

Plaintiff-Appellant

) Appeal from the Circuit Court of the
) 22nd Judicial Circuit, McHenry County,
) Illinois
)**Relief Sought: Appellant's Brief Due Date Extended**
)**35 Days to December 8, 2023; Appellant be allowed**
)**to retain an auditor to review both the McHenry**
)**Circuit Clerks systems and the Appellate Clerks**
)**Systems for County Circuit Clerks systems for**
)**changed or missing documents; Supplement the**
)**Record on Appeal to include the known missing Report**
)**of Proceedings;**
)**Supplement the Record on Appeal to include the**
)**subpoenaed recording of the Deposition of Defendant**
)**Hans Mast and to include the original transcript of**
)**the changed transcript of September 16, 2022**
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) Honorable Joel D. Berg, Judge Presiding
) Date of Notice of Appeal March 3, 2023
) Date of Judgment February 1, 2023, 2017 LA 000377
) Date of Post judgment Motion Order: None
) Circuit Court 2017LA000377

HANS MAST and the LAW OFFICES OF

THOMAS J. POPOVICH, P.C.

Defendants-Appellees

EMERGENCY MOTION

AND FOURTH MOTION TO EXTEND TIME TO FILE APPELLANT’S BRIEF

(CIVIL)

**EMERGENCY MOTION TO CONDUCT AN AUDIT OF THE RECORD ON APPEAL TO
DISCOVER CHANGED OR MISSING DOCUMENTS; SUPPLEMENT THE RECORD ON
APPEAL AND, IF GRANTED, FOR 35 DAYS EXTENSION OF TIME AFTER THE TRIAL**

**COURT CLERK HAS SUPPLEMENTED AND/OR CORRECTED THE RECORD ON
APPEAL TO FILE APPELLANT'S BRIEF**

**I. APPELLANT'S FOURTH MOTION FOR AN EXTENSION
OF TIME TO FILE APPELLANT'S BRIEF**

- 1) On November 2, 2023, Plaintiffs Attorney communicated with Appellees' Attorney indicating the nature of this Motion, to which Appellees' Attorney indicating his objection to the Motion. (Ill. S. Ct. 361(a) and Local Rule Article 1 General Rules 102(b).
- 2) Appellant's Attorneys e-mailed a copy of this Motion to Appellees' Attorneys before filing it.
- 3) The number of days previously requested is 211, the number of days previously granted is 155, and the total number of days is 155. (Local rule 104 (a)(1))
- 4) The total number of days requested, and the total number of days granted to other parties are (0) none. (Local Rule 104(a)(2))
- 5) The number of days that will have elapsed from the date of filing of the Notice of Appeal to the date that the case will be ready for disposition is three hundred twenty-nine days. (Local Rule 104(a)(3), Local Rule 106(b) and Local Rule 108(a) & (b))
- 6) Appellant filed his Notice of Appeal on March 3, 2023.
- 7) The Record on Appeal was filed on April 24, 2023 and made available for download on April 25, 2023 at 8:48 AM. (Please

see Appellant Exhibit F attached)

7a. Common Law Volume 1 has a creation date of April 24, 2023 at 9:31 AM. Common Law Volume 2 has a creation date of April 24, 2023 at 9:28 AM. The Reports of proceedings has a creation date of April 25, 2023 at 806 AM. (Please see Exhibit G attached)

7b. Common Law Record Volume 1, Common Law Record Volume 2 and Reports of proceedings all have a submission date of April 24, 2023 from 10:00 Am to 10:03 AM. (Please see Appellant Exhibit H attached)

- 8) Appellant's Brief due date was first extended sixty days by this Honorable Court to July 31, 2023.
- 9) Appellant's Brief due date was thereafter extended a second time by this Honorable Court to September 29, 2023.
- 10) Appellant's Brief due date was extended a third time by this Honorable Court to November 3, 2023.
- 11) Twenty-One days is insufficient to prepare and file Appellant's Brief for the following reasons:
 - (a) The record on appeal consists of three volumes totaling 2,660 pages; Appellant requested the entire record be prepared, but Appellant's attorney has discovered missing Report of Proceedings, mismatched sections,

documents with only one of the Defendants' names
where it should be all, Memorandums of Law where
the body of the motions should be, violations of the
Supreme Court of Illinois Standards and
Requirements for Electronic Filing the Record on
Appeal (Revised- Effective March 1, 2022)
regarding §1. Definitions (i) Hyperlink... and so on.
(Investigation Continues.)

(b) Appellant's attorney has made extensive efforts to have
Appellant's Brief ready for filing by the November 3, 2023
considering his extremely heavy court schedule, with two
active Appellate cases, two active Decedent's Estates, a First
Judicial Law Division with nineteen named Defendants ...
and being a sole proprietor without full time staff and the
following facts that relate to this matter.

II. APPELLANT's BASIS FOR AN EMERGENCY MOTION

1) Appellant has recently discovered that the Trial Court Judge for
this case, 2017LA000377 from inception on November 28,
2017 to December 21, 2022 was a friend of Defendant The Law
Offices of Thomas J Popovich, P.C.'s owner Thomas J.
Popovich and said Judge had recused himself from at least one

case where Thomas J. Popovich was a named Defendant.

(Please see Appellant's Exhibit A attached)

- 2) That the Trial Court Judge for this case, 2017LA000377 from inception on November 28, 2017 to December 21, 2022 was also the Judge at all times in 2012 LA 000178 where Appellant herein was represented by the Law Offices of Thomas A. Popovich P.C. and Thomas J. Popovich individually. (Please see Appellant's Exhibits B page 3 L22 to page 4 L5, C page 4L8-10) where the afore- mentioned Judge acknowledged this fact at least two separate times on the record.
- 3) That the Trial Court Judge refused a subpoenaed certified electronic thumb drive complete recording by the certified Shorthand Reporter of the deposition of Defendant Hans Mast which reflects the violations of Supreme Court rules and local rules during a hearing to strike the Deposition of Defendant Hans Mast. (Please see appellant's Exhibit D page 477 L21-24 to page 481 line 9)
- 4) Appellant has discovered missing Transcripts and a materially changed transcript to support Appellant's request for a professional audit trail be produced by an independent service and to supplement the questionable Record on Appeal. The Auditor's Report was finalized and submitted late in the day

yesterday, November 2, 2023 (and was the reason for the delay in filing and serving of this Emergency Motion).(Please see Appellant Exhibit E which is a sample test of changed and missing transcripts by an independent service.)

Wherefore, Plaintiff-Appellant prays that this Honorable Court recognize Plaintiff-Appellant's Attorney good faith and extensive efforts to comply with the extended briefing schedules, the problems caused by the Record on Appeal based on its page size and the errors by the Clerk of the 22nd Judicial Circuit in preparation of the Record on Appeal, grant Appellant a 35-day extension of time to file Appellant's Brief, allow Appellant to amend his Docketing Statement to include related cases, order the Clerk of the 22nd Judicial District to amend the Record on Appeal to include all missing documents and hyperlinks, allow Appellant to Request the Record on Appeal for all related cases, file and for any and all additional relief this Honorable Court deems equitable and just.

Dated: November 3, 2023

Respectfully submitted,

By: /s/ Alphonse A. Talarico ARDC
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VERIFICATION BY CERTIFICATION PURSUANT TO SECTION 1-109

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Alphonse A. Talarico

PROOF OF DELIVERY

I am sending this Motion for Extension of Time to File Appellant's Brief, Proposed Order and Notice of Filing to George K. Flynn and Michelle M. Blum , Karbal Cohen Economou Silk Dunne, LLC., 200 S Wacker Drive, Suite 2550, Chicago, Illinois 60606, Tel: (312) 431-3700, Fax: (312) 431-3670, gflyn@karballaw.com, mblum@karballaw.com by an approved electronic filing service provider (EFSP) on November 3, 2023 at 4:59 p.m. I certify that everything in the *Proof of Delivery* is true and correct. I understand that a false statement herein is perjury and has penalties provided by law under 735 ILCS 5/1-109.

Dated: November 3, 2023

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