

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. A-17-703397-B
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Elizabeth A. Brown
Clerk of Supreme Court
**APPELLANTS' EMERGENCY
UNOPPOSED MOTION FOR
EXTENSION OF DEADLINE TO
FILE OPENING BRIEF AND
APPENDIX**

**EMERGENCY MOTION UNDER
NRAP 27(e)**

**ACTION NECESSARY BY MARCH
26, 2021**

[THIRD REQUESTED EXTENSION]

Pursuant to Nevada Rules of Appellate Procedure ("NRAP") 26(b)(1)(A), 27(e), and 31(a)(3), Appellants Plumbers Local Union No. 519 Pension Trust Fund and City of Sterling Heights Police and Fire Retirement System ("Appellants") file this emergency, unopposed motion for a one-week extension of time to file their opening brief and appendix.

In compliance with NRAP 27(e)(3), this motion is accompanied by a NRAP 27(e) Certificate, which is incorporated by reference as if fully set forth herein.

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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. On or about January 20, 2021, Appellants filed an unopposed motion seeking to extend the time to file the opening brief to March 22, 2021, which this Court approved in an order entered January 29, 2021. Based on the Court's January 29, 2021 order, the current deadline for Appellants to file their opening brief and appendix is **March 22, 2021**.

By this motion, Appellants seek to extend the deadline to file their opening brief to **March 26, 2021**. Appellants also seek to extend the deadline to file the joint appendix such that Appellants will begin filing the joint appendix on March 26, 2021, and complete the process of filing the appendix in due course thereafter.

II. THE REQUESTED EXTENSION IS NECESSARY AND APPROPRIATE

In its January 29, 2021 order, the Court indicated that absent demonstration of extraordinary circumstances and extreme need, no further extensions of the deadline for filing Appellants' opening brief and appendix would be granted. Appellants respectfully submit that extraordinary circumstances and extreme need are present and the instant request is justified. Specifically:

- In the last several weeks, the parties' counsel have been working toward a joint appendix. Due to the size and complexity of the appendix, the process could not be completed by the March 22, 2021 deadline despite the best efforts of counsel.

- The documents in the record are voluminous, with the SLC's report alone consisting of over 16,000 pages. With the inclusion of documents from all parties, the joint appendix will be over 20,000 pages and more than 80 volumes.

- The joint appendix will include certain filings and exhibits that were sealed by the district court. Some of those filings and exhibits were subsequently unsealed during the evidentiary hearing before the district court, but others were not. Respondents maintain that portions of the sealed filings and exhibits which Appellants intend to reference and/or rely upon in their opening brief contain confidential material that should be sealed in this appeal, which necessitates a motion to file under seal to accompany Appellants' opening brief.

- It is not possible for Appellants to finish compiling the joint appendix, obtain Respondents' approval thereof, and then to file more than 80 volumes of the joint appendix by March 22, 2021. Appellants anticipate that once the joint appendix is compiled and approved, it will take 2-3 judicial days to file it in totality.

- Moreover, while Appellants' opening brief is substantively drafted, until the joint appendix is completed Appellants are unable to complete the citations in their opening brief. Appellants cannot file an opening brief that does not contain complete and proper citations.

In sum, the instant request is both necessary and the result of extraordinary circumstances. Quite simply, the size and complexities of the joint appendix make the completion of the opening brief and the filing of the appendix an impossibility by the current March 22, 2021 deadline. Appellants are not seeking to unduly delay

the briefing in this appeal; rather, they seek a nominal extension to accommodate the practical reality of the situation.

Appellants anticipate that the joint appendix will be completed by Wednesday, March 24, 2021, which will allow them to complete the citations in their opening brief and file the brief by March 26, 2021. Once the opening brief has been filed, Respondents will begin filing the joint appendix, and they anticipate that process will be completed within 3 judicial days. Thus, by this emergency motion, Appellants only ask for the time necessary to complete the filing process.

Respondents' counsel have agreed to this proposal, and therefore do not oppose this motion.

III. EMERGENCY CONSIDERATION IS NECESSARY, AND APPELLANTS HAVE COMPLIED WITH NRAP 27(e)

It is necessary this motion be considered on an emergency basis. If considered in the ordinary course, the extension requested in this motion will have passed before the motion is decided.

Further, as set forth in the attached NRAP 27(e) Certificate, on March 19, and March 22, 2021, counsel for Appellants and Respondents engaged in discussions and exchanged email communications regarding the appendix issues (discussed in the preceding section) which necessitate this emergency motion. The parties reached an agreement on the request set forth in this motion, and Appellants' counsel advised the Court's Clerk and Respondents' counsel the instant emergency motion would be filed. The motion is being filed as promptly as possible thereafter, and it will be served on all parties to this appeal.

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IV. CONCLUSION

For the reasons set forth herein, Appellants respectfully request that this emergency motion for extension of time be granted and: (1) that the time for filing their brief be extended until **March 26, 2021**; and (2) that the time for beginning the process of filing the joint appendix be extended to **March 26, 2021**, with the appendix to be filed in full in due course thereafter.

Dated this 22nd day of March 2021.

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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of March 2021, I submitted the foregoing **APPELLANTS' EMERGENCY, UNOPPOSED MOTION FOR EXTENSION OF DEADLINE TO FILE OPENING BRIEF AND APPENDIX** for filing via the Court's eFlex electronic filing system to all parties of record.



Judy Estrada, an employee of H1 Law
Group