

1
2 **IN THE UNITED STATES COURT OF APPEALS**
3 **FOR THE NINTH CIRCUIT**

4 * * * * *

5 JOSE DECASTRO,

Case No.: 26-1594

6 PLAINTIFF-APPELLANT,

7
8 VS.

9 LAS VEGAS METROPOLITAN
10 POLICE DEPARTMENT, ET AL.,

11 DEFENDANTS - APPELLEES.
12

13
14 **APPELLANT'S MOTION FOR FINAL EXTENSION OF TIME TO**
15 **FILE OPENING BRIEF**

16 **MICHAEL MEE, ESQ.**

Bar No. 13726

17 1100 S. 10th Street

Las Vegas, NV 89104

18 E-mail: mmee@defenselawyervegas.com

19 Phone: 702-990-0190

Counsel for Appellant
20
21
22
23
24
25

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Pursuant to Federal Rule of Appellate Procedure 26(b) and Ninth Circuit
3 Rule 31-2.2(b), Appellant Jose DeCastro respectfully moves this Honorable Court
4 for one final extension of sixty (60) days to file the opening brief and excerpts of
5 record, from the present due date of September 27, 2026, to and including
6 **November 27, 2026.**

7
8 Counsel is aware that the Court has advised that further extensions are
9 disfavored, and does not make this request lightly. It is made because extreme and
10 extraordinary circumstances, entirely outside counsel's control, have prevented
11 the timely completion of the brief. Appellant has previously received extensions
12 of time, including one granted while this appeal was in the Court's mediation
13 program. Mediation concluded without an agreement.

14
15 Counsel is a solo practitioner in Las Vegas, Nevada, supported by two part-
16 time staff, a legal assistant and a paralegal. In approximately June 2026, the
17 HVAC system at counsel's leased commercial office in downtown Las Vegas
18 began to fail intermittently, and in July 2026 it was entirely non-functional.
19 Temperatures inside the office exceeded 90 degrees and at times reached 100
20 degrees. Counsel could not properly require his staff to work in those conditions,
21 and from late June through September 2026 he was without both of them.

22
23 The disruption affected counsel's entire caseload, not only this matter.
24 Counsel was unable to meet with clients at his office, lost access to the
25

1 administrative and office equipment provided with the lease, and was required to
2 spend substantial time securing new office space, all without support staff. The
3 building operator repeatedly extended its timelines for restoring the system.
4 Counsel ultimately relocated his practice in mid-September 2026 to a permanent
5 new location at 1100 S. 10th Street, Las Vegas, Nevada. That relocation is
6 complete, and the cause of the delay has ended.
7

8 These are not the ordinary demands of a busy practice. They are extreme
9 and extraordinary circumstances which neither counsel nor, certainly, Appellant
10 could have foreseen or prevented. Appellant had no part in them and should not
11 suffer prejudice as a result.
12

13 No prejudice will result to Appellees. The requested extension causes
14 Appellees no loss of evidence, no change in position, and no expense. The
15 interests of justice and equity also favor the extension. Rule 26(b) permits the
16 Court to extend time for good cause. Denying the extension would leave
17 Appellant to proceed on a brief counsel could not properly complete, and
18 Appellant would bear the consequences of events entirely outside his control.
19 Given the absence of any prejudice to Appellees, the equities favor allowing
20 Appellant a fair opportunity to have this appeal decided on its merits.
21

22 Additional time is reasonably necessary in order for counsel to prepare and
23 file Appellant's Brief into this matter; and on that basis, counsel respectfully
24 requests that these unique circumstances justify a third extension of time
25

1 For the foregoing reasons, and upon the matters set forth in the
2 accompanying Declaration of Counsel, Appellant respectfully prays that this
3 Honorable Court enter its order granting a final extension of time to file the
4 opening brief and excerpts of record to and including **November 27, 2026**.
5

6 Dated this 28th day of September, 2026.

7 **/s/ Michael Mee, Esq.**

MICHAEL MEE, ESQ.

8 1100 S. 10th Street

9 Las Vegas, NV 89104

E-mail: mmee@defenselawyervegas.com

10 Phone: 702-990-0190

11 Counsel for Appellant
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DECLARATION OF COUNSEL

1
2 1. That I am an attorney licensed in the State of Nevada and admitted
3 to practice before the United States District Court for the District of Nevada and
4 the Ninth Circuit Court of Appeals;

5
6 2. That I am counsel for Appellant Jose DeCastro in this appeal; and
7 that the matters stated herein are true of my own knowledge, except those stated
8 upon information and belief, which I believe to be true.

9 3. That the opening brief is presently due September 27, 2026.
10 Appellant has previously received extensions of time, including one while this
11 appeal was in the Court's mediation program, and the Court has advised that
12 further extensions are disfavored.

13 4. That I am a solo practitioner in Las Vegas, Nevada, and during the
14 relevant time periods relating to the cause of this delay, had two part-time staff, a
15 legal assistant and a paralegal.

16 5. That in approximately June 2026, the HVAC system at my leased
17 commercial office in downtown Las Vegas began to fail intermittently, and in
18 approximately early July 2026 it became entirely non-functional. Temperatures
19 inside the office exceeded 90 degrees and at times reached 100 degrees. Because
20 it would have been improper to require my staff to work in those conditions, I was
21 without both of them from late June through September 2026.

22 6. That during this period I was unable to meet with clients at my office,
23 lost access to the administrative and office equipment provided with the lease, and
24 spent substantial time securing new office space.

1 7. That after the building operator repeatedly extended its timelines for
2 restoring the HVAC system, I relocated my practice in mid-September 2026 to a
3 permanent new location at 1100 S. 10th Street, Las Vegas, Nevada.

4 8. That because of this disruption I have been unable to complete the
5 opening brief by the present deadline. These circumstances were extreme and
6 unforeseeable, and Appellant had no part in them, and Appellant should not suffer
7 extreme prejudice as a result, which may be avoided by this third extension of
8 time.

9 9. That no oral argument has been calendared and Appellees' answering
10 brief is not yet due, and there is no prejudice caused by a further extension of time.

11 10. That, for these reasons, Appellant respectfully requests an extension
12 of sixty (60) days, to and including November 27, 2026.

13 I declare under penalty of perjury under the laws of the United States of
14 America that the foregoing is true and correct.

15 Dated this 28th day of September, 2026.

16
17 /s/ Michael Mee, Esq.

MICHAEL MEE, ESQ.

1100 S. 10th Street

Las Vegas, NV 89104

E-mail: mmee@defenselawyer Vegas.com

Phone: 702-990-0190

Counsel for Appellant

CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 563 words, excluding the parts of the document exempted by Federal Rules of Appellate Procedure 27(d)(2) and 32(f). This motion complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5) and (6) because it has been prepared in a proportionally spaced typeface in 14-point font.

CERTIFICATE OF SERVICE

The foregoing was served via the Court's electronic filing and e-service system on the below date.

Dated this 28th day of September, 2026.

/s/ Michael Mee, Esq.

MICHAEL MEE, ESQ.

1100 S. 10th Street

Las Vegas, NV 89104

E-mail: mmee@defenselawyervegas.com

Phone: 702-990-0190

Counsel for Appellant