UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ANDREW and MARINA FOX, Appellants, v. ROBERT DE LONG, Appellee.	No. 2:14-cv-02947-KJM ORDER

On December 18, 2014, Andrew and Marina Fox, appellants, filed a notice of appeal from Bankruptcy Case No. 12-226226-C-7, Adversary Proceeding No. 12-2298-C. ECF No. 1. The Foxes' opening brief was due on January 26, 2015. Briefing Schedule in Bankruptcy Appeal, ECF No. 4-1. On January 22, 2015, counsel for the Foxes filed an ex parte request for an additional twenty-one days to file their opening brief because "a different attorney . . . , Daniel Baxter, will be handling the appeal," and "Mr. Baxter has had a very impacted schedule since the beginning of the year preparing for out of state arbitration and needs time to familiarize himself with the case and record on appeal." Ex Parte Request ¶ 3, ECF No. 6. Appellee's counsel refused to stipulate to an extension, but has not formally opposed the request. *Id.* ¶ 4.

As a general matter, the court may grant an ex parte request to extend a deadline if made "as soon as the need for an extension becomes apparent" and the requesting party explains

in affidavit why a stipulation could not be reached and why an extension is necessary. *See* Local Rule 143. Only the first such request is ordinarily granted. *Id.* The court accordingly grants the request, but cautions counsel that any further requests for extensions of time will not be granted absent a showing of good cause. Good cause is generally not established by showing preoccupation with other matters or a busy schedule. *Dunfee v. Truman Capital Advisors, LP*, No. 12-1925, 2013 WL 5603258, at *4 (S.D. Cal. Oct. 11, 2013).

Appellants' request for a 21-day extension of time to file an opening brief is GRANTED. Their opening brief shall be filed no later than February 16, 2015. Appellee's opening brief shall be filed within fourteen days of service of appellants' opening brief, and appellants' reply brief, if any, may be filed within fourteen days after service of appellee's opening brief, as previously ordered.

IT IS SO ORDERED.

DATED: January 26, 2015.

UNITED STATES DISTRICT JUDGE