

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

KEN ARONSON,

Plaintiff-Appellant,

v.

DOG EAT DOG FILMS, INC.,

Defendant-Appellee.

No. 10-35815

APPELLANT
ARONSON'S MOTION
FOR EXTENSION OF
TIME TO FILE
OPENING BRIEF

1. Identity of Moving Party. Appellant Ken Aronson ("Aronson") moves for the relief designated below.
2. Statement of Relief Requested. Aronson requests that this Court extend the due date for the filing of his opening brief from February 22, 2011 to February 28, 2011.
3. Statement of Material Facts. Aronson's opening brief is currently due on February 22, 2011. The facts demonstrating the diligence of Aronson's counsel and the substantial need for the requested extension are set forth in the declaration of Philip A. Talmadge attached to this motion.

4. Grounds for Relief Requested. This Court will grant an extension of more than 14 days of the due date for a brief for the filing upon a showing of diligence and substantial need. *See* Circuit Rule 31-2.2(b). The facts set forth in the attached declaration of Philip A. Talmadge establish that Aronson's counsel has been diligent, and that there is a substantial need for an extension of the due date for the filing of Aronson's opening brief, from February 22, 2011 to February 28, 2011.

5. Conclusion. This Court should extend the due date for the filing of Aronson's opening brief to February 28, 2011.

DATED this 15th day of February, 2011.

Respectfully submitted,

/s/ Philip A. Talmadge
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DECLARATION OF PHILIP A. TALMADGE

1. I am over the age of 18 years, competent to testify, and familiar with the facts herein. I am one of the appellate counsel for appellant Aronson in this action, and have responsibility for the preparation of the opening brief.

2. Aronson's opening brief is presently due on February 22, 2011. Appellant Aronson is preparing that opening brief, but requests an extension of the date for submission of that brief to February 28, 2011.

3. Aronson has completed the excerpt of record and it will be submitted shortly to the Court.

4. Aronson's opening brief is principally the product of two attorneys in our office – the undersigned and Peter Lohnes. Mr. Lohnes has had the responsibility for the initial draft of the brief. However, his mother has recently undergone surgery for cervical cancer, calling him away from the office and out of state.

5. I would ordinarily be ready to assume responsibility for the completion of the brief, but I have had two state appellate arguments – Division III of the Washington Court of Appeals (February 10, 2011) and Division II of that court (February 15, 2011) – that have occupied my time. Moreover, I am

preparing for an upcoming argument in Division I of the Washington Court of Appeals on February 24. An extension to February 28 will allow me to complete the brief in light of Mr. Lohnes' emergency.

6. This short extension is necessary to enable my firm to complete the brief. The extension will not prejudice the appellees.

I swear the foregoing to be true under penalty of perjury under the laws of the State of Washington. Executed at Tukwila, Washington, this 15th day of February, 2011.

/s/ Philip A. Talmadge
Philip A. Talmadge

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the Appellant Aronson's Motion for Extension of Time to File Opening Brief with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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DATED: February 15, 2011, at Tukwila, Washington.

/s/ Paula Chapler _____
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