

No. 21-2218 (L), 21-2219

**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.

(Caption continued on inside cover)

Appeals from the United States District Court
for the Eastern District of Virginia (No. 1:20-cv-00658-LMB-IDD)

**RESPONSE TO BLUE FLAME MEDICAL LLC’S MOTION FOR
ADDITIONAL TIME FOR ORAL ARGUMENT**

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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.

Appellees Chain Bridge Bank, N.A., John J. Brough, and David M. Evinger (collectively, “Chain Bridge”) oppose Appellant Blue Flame Medical LLC’s (“Blue Flame”) Motion for Additional Time for Oral Argument, because additional time is unwarranted.

ARGUMENT

Blue Flame asserts that application of Local Rule 34(d) in this appeal will result in “fundamental unfairness” at oral argument later this week. The premise of its argument is that (1) both Defendant-Appellee Chain Bridge and Third-Party-Appellant JPMorgan Chase Bank, N.A. (“JPMC”) share a common interest in the failure of Plaintiff-Appellant Blue Flame’s appeal; and (2) under Local Rule 34(d), Chain Bridge and JPMC are allotted a total of 30 minutes for argument, whereas Blue Flame is allotted only 10 minutes.

The premise that the prescribed allocation disfavors Blue Flame is without basis. Under the Local Rule, all three parties will have the same amount of time to address the issues raised in the two consolidated appeals.

As to JPMC’s appeal (which challenges the District Court’s ruling that JPMC is liable to Chain Bridge for indemnification), JPMC will have 10 minutes to present argument. As to Blue Flame’s appeal (which challenges the District Court’s entry of summary judgment disposing of Blue Flame’s claims), Blue Flame will have 10

minutes to present argument. For its part, Chain Bridge will have 20 minutes to address *both* appeals. There is nothing unfair about that.

Nor is the mere fact that this oral argument covers separate appeals grounds to enlarge the time for any party. Local Rule 34(d) provides that “[e]ach side” (not each party) “is normally allowed 20 minutes, *even in consolidated cases*.” Local Rule 34(d) (emphasis added); *see, e.g., SourceAmerica v. Elisabeth Devos*, Nos. 19-1452(L), 19-1514 (4th Cir. 2019) (denying request for additional argument time in case involving nine different parties, including two plaintiffs-appellees, six defendants-appellees, and an intervenor-appellant).¹

If the Court nevertheless allows additional time for Blue Flame’s argument, Chain Bridge respectfully requests an equivalent amount of additional time.

CONCLUSION

For the foregoing reasons, Blue Flame’s motion for additional time for oral argument should be denied.

¹ What is more, Blue Flame’s motion was not submitted “well in advance of the hearing date,” which is now three days away. *See* Local Rule 34(d).

Dated: October 24, 2022

Respectfully submitted,

/s/ Gary A. Orseck

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CERTIFICATE OF COMPLIANCE

I hereby certify that, pursuant to Fed. R. App. P. 32(g)(1), this brief complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A).

1. Exclusive of the portions of the brief exempted by Fed. R. App. P. 32(f), this brief contains 367 words.

2. This brief has been prepared in proportionally spaced typeface using Microsoft Word for Office 365 in 14-point Times New Roman font. I have relied upon the word count feature of this word processing system in preparing this certificate.

Dated: October 24, 2022

/s/ Gary A. Orseck
Gary A. Orseck

CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2022, I will electronically file the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

Dated: October 24, 2022

/s/ Gary A. Orseck
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