

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Blue Flame Medical LLC,
Plaintiff-Appellant,

v.

Chain Bridge Bank, N.A.,
Defendant and Third-Party Plaintiff-Appellee,
John J. Brough; David M. Evinger,
Defendants-Appellees,

v.

JPMorgan Chase Bank, N.A.,
Third-Party Defendant.

No. 21-2218 (L)
(1:20-cv-00658-LMB-IDD)

Blue Flame Medical LLC,
Plaintiff,

v.

Chain Bridge Bank, N.A.,
Defendant and Third-Party Plaintiff-Appellee,
John J. Brough; David M. Evinger,
Defendants,

v.

JPMorgan Chase Bank, N.A.,
Third-Party Defendant-Appellant.

No. 21-2219
(1:20-cv-00658-LMB-IDD)

**APPELLEES' CONSENT MOTION TO EXTEND THE TIME TO FILE
RESPONSE BRIEF AND FOR LEAVE TO EXCEED WORD LIMIT**

Appellees Chain Bridge Bank, N.A. (Chain Bridge), John J. Brough, and David M. Evinger respectfully move this Court for an order extending the deadline to file their response brief by fifteen days, from January 21, 2022, to February 7, 2022, (the Monday following Saturday, February 5, 2022), and granting them leave to file a response brief in excess of the word limit set forth in Federal Rule of

Appellate Procedure 32(a)(7)(B), not to exceed 20,000 words. In support of this motion, Appellees state:

1. Under the briefing schedule originally entered by this Court, the deadline for Appellants Blue Flame Medical, LLC (Blue Flame) and JPMorgan Chase Bank, N.A. (JPMC) to file their opening briefs was December 7, 2021. The parties jointly moved for an order extending the deadline for Appellants to file their opening briefs by fifteen days, to December 22, 2021, and enlarging the time for Appellees to file their response brief by a corresponding fifteen days. Appellees' consent to Appellants' extension request was conditioned on Appellants' agreement to consent to this corresponding enlargement of the time to file Appellees' response brief.

On November 12, 2021, the Court extended the deadline for Appellants' opening briefs to December 22, 2021. Although the Court reset the deadline for Appellees' response brief based on the new deadline for Appellants' opening briefs, it did not rule on the fifteen-day enlargement of the time to file Appellees' response brief to which the parties had agreed. Thus, under the current briefing schedule, the deadline for Appellees to file their response brief is January 21, 2022.

Good cause exists to extend the deadline for Appellees to file their response brief because the current briefing schedule would lead to an imbalance in the time allotted to the parties for preparing their respective briefs. An extension is also warranted because of scheduling conflicts related to holiday travel and the press of

other matters. Accordingly, Appellees request that the deadline for filing their response brief be extended to February 7, 2022 (the Monday following Saturday, February 5, 2022, the date on which the deadline would otherwise fall if extended by fifteen days).

2. On December 22, 2021, Blue Flame and JPMC filed separate opening briefs, which collectively total 24,838 words. Because this Court has directed Appellees to address those two separate briefs in a single consolidated response brief, Appellees respectfully request leave to file a response brief in excess of the 13,000-word limit imposed by Federal Rule of Appellate Procedure 32(a)(7)(B), not to exceed 20,000 words. Although Blue Flame's appeal and JPMC's appeal have been consolidated, they present distinct legal issues: Blue Flame, plaintiff below, challenges the district court's dismissal of the claims it asserted against Appellees. JPMC, third-party defendant below, challenges the district court's entry of summary judgment in favor of Appellee Chain Bridge on Chain Bridge's third-party claim for indemnification from JPMC. Appellees therefore require additional words to fully respond to the arguments set forth in Appellants' separate, full-length opening briefs. Granting leave to file a response brief of up to 20,000 words is reasonable under the circumstances: That expanded limit would represent substantially fewer words than Appellants collectively used in their opening briefs, and fully 6,000 fewer words

than Appellees would have been entitled to if they were filing separate responses to the two opening briefs.

3. Counsel for Blue Flame and JPMC have advised that both Appellants consent to the relief requested in this Motion.

* * * * *

For the foregoing reasons, Appellees respectfully request that the Court extend the deadline to file their response brief to February 7, 2022, and grant leave to file a response brief in excess of the word limit set forth in Federal Rule of Appellate Procedure 32(a)(7)(B), not to exceed 20,000 words

Dated: January 3, 2022

Respectfully submitted,

/s/ Gary A. Orseck

Gary A. Orseck

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David M. Evinger*

CERTIFICATE OF COMPLIANCE

In accordance with Fed. R. App. P. 32(g)(1), I certify that this motion complies with the type-volume limit of Fed. R. App. P. 27(d)(2) because this motion contains 643 words, excluding the parts of the motion exempted by Fed. R. App. P. 32(f).

This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word 2016, Times New Roman, 14-point font.

/s/ Gary A. Orseck
Gary A. Orseck

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system on January 3, 2022. All participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

/s/ Gary A. Orseck
Gary A. Orseck