

IN THE DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA
FOURTH DISTRICT

PHILIP J. VON KAHLE,

Appellant,

CASE NO. 4D18-3563

LOWER CASE NO. 120034123(07)

v.

FRANK AVELLINO,

Appellee.

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**APPELLANT'S AGREED MOTION FOR EXTENSION
OF TIME TO FILE REPLY BRIEF**

Appellant, Philip J. Von Kahle (Appellant), by and through undersigned counsel, pursuant to Fla. R. App. P. 9.300(a), files this Agreed Motion for Extension of Time to File Reply Brief and requests entry of an order granting Appellant an enlargement of 30 days, or until July 10, 2019, to file Appellant's Reply Brief. In support of this Motion, Appellant states:

1. On December 3, 2018, Appellant filed his Notice of Appeal of an Agreed Final Judgment entered on November 1, 2018, and the Order Granting in Part and Denying in Part, Defendants Frank Avellino and Michael Bienes' Joint Motion to Dismiss Fourth Amended Complaint entered on December 18, 2014, in Circuit Court, Broward County, Florida.

2. On February 18, 2019, Appellant filed his Initial Brief.
3. On May 10, 2019, Appellee Frank Avellino (Appellee) filed his Answer Brief. Accordingly, Appellant's Reply Brief is due on June 10, 2019. See Fla. R. App. P. 9.210(f); Fla. R. Judicial Admin. 2.514(a)(1)(C).
4. Undersigned counsel has begun work on Appellant's Reply Brief but due to the undersigned counsel's workload, additional time is needed to complete and file the Reply Brief.
5. Appellant therefore respectfully requests that the Court grant Appellant an additional 30 days, or until July 10, 2019, within which to file his Reply Brief.
6. Granting the requested enlargement of time will benefit the Court by permitting Appellant adequate time to analyze and develop the arguments responsive to Appellee's 43-page Answer Brief, which will facilitate a just and correct decision in this matter. (The record on appeal contains pleadings from December 10, 2012 through December 28, 2018 and is 7,219 pages.)
7. Undersigned counsel certifies that the requested enlargement is sought in good faith and not for the purpose of delay.
8. Counsel for Appellant represents that counsel for Appellee agrees to the 30-day extension requested herein.
9. Appellant has not filed a notice of agreed extension as contemplated by Administrative Order No. 2018-1 because the extension requested herein is for 30

days which exceeds the 15 days allowed by that Administrative Order regarding reply briefs.

WHEREFORE, Appellant, Philip J. Von Kahle, respectfully requests that the Court enter an order granting Appellant an additional 30 days, or until July 10, 2019, to file his Reply Brief.

Dated: May 23, 2019

Respectfully submitted,

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By: *s/ Leonard K. Samuels*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via electronic transmission upon Gary A. Woodfield, Esq. (gwoodfield@haileshaw.com), Haile, Shaw & Pfaffenberger, P.A., *Attorneys for Appellee Frank Avellino*; Susan B. Yofee, Esq. (syofee@haileshaw.com), 660 U.S. Highway One, Third Floor, North Palm Beach, FL 33408 and Thomas Messana, Esq. (tmessana@messana-law.com), Messana, P.A., *General Trial Counsel* for Philip J. Von Kahle on this 23rd day of May, 2019.

By: s/ Leonard K. Samuels
Leonard K. Samuels