is due on May 22, 2018. The undersigned is the counsel of record for the City appellees in that case.

The undersigned is scheduled to be out of the country from May 7, 2018, to May 27, 2018.

The undersigned is the only State Bar certified appellate specialist at the Office of the City Attorney for the City of San Jose.

The undersigned has exercised diligence at all times in reviewing the record in the present matter, performing research, and drafting the City Appellants' answering brief. For the reasons set out above, the City will require 90 days of additional time to prepare an adequate response to the opening brief.

Opposing counsel has no objection to this extension.

RICHARD DOYLE, City Attorney

Dated: March 20, 2018

By: /s/
MARGO LASKOWSKA
Sr. Deputy City Attorney
Attorneys for CITY OF SAN JOSE

DECLARATION OF MARGO LASKOWSKA

I, Margo Laskowska, do hereby declare as follows:

1. I am a Senior Deputy City Attorney at the Office of the San Jose City Attorney and I am the attorney of record for the City of San Jose, City of San Jose Police Department, and Officer Steven Valentine. I am the only attorney in this Office working on this appeal.
2. The City Appellees seek a 90-day extension of time under Federal Rules of Appellate Procedure 26(b) and Ninth Circuit Rule 31-2.2(b) to file their answering brief.
3. The opening brief of the Rodriguez Appellants was originally due on January 29, 2018. The Rodriguez Appellants were granted a 30-day extension to file their brief on February 27, 2018.
4. The City Appellees' answering brief is due on March 27, 2018. This is the first request for extension by the City Appellees. The City Appellees seek a 90-day extension to file their answering brief on or before June 25, 2018.
5. I am responsible for preparation of an extensive administrative record in a California Environmental Quality Act matter entitled *Organizacion Comunidad de Alviso v. City of San Jose (Cilker Orchards Management Corp. et al.)* in the California Superior Court

for the County of Santa Clara, matter number 18-CV-321687. I am required to have the record certified by April 6, 2018. The record is estimated at about 17,000 pages. In order to streamline this extensive record and ensure its accuracy I need to review the documents and the index before its circulation to the other parties.

6. I am also responsible for having the administrative record certified in a California Environmental Quality Act matter entitled *San Jose Residents For Responsible Development et al. v. City of San Jose et al. (Brent Lee et al.)* in the California Superior Court for the County of Santa Clara, matter number 18-CV-321709. That will require review of the draft administrative record and draft index to the record provided by opposing counsel for completeness and accuracy by March 28, 2018, and then another review of the final administrative record and index for certification by April 13, 2018.
7. The extension is also necessary because in *Shahrivar v. City of San Jose et al.*, case number 15-17516, the current briefing schedule in the Court's order of January 18, 2018, provides for a replacement of supplemental brief due from appellant Shahrivar on April 19, 2018, and the City respondents' replacement or supplemental brief due on May 21, 2018. I am the counsel of record for the City respondents in

that case. I have a pre-paid vacation scheduled from May 7 to May 27, 2018, and therefore I plan to file the City's brief in that case by May 4, 2018.

8. The extension is also necessary because in *Armstrong v. City of San Jose et al.*, case number 17-17287 pending before this Court, the current briefing schedule in the Court's order of March 19, 2018, provides that the appellant's brief is due on April 20, 2018, and the City appellees' brief is due on May 22, 2018. I am the counsel of record for the City appellees in that case.
9. I am scheduled to be out of the country from May 7, 2018, to May 27, 2018.
10. I am the only State Bar certified appellate specialist at the Office of the City Attorney for the City of San Jose.
11. I have exercised diligence at all times in reviewing the record in the present matter, performing research, and drafting the City Appellants' answering brief.
12. For the reasons set out above, the City will require 90 days of additional time to prepare an adequate response to the opening brief.

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13. Opposing counsel, Mr. Donald Kilmer, Esq., has informed me that he has no objection to this extension.

I declare, under penalty of perjury that the foregoing is true and correct.

Executed on March 20, 2018, at San Jose, California.

/s/
MARGO LASKOWSKA

9th Circuit Case Number(s)

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) .

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)

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)