

In the
Indiana Court of Appeals
Case No. **23A-PL-00705**

THEODORE ROKITA,
Defendant-Appellant

v.

BARBARA TULLY,
Plaintiff-Appellee

Appeal from Marion County Superior Civil
Court D06

Trial Court Case No. 49D06-2107-PL-025333

The Honorable:
Kurt Eisgruber, Judge

Motion for Extension of Time to File Appellant’s Brief

Pursuant Ind. Appellate Rule 35, Appellant Theodore Rokita (**AG Rokita**) respectfully moves this court for a 30-day extension of time to file the Appellant’s Brief in this matter. In support of this motion, Appellant submits the following:

1. The trial court issued its order and opinion granting Plaintiff-Appellee Tully’s Motion for Summary Judgment and denying AG Rokita’s Cross-Motion for Summary Judgment on January 3, 2023.
2. Ms. Tully filed a Motion to Amend And/Or Clarify this Order on January 9, 2023.
3. The trial court denied Ms. Tully’s motion to amend and issued its Final Order on Summary Judgment on February 27, 2023.
4. Following AG Rokita and Ms. Tully’s Joint Motion to Amend the Final Order, the trial court granted this Joint Motion on March 22, 2023 to add the following language to the Final Order:
“This Court determines that there is no just reason for delay. This Court further directs entry of

judgment as to less than all the issues, claims, or parties.”

5. AG Rokita timely filed the Notice of Appeal with this Court on March 29, 2023. This Notice of Appeal was received by the trial court on March 30, 2023 and reviewed by the same on March 31, 2023.

6. Pursuant to Ind. Appellate Rule 10(D), the trial court served the Notice of Completion of the Transcripts on May 19, 2023. Pursuant to Ind. Appellate Rule 45(B), the Appellant’s Brief is due to be filed no later than 30 days after the trial court served the Notice of Completion of the Transcript, which in this case is June 19, 2023. The current due date for the Appellant’s Brief is not due to a previous extension of time.

7. AG Rokita requests a 30-day extension of time to file the Appellant’s Brief, to July 19, 2023.

8. In spite of due diligence, AG Rokita’s counsel in this matter will not be able to have adequate time to prepare and file the Appellant’s Brief by June 19, 2023 because:

a. Counsel is engaged in other litigation, with several competing relevant litigation deadlines. *The Bopp Law Firm, PC v. True the Vote, Inc.*, Case No. 2:23-cv-120 (S.D. Ind., filed March 16, 2023); and *Indiana Right to Life Victory Fund, et al. v. Diego Morales, et al.*, Case No. 23S-CQ-00108 (Ind. Sup. Ct.). In addition, counsel represents AG Rokita in other imminent litigation, which, when filed, will have competing litigation deadlines as well. These competing deadlines will prevent AG Rokita’s counsel from having adequate time to prepare the Appellant’s Brief by the current deadline of June 19, 2023.

b. Counsel Melena S. Siebert, who has the primary responsibility for drafting the

Appellant's Brief, has a previously scheduled vacation from June 17, 2023 - July 5, 2023. She will be out of the country for this extended time period and will not have access to work. Because this vacation overlaps with the current deadline of June 19, 2023, she will not have adequate time to finalize and prepare the Appellant's Brief for filing.

- c. Counsel Courtney Turner Milbank, has a previously scheduled vacation from June 14 - 22, 2023. She will also be out of the country and will not have access to work during that time. Because this vacation overlaps with the current deadline of June 19, 2023, she will not have adequate time to assist in finalizing the Appellant's Brief for filing.

WHEREFORE, Defendant-Appellant Theodore Rokita has shown good cause for this Motion for Extension of Time to File Appellant's Brief, this court should GRANT said Motion, and set the deadline for filing the Appellant's Brief to July 19, 2023.

Dated: May 23, 2023

Respectfully submitted,

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Certificate of Filing and Service

I certify that on May 23, 2023, the foregoing document and all attachments thereto were filed using the Indiana E-filing System. I also hereby certify that on May 23, 2023, the foregoing action served the foregoing document on the following via IEFS:

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Counsel for Plaintiff-Appellee

/s/ Melena S. Siebert
Attorney for Defendant-Appellant