

Appeal No. 11-57187

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

COURTHOUSE NEWS SERVICE,

Plaintiff-Appellant,

v.

**MICHAEL PLANET, in his official capacity as Court Executive Officer/Clerk
of the Ventura County Superior Court,**

Defendant-Appellee.

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
HONORABLE MANUEL REAL
CASE NO. 11-08083**

**JOINT MOTION FOR EXTENSION OF TIME IN WHICH TO FILE
ANSWERING AND REPLY BRIEFS; SUPPORTING DECLARATIONS**

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Pursuant to Federal Rule of Appellate Procedure 26(b) and Circuit Rule 31-2.2(b), Appellant Courthouse News Service and Appellee Michael Planet respectfully jointly move this Court for an order extending the time in which to file the answering brief until July 30, 2012, which constitutes an extension of thirty-two (32) days, and for an order extending the time in which to file the reply brief until September 12, 2012, which constitutes an extension of thirty (30) days. The grounds for this motion are set forth in the following declarations of Rachel Matteo-Boehm and Nathaniel P. Garrett.

Dated: June 6, 2012

Respectfully submitted,

Bryan Cave

By: /s Rachel Matteo-Boehm

Rachel Matteo-Boehm

Attorneys for Plaintiff-Appellant
COURTHOUSE NEWS SERVICE

Dated: June 6, 2012

Respectfully submitted,

Jones Day

By: s/ Nathaniel P. Garrett

Nathaniel P. Garrett

Attorneys for Defendant-Appellee
MICHAEL PLANET

**DECLARATION OF NATHANIEL P. GARRETT IN SUPPORT OF JOINT
MOTION FOR AN EXTENSION OF TIME**

I, Nathaniel P. Garrett, do hereby declare as follows:

1. I am an attorney at the law firm of Jones Day, counsel of record for Appellee Michael Planet. In accordance with Ninth Circuit Rule 31-2.2(b), I submit this declaration in support of the Joint Motion to Extend Time In Which To File Answering and Reply Briefs. Except as otherwise stated, the matters set forth herein are based upon my personal knowledge, and I could and would testify competently thereto if called upon to do so.

2. Appellee is seeking an extension of time until July 30, 2012, within which to file his answering brief. Appellee's answering brief currently is due June 28, 2012.

3. Appellee has not previously sought any extension of time for filing his opening brief.

4. A thirty-two (32) day extension, through and including July 30, 2012, is necessary to provide counsel for Appellee sufficient time to prepare the answering brief. Such an extension is necessary because of the unaccommodating schedule of Appellee's counsel.

a. I am the attorney with primary responsibility for the preparation of Appellees' brief on appeal. I am not able to complete the necessary work on Appellee's brief within the time allotted because of other unavoidable

conflicting commitments during the relevant time period, including principally the following:

- i. Appellee's counsel is responsible for drafting and submitting by June 18, 2012 to the California Court of Appeal a Respondent's Brief in *Scott, et al. v. Lennar Corporation, et al.*, No. A133890.
- ii. Appellee's counsel is responsible for drafting and submitting by July 5, 2012 to the Ninth Circuit Court of Appeals an Answering Brief in *Waters v. Hollywood Tow Service, Inc., et al.*, No. 11-57172.
- iii. Appellee's counsel is responsible for drafting and submitting by July 8, 2012 to the California Court of Appeal a Respondent's Brief in *Studendorff, et al. v. National Semiconductor Corporation*, No. H037739.

b. To meet my obligations in this appeal and in respect to the foregoing matters, I have enlisted the assistance of other attorneys in my firm. But even with such assistance, I will not reasonably be able to complete the work necessary to prepare Appellee's brief in this appeal by the present due date, while at the same time meeting my other commitments.

5. Appellant has not previously sought any extension of time for filing its reply brief.

6. Counsel for Appellant, Rachel Matteo-Boehm, has stated that Appellant does not oppose Appellee's request for a 32-day extension of time to file his answering brief, provided that Appellee does not oppose Appellant's request for a similar 30-day extension.

7. I have exercised, and will continue to exercise, diligence regarding this appeal and will file the brief by the requested due date.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at San Francisco, California, on June 6, 2012.

/s Nathaniel P. Garrett
Nathaniel P. Garrett

**DECLARATION OF RACHEL MATTEO-BOEHM IN SUPPORT OF
JOINT MOTION FOR AN EXTENSION OF TIME**

I, Rachel Matteo-Boehm, declare and state as follows:

1. I am a partner in the law firm of Bryan Cave LLP, counsel of record for Plaintiff and Appellant Courthouse News Service (“Courthouse News”). In accordance with Ninth Circuit Rule 31-2.2(b), I submit this declaration in support of the Joint Motion to Extend Time In Which To File Answering And Reply Briefs. I make this declaration on my own personal knowledge. If called as a witness I would testify competently to the facts stated herein.

2. Appellee Michael Planet is seeking a 32-day extension of time, through and including July 30, 2012, to file his answering brief. I have advised counsel for Appellee that Courthouse News does not oppose Appellee’s request for a 32-day extension, provided that Courthouse News also has a similar 30-day extension, through and including September 12, 2012, to file its reply brief.

3. I am the attorney with primary responsibility for the preparation of Courthouse News’ reply brief. I will be on vacation in China from approximately July 29 through August 14, 2012. Courthouse News’ reply brief is currently due within 14 days of service of Appellee’s answering brief. In the event that Appellee is granted a 32-day extension of time and Courthouse News is not also provided with an extension of time, Courthouse News would be required to prepare and file its reply brief while I am in China.

9th Circuit Case Number(s) 11-57187

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CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system

on (date) Jun 6, 2012 .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

s/ Nathaniel P. Garrett

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Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

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