

IN THE SUPREME COURT OF THE STATE OF NEVADA

PLUMBERS LOCAL UNION NO. 519
PENSION TRUST FUND; AND CITY
OF STERLING HEIGHTS POLICE AND
FIRE RETIREMENT SYSTEM,
DERIVATIVELY ON BEHALF OF
NOMINAL DEFENDANT DISH
NETWORK CORPORATION,

Appellants,

vs.

CHARLES W. ERGEN; JAMES
DEFRANCO; CANTEY M. ERGEN;
STEVEN R. GOODBARN; DAVID K.
MOSKOWITZ; TOM A. ORTOLF;
CARL E. VOGEL; GEORGE R.
BROKAW; JOSEPH P. CLAYTON;
GARY S. HOWARD; DISH NETWORK
CORPORATION, A NEVADA
CORPORATION; AND DISH
NETWORK SPECIAL LITIGATION
COMMITTEE COUNSEL,

Respondents.

Supreme Court No. 81704

District Court No. A17-763397-B
**UNOPPOSED MOTION FOR
EXTENSION OF TIME FOR
APPELLANTS TO FILE THEIR
OPENING BRIEF**

[SECOND REQUESTED
EXTENSION]

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TO THE HONORABLE SUPREME COURT:

Pursuant to NRAP 26(b)(1)(A), Appellants Plumbers Local Union No. 519 Pension Trust Fund and City of Sterling Heights Police and Fire Retirement System file this unopposed motion for a 45-day extension of time to file their opening brief.

I. BACKGROUND AND CURRENT DEADLINE

The opening brief in this matter was initially due on January 5, 2021. On December 11, 2020, the parties submitted a stipulation seeking to extend the time to file the opening brief to February 4, 2021, which this Court approved on December 11, 2020. Appellants now seek a 45-day extension to March 22, 2021.

II. CONCLUSION REASONS FOR EXTENSION.

There are several grounds which Appellants believe constitute good cause justifying the time extension sought here.

First, this is an exceptionally complex appeal involving derivative claims against the officers and directors of nominal defendant DISH Network Corporation (“DISH”) and the determination of DISH’s Special Litigation Committee (“SLC”) – affirmed by the district court after a two-day evidentiary hearing – that the derivative litigation be dismissed. In addition to review of the evidentiary hearing, filing the opening brief requires review of the SLC’s report – which exceeds 300 pages – and its voluminous attachments. The appeal also requires review of two separate federal actions against DISH which directly relate to the derivative claims. Appellate counsel has been working diligently in an effort to comply with the February 4, 2021 deadline, but given the complexity of the issues and the volume of the material, counsel is unable to meet that deadline.

Second, appellate counsel primarily responsible for drafting the Opening Brief, Steven F. Hubachek, has responsibility for other matters as well as a member of his firm’s four-person appellate unit. Although counsel has prioritized the instant appeal, several of those matters have required – and will continue to require – attention during the period of time allowed to research and draft the opening brief.

Mr. Hubachek had primary responsibility for drafting and filing the Appellants’ opening brief in *Lincolnshire Police Pension Fund v. Jackson*, First

Appellate District, Division 2, No. A160763, another complex derivative action for which the opening brief was filed December 21, 2020.

Mr. Hubachek is also responsible for participating in preparation for the oral argument in *In re Sundial Growers Inc. Securities Litigation*, Supreme Court of New York, Appellate Division, Case/Docket No. 2020-02704, set for January 27, 2021. *Sundial* is a complex securities class action.

Mr. Hubachek is also working on the opening brief in *City of Taylor Police and Fire Retirement System v. Zebra Technologies Corporation*, Seventh Circuit Court of Appeals No. 20-3258, which is due February 11, 2021. *Zebra* is a complex securities class action.

Mr. Hubachek has also been set for oral argument in *In re Proshares Trust II Securities Litigation*, Second Circuit Court of Appeals No. 20-419, on March 4, 2021. *Proshares* is also a complex securities class action. The requested due date in the instant matter allows time to finalize the opening brief in the instant matter after the *Proshares* argument.

III. CONCLUSION

For these reasons, Appellants respectfully request that this unopposed motion for extension of time be granted and that the time for filing their brief be extended until March 22, 2020.

Dated this 20th day of January 2021.

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of January 2021, I submitted the foregoing **UNOPPOSED MOTION FOR EXTENSION OF TIME FOR APPELLANTS TO FILE THEIR OPENING BRIEF** for filing via the Court's eFlex electronic filing system to all parties of record.



An employee of H1 Law Group