

**In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth**

FILED IN
2nd COURT OF APPEALS
FORT WORTH, TEXAS
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DEBRA SPISAK
Clerk

No. 02-19-00394-CV

VICTOR MIGNOGNA, Appellant
V.
FUNIMATION PRODUCTIONS, LLC, JAMIE MARCHI, MONICA RIAL,
AND RONALD TOYE, Appellees
AND
MONICA RIAL AND RONALD TOYE, Appellants
V.
VICTOR MIGNOGNA, Appellee

On Appeal from the 141st District Court
Tarrant County, Texas
Trial Court No. 141-307474-19

**MOTION FOR EXTENSION OF TIME TO FILE MOTION FOR
REHEARING AND/OR EN BANC RECONSIDERATION**

Filed on behalf of Victor Mignogna by:

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Summary of Motion & Requested Relief

Appellant requests that the Court extend the time to file a motion for rehearing and/or en banc reconsideration to October 17, 2022.

Factual & Procedural Background

On Thursday, August 18, 2022, the Court issued its Memorandum Opinion affirming in part the trial court's judgment and remanding in part the trial court's judgment.

Argument & Authorities

A motion for rehearing may be filed within 15 days after the court of appeals' judgment or order is rendered. TEX. R. APP. P. 49.1. A motion for en banc reconsideration must be filed within the time prescribed by Rule 49.1. TEX. R. APP. P. 49.5. A Court of Appeals may extend the time for filing a motion for rehearing or en banc reconsideration if a party files a motion complying with Rule 10.5(b) no later than 15 days after the last date for filing the motion. TEX. R. APP. P. 49.9. A Court of Appeals may also inquire whether there is a reasonable explanation for the requested extension. *In re J.I.*, 156 S.W.3d 651, 652 (Tex. App. – Fort Worth 2005, no pet.). Appellant's deadline to file a motion for rehearing and/or en banc reconsideration is September 2, 2022. Appellant is filing this request for an extension of time on August 26, 2022, which is timely and is providing the following explanation for the requested extension.

Given the length of the decision, the numerous issues presented, and pre-existing commitments of Appellant's counsel, Appellant's counsel have not had sufficient time to analyze the Court's Memorandum Opinion and evaluate the merit of pursuing a motion for rehearing or reconsideration. Appellant's counsel Ty Beard has a previously scheduled board of directors meeting out of town on August 24-25, 2022, a hearing on August 26, 2022, a full day mediation on September 27, 2022, and an out of town all-day conference at a client's office on August 30. Additionally, Michael S. Martinez has previously scheduled hearings on August 25, 2022, August 26, 2022, August 31, 2022, September 2, 2022, September 12, 2022, September 19, 2022, September 23, 2022, October 5, 2022, October 6, 2022, and October 7, 2022. Michael Martinez also has trials set for the weeks of September 26, 2022, and October 11, 2022. Additionally, Michael Martinez has a state bar committee meeting on September 9, 2022, half-day mediations on September 15 and 22, 2022, and a pre-scheduled conference on September 28 and 29, 2022. The September 2, 2022, deadline does not afford Appellant's counsel adequate time to prepare a motion for rehearing and/or en banc reconsideration. Appellant therefore respectfully requests an extension of the time to file a motion for rehearing and/or en banc reconsideration to October 17, 2022.

This is Appellant's first request for such an extension and no previous extension of this deadline has been granted. This request is not sought for delay but

so that justice may be done.

Prayer

ACCORDINGLY, Appellant respectfully requests that the Court of Appeals grant this motion, extend the time to file a motion for rehearing and/or en banc reconsideration to October 17, 2022, and grant such other and further relief to which Appellant is justly or equitably entitled.

Respectfully Submitted,

BEARD AND HARRIS
ATTORNEYS AT LAW

By: /s/ Ty Beard

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Certificate of Conference

The undersigned confirms that he conferred via email with (a) J. Sean Lemoine, counsel for Monica Rial and Ronald Toye; (b) Samuel H. Johnson, counsel for Jamie Marchi; and (c) John Volney, counsel for Funimation Productions, LLC, all of whom confirmed that their clients **oppose** this motion.

Dated: August 26, 2022

/s/ Michael S. Martinez
Attorney Certifying

Certificate of Service

The undersigned certifies that, on this day, a copy of the foregoing was served in accordance with Texas Rules of Appellate Procedure 6.3(a) and 9.5(b)(1), via electronic filing manager to Ronald Toye and Monica Rial, by and through their counsel of record, J. Sean Lemoine, Andrea Perez, Rusty O’Kane, Jeffrey W. Hellberg, Jr. and Casey S. Erick; to Jamie Marchi by and through her counsel of record, Samuel H., Johnson and to Funimation Productions, LLC, by and through its counsel of record, John Volney.

Dated: August 26, 2022

/s/ Michael S. Martinez
Attorney Certifying