

No. 03-15481

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ANGEL McCLARY RAICH, ET AL.,
Plaintiffs-Appellants

v.

ALBERTO GONZALES, as United States Attorney General, ET AL.,
Defendants-Appellees.

Remand from the United States Supreme Court
Case No. 03-1454
and
Appeal from the United States District Court
for the Northern District of California
Case No. C 02-4872 MJJ.

**PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME
IN WHICH TO FILE REPLY BRIEF**

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**PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME
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Pursuant to Federal Rule of Appellate Procedure 26(b) and Circuit Rule 31-2.2(b), and for the reasons set forth below, Plaintiffs respectfully move this Court of an order extending the time in which to file the reply brief until March 6, 2006, which constitutes an extension of thirty (30) days. (Declaration of Robert A. Raich in Support of Plaintiffs' Unopposed Motion for Extension of Time in which to File Reply Brief ["Raich Decl."] ¶ 2.)

Pursuant to the briefing schedule in this Court's order entered on September 6, 2005, the Plaintiffs' reply brief would otherwise be due ten days after the Defendants' answering brief is filed. (Raich Decl. ¶ 2.) The Defendant's answering brief was filed on January 20, 2006; accordingly, the reply brief would be due on February 3, 2006. (Intermediate Saturdays and Sundays are excluded when computing time periods of less than 11 days. Fed. R. App. P. 26(a)(2).)

Plaintiffs present this motion because one of Plaintiffs' attorneys, Joshua Greenberg, is currently in the midst of four weeks' paternity leave, his wife having given birth to their first baby on January 18, 2006. (Raich Decl. ¶ 3.) Mr. Greenberg, an associate with Covington & Burling, is the co-counsel who did much of the research used in the preparation of Plaintiffs' opening brief. (Raich

Decl. ¶ 3.) Plaintiffs respectfully request an extension until March 6, 2006, so that they may utilize the expertise Mr. Greenberg developed, in order to present a reply brief of the highest quality to this Court.

The extension Plaintiffs seek will not delay proceedings in this matter because, even if Plaintiffs were to file the reply brief on the very last day of the extended period, this Court would still receive the brief three full weeks before the oral argument scheduled for March 27, 2006. (Raich Decl. ¶ 4.)

This motion is unopposed by the Defendants. Counsel for the Defendants, Mark T. Quinlivan, Esq. has graciously stated that he consents to the filing of this motion. (Raich Decl. ¶ 5.)

In accordance with Circuit Rule 31-2.2(b)(5), Plaintiffs represent that they have exercised diligence and will file the reply brief within the time requested. (Raich Decl. ¶ 6.)

For the foregoing reasons, Plaintiffs respectfully request that this Court enter an order extending the due date for filing the reply brief to March 6, 2006.

Dated: January 26, 2006

Respectfully submitted,



Robert A. Raich
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I am not a party to the within action and am over eighteen years of age. My business address is 1970 Broadway, Suite 1200, Oakland, California 94612. I hereby certify that on the date this certificate is signed, I served a copy of the attached

PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME
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DECLARATION OF ROBERT A. RAICH IN SUPPORT
OF PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME
IN WHICH TO FILE REPLY BRIEF

by Federal Express, for next business day delivery, to the following counsel:

Alberto Gonzales and Karen Tandy

Mark T. Quinlivan
Assistant U.S. Attorney
1 Courthouse Way, Suite 9200
Boston, Massachusetts 02210

and by inserting a true copy thereof in a sealed envelope, with postage fully prepaid, to be placed in the United States mail addressed to the following:

Angel McClary Raich, John Doe Number One, and John Doe Number Two

Prof. Randy E. Barnett
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Joshua D. Greenberg
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717 Washington Street
Oakland, California 94607

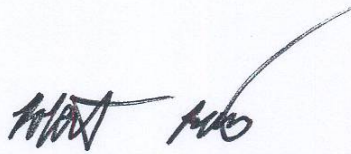
Amici Curiae Reason Foundation and Cato Institute

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One Bunker Hill Building
601 West Fifth Street, Suite 800
Los Angeles, California 90071

Mark Moller
The Cato Institute
1000 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Dated: January 26, 2006

A handwritten signature in black ink, appearing to read "Robert A. Raich", with a long, sweeping flourish extending upwards and to the right.

Robert A. Raich

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I, Robert A. Raich, declare:

1. I am an attorney duly admitted to practice in the State of California and before the United States Court of Appeals for the Ninth Circuit. I am one of the counsel of record for the Plaintiffs in this action. If called to testify, I would state the following based on my own personal knowledge:

2. Plaintiffs respectfully move this Court of an order extending the time in which to file the reply brief to March 6, 2006, which would constitute an extension of thirty (30) days. Pursuant to the briefing schedule in this Court's order entered on September 6, 2005, the reply brief would otherwise be due ten days after the Defendants' answering brief is filed, i.e., on February 3, 2006.

3. Plaintiffs are seeking the extension of time because, on information and belief, Joshua Greenberg, one of my co-counsels in this matter, is currently in the midst of four weeks' paternity leave. On information and belief, Mr. Greenberg's wife gave birth to their first baby on January 18, 2006. Mr. Greenberg is an associate with the law firm of Covington & Burling. He did much of the research used in the preparation of Plaintiffs' opening brief. Allowing Plaintiffs an extension until March 6, 2006, would allow us to utilize the expertise Mr. Greenberg developed, in order to present a reply brief of the highest quality to this Court.

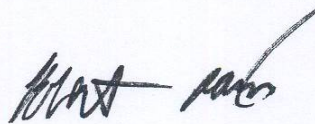
4. On January 13, 2006, this Court entered an order scheduling the date of oral argument in this matter for March 27, 2006. Even if Plaintiffs were to file the reply brief on the very last day of the requested extended period, this Court would still receive the brief three full weeks before date of the oral argument

5. I have discussed the accompanying motion for extension of time with Mark T. Quinlivan, Esq., counsel for the Defendants. He graciously stated that he consents to the filing of the motion.

6. In accordance with Circuit Rule 31-2.2(b)(5), Plaintiffs represent that they have exercised diligence and will file the reply brief within the time requested.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed this 26th day of January, 2006 at Oakland, California.



Robert A. Raich