

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALBERT H. CAPANNA, M.D.,
Appellant/Cross-Respondent,
vs.
BEAU R. ORTH,
Respondent/Cross-Appellant.

Electronically Filed
Sep 05 2017 01:24 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
No. 69935

ALBERT H. CAPANNA, M.D.,
Appellant,
vs.
BEAU R. ORTH,
Respondent.

No. 70227

**MOTION FOR EXTENSION OF TIME FOR COMBINED
REPLY/ANSWERING BRIEF (FIRST REQUEST)**

Appellant/Cross-Respondent (Capanna) hereby moves for a 30-day extension of time for filing his combined reply brief on appeal and answering brief on cross-appeal. The brief is presently due on September 7, 2017. Therefore, appellant/cross-respondent requests an extension until October 9, 2017 (first request).

Capanna filed his opening brief on November 4, 2016. After multiple extensions and motions, respondent/cross-appellant (Orth) filed his answering brief approximately six months later, on May 26, 2017.

On July 7, 2017, the court issued its order striking Orth's appendix; ordering Orth to file a new appendix; and establishing a deadline for Capanna's next brief (30 days from service of Orth's new appendix). Orth filed his new multi-volume

appendix on August 8, 2017. Consequently, Capanna's combined reply brief on appeal and answering brief on cross-appeal is due on September 7, 2017.

In the meantime, Capanna has filed a motion to dismiss Orth's cross-appeal, on jurisdictional grounds. Capanna contends that Orth is not an aggrieved party, and he lacks standing to present his cross-appeal issues. Orth filed opposition to the motion, and Capanna filed a reply. The court has not yet decided the motion.

Capanna's appellate counsel has already finished much of the work on the portion of the combined brief dealing with Capanna's reply brief on the appeal. Because of the pending motion to dismiss the cross-appeal, Capanna's counsel has not yet started work on the portion of the combined brief consisting of the answering brief on the cross-appeal. Orth's cross-appeal portion of his brief consists of approximately 20 pages, with dozens of citations to legal authorities and statutes. The cross-appeal involves an alleged constitutional issue. Preparing the answering brief on the cross-appeal will require a tremendous amount of time and effort, all of which will be completely wasted if this court grants the pending motion to dismiss the cross-appeal.

Additionally, Capanna's appellate counsel presently has three appellate briefs due within the next 30 days. He also has three panel arguments during a two-week time frame in September.

Accordingly, Capanna requests a 30-day extension for filing his combined reply brief on appeal and answering brief on cross-appeal, until October 9, 2017. This motion is made in good faith and is not intended to delay the appeal unnecessarily.

DATED: Sept. 5, 2017

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CERTIFICATE OF SERVICE

I certify that I am employee of Lemons, Grundy & Eisenberg and that on this date the foregoing was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

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9/5/17

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