

United States District Court
Southern District of Texas

ENTERED

March 16, 2020

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

THOMAS BALKE, TEBJES INC. §
d/b/a BASIC ENGINEERING, and §
ULTRAWAVE TECHNOLOGY §
FOR EMULSION CONTROL LLC §
d/b/a ULTRATEC LLC, §

Appellants, §

v. §

CIVIL ACTION NO. H-18-731

DON B. CARMICHAEL, KK & PK §
FAMILY, L.P., BARRY D. WINSTON, §
and GARY EMMOTT, §

Appellees. §

ORDER

On March 13, 2020, the appellants, Thomas E. Balke, Basic Engineering, and Ultratec LLC, moved to extend the deadline to file their brief until 14 days after the court resolves multiple pending motions, (Docket Entry Nos. 36, 38, 39, 57), and after the record is supplemented, assuming the court grants their motion to supplement the record.

The March 13 motion to extend the brief deadline, (Docket Entry No. 55), is denied because, as the court explained in its January 3, 2020, order, “[a]bating the briefing deadlines will prejudice the appellees and further delay the adjudication of the first appeal. There is no basis to find prejudice to the appellants by requiring them to proceed. To the contrary, any prejudice from the continued delay will be visited on the appellees.” (See Docket Entry No. 35 at 3). In addition, the court observes that the Fifth Circuit denied the appellants’ motion for a stay pending appeal, and the appellants filed their pending motion to remand almost two years after filing their notice of appeal in this court. (See Docket Entry Nos. 1, 36, 56-3). Further delay is unwarranted.

All current deadlines remain in effect. If necessary, the parties may file supplemental briefs after the court rules on the other pending motions.

SIGNED on March 16, 2020, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal". The signature is fluid and cursive, with a large loop at the end of the last name.

Lee H. Rosenthal
Chief United States District Judge