

No. 03-07-123456-CV

In The Court Of Appeals
For The Third Court Of Appeals District
Austin, Texas

ABC SERVICES CORPORATION OF AUSTIN, LP,

Appellant,

v.

XYZ, INC.,

Appellee.

ON APPEAL FROM THE 261ST DISTRICT COURT, TRAVIS COUNTY, TEXAS
TRIAL COURT CAUSE NO. GN 1-23456

**APPELLANT'S UNOPPOSED FIRST MOTION
TO EXTEND TIME TO FILE APPELLANT'S BRIEF**

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Identity of Parties and Counsel

Appellant/Plaintiff:

Plaintiff/Appellant's Appellate Counsel:

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Appellee/Defendant:

Defendant/Appellee's Appellate Counsel:

Mary J. Green
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TO THE HONORABLE THIRD COURT OF APPEALS:

Pursuant to TEX. R. APP. P. 10.1 and 38.6(d), the Appellant, ABC Services Corporation of Austin, L.P. (“ABC Services”), files this Unopposed First Motion to Extend Time to File Appellant’s Brief.

ABC Services’ opening brief is currently due on **March 26, 2007**.

Counsel for ABC Services requests a 30-day extension of time to file its brief, making the brief due on **April 25, 2007**. This is the first request for extension of time to file the opening brief.

Counsel for ABC Services relies on the following reasons, in addition to the routine matters that counsel must attend to in daily practice, to explain the need for the requested extension [*suggested alternatives*]:

- ▶ Counsel for ABC Services, John M. Smith, has been preparing briefs and petitions for writs of mandamus in several other cases, and it has been impossible to reach this case for study and analysis and preparation of the Brief for ABC Services.
- ▶ The undersigned counsel has been recently appointed by the Court to represent ABC Services in accordance with the Court’s Pro Bono Pilot Program and needs additional time to familiarize himself with the record and legal issues in the case in order to prepare ABC Services’s opening brief.
- ▶ Counsel for ABC Services has undergone recent medical procedures and is currently on medical leave from his practice. As a result, he will not be able to prepare the brief in time to meet the Court’s briefing deadline absent an extension.

Counsel for ABC Services seeks this extension of time to be able to prepare a cogent and succinct brief to aid this Court in its analysis of the issues presented. This request is not sought for delay but so that justice may be done.

The undersigned has conferred with Mary J. Green, counsel for the Defendant/Appellee, and she has indicated that her client does not oppose this motion.

All facts recited in this motion are within the personal knowledge of the counsel signing this motion, therefore no verification is necessary under Texas Rule of Appellate Procedure 10.2.

PRAYER FOR RELIEF

For the reasons set forth above, Appellant requests that this Court grant this Unopposed First Motion to Extend Time to File Appellant’s Brief and extend the deadline for filing the Appellant’s Brief up to and including **April 25, 2007**. ABC requests all other relief to which it may be entitled.

Respectfully submitted,

SMITH, FRANKLIN & JONES

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CERTIFICATE OF CONFERENCE

Pursuant to TEX. R. APP. P. 10.1(5), I certify that the undersigned conferred with opposing counsel who indicated that her client does *not* oppose this motion.

John M. Smith

CERTIFICATE OF SERVICE

Pursuant to TEX. R. APP. P. 9.5, I certify that on _____, 2007, a copy of this motion was mailed via first class U.S. mail, postage prepaid, to the following:

Mary J. Green
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Counsel for Appellee/Defendant

John M. Smith