

FIRST COURT OF APPEALS AT HOUSTON, TEXAS

Pappas Restaurants, Inc. and Pappas Bar-B-Q, Inc. v. State of Texas

Pappas Restaurants · No. 01-15-00001-CV · Decided May 21, 2015

SUMMARY

This document is an unopposed first motion by Pappas Restaurants, Inc. and Pappas Bar-B-Q, Inc. seeking a 20-day extension of time to file their reply brief in a Texas appeal. The motion states that the State of Texas does not oppose the extension and requests a new filing deadline of June 29, 2015.

CASE DETAILS

COURT	First Court of Appeals at Houston, Texas
JURISDICTION	Texas
DECIDED	May 21, 2015
DOCKET	01-15-00001-CV
PROCEDURAL POSTURE	Appellants filed an unopposed first motion for a twenty-day extension of time to file their reply brief in a pending appeal.
PRECEDENTIAL VALUE	nonprecedential procedural filing
PARTIES	Pappas Restaurants, Inc., Pappas Bar-B-Q, Inc. v. The State of Texas

TOPICS

appellate procedure

civil procedure

PRACTICE AREAS

Appellate procedure

Civil procedure

QUESTIONS PRESENTED

1. Whether appellants should receive a twenty-day extension of time to file their reply brief under Texas Rules of Appellate Procedure 10.5(b) and 38.6(d).

FACTUAL BACKGROUND

The trial court signed a judgment in absence of objection on October 29, 2014, and denied appellants' motions for new trial on November 21, 2014. Appellants filed their notice of appeal on December 29, 2014; the clerk's record was filed on January 14, 2015, and there was no reporter's record. Appellants stated that vacations of the

attorneys primarily responsible for drafting the reply brief prevented timely filing and requested a twenty-day extension, to June 29, 2015.

PROCEDURAL HISTORY

The County Civil Court at Law Number Four of Harris County signed a judgment in absence of objection on October 29, 2014. Appellants' motions for new trial were denied on November 21, 2014, and appellants filed their notice of appeal on December 29, 2014. After the appellate briefs were filed or scheduled, appellants moved for an extension of time to file their reply brief; the motion states that the State did not oppose the requested extension.

OPINION

PER CURIAM.

ACCEPTED 01-15-00001-CV FIRST COURT OF APPEALS HOUSTON, TEXAS 5/21/2015
11:02:28 AM CHRISTOPHER PRINE CLERK No. 01-15-00001-CV

FILED IN 1st COURT OF APPEALS IN THE FIRST
COURT OF APPEALS AT HOUSTON HOUSTON, TEXAS

5/21/2015 11:02:28 AM CHRISTOPHER A. PRINE
Clerk PAPPAS RESTAURANTS, INC., and PAPPAS BAR-B-Q, INC., Appellants, v. THE STATE
OF TEXAS, Appellee. _____ APPELLANTS' UNOPPOSED
MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF

Trial Court Cause No. 1043062 On Appeal from
County Civil Court at Law Number Four of Harris County, Texas The Honorable Roberta Lloyd,
Presiding _____ TO THE HONORABLE JUSTICES OF THE
COURT OF APPEALS: Pursuant to Rule 10.5(b) and 38.6(d) of the Texas Rules of Appellant
Procedure, Pappas Restaurants, Inc. and Pappas Bar-B-Q, Inc. (collectively Appellants) file this
Unopposed First Motion for Extension of Time to File Reply Brief, and would show the Court as
follows: 1 1.

The trial court signed the Judgment in Absence of Objection on October 29, 2014. Appellants' motions for new trial were denied on November 21, 2014. On December 29, 2014, Appellants filed their Notice of Appeal. 2. The Clerk's record was filed on January 14, 2015, within 2 weeks of the filing of the Notice of Appeal. There is no reporter's record. 3.

The Brief of Appellants was filed on March 16, 2015. The State of Texas filed its Brief of Appellee on May 18, 2015. Appellants' Reply Brief is currently due on June 8, 2015. 4. This is the first motion for extension of time to file Reply Brief of Appellants. By this Motion, Appellants are requesting a 20-day extension of time to file the Reply Brief, making the Reply Brief due on June 29, 2015.

(The 20th day falls on Sunday, June 28, 2015.) Appellants request this extension because the counsel for Appellants who are primarily in charge of drafting the Reply Brief have scheduled vacations which will prevent them from filing the brief on time. Don Griffin has vacation scheduled from May 18 through May 25, 2015, and Catherine Smith has vacation scheduled June 8 through June 14.

6. Appellee the State of Texas is not opposed to this Motion. For these reasons, Appellants pray that the Court grant this Motion and extend the time for filing the Reply Brief of Appellants to and including June 29, 2015. Appellants pray for such other and further relief to which they may be justly entitled. Respectfully submitted, VINSON & ELKINS L.L.P. /s/ Don C. Griffin H. Dixon Montague State Bar No. 14277700 dmontague@velaw.com Don C. Griffin State Bar No. 08456975 dgriffin@velaw.com Catherine B. Smith State Bar No. 03319970 csmith@velaw.com 1001 Fannin Street, Suite 2500 Houston, Texas 77002-6760 Telephone: 713.758.

3508 Facsimile: 713.615. 5985 Attorneys for Appellant Pappas Restaurants, Inc. /s/ Anna Sabayrac Marchand Anna Sabayrac Marchand State Bar No. 24060543 amarchand@pappas.com Frank Markantonis State Bar No. 12986700 13939 Northwest Freeway, Suite 100 Houston, Texas 77040 Telephone: (713) 863-0611 Facsimile: (713) 863-0523 Attorneys for Appellant Pappas BAR-B-Q, Inc. 3 CERTIFICATE OF CONFERENCE I hereby certify that on May 21, 2015, I conferred with Cristina Vudhiwat of the Attorney General's Office on behalf of the Appellant, the State of Texas via email, and she indicated that the State was not opposed to this motion. /s/ Catherine B. Smith Catherine B. Smith CERTIFICATE OF SERVICE The undersigned certifies that on May 21, 2015, the foregoing Unopposed First Motion for Extension of Time to File Reply Brief was served electronically on the following parties in accordance with the requirements of the Texas Rules of Appellate Procedure: Cristina Vudhiwat Via E-Filing cristina.vudhiwat@texasattorneygeneral.gov Assistant Attorney General Office of the Attorney General P. O. Box 12548 Austin, Texas 78711-2548 Telephone: 512.463.2004 Attorneys for Appellee The State of Texas /s/ Catherine B. Smith Catherine B. Smith US 3534030v.1 4