

IN THE SUPREME COURT OF THE STATE OF MONTANA  
No. DA 22-0054

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SHANDOR S. BADARUDDIN,

Appellant,

v.

THE STATE OF MONTANA &

THE NINETEENTH JUDICIAL DISTRICT,

Appellees.

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UNOPPOSED THIRD MOTION FOR  
EXTENSION OF TIME (14-DAYS)

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On Appeal from the Montana Nineteenth Judicial District Court,  
Lincoln County, The Honorable Matthew J. Cuffe, Presiding

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Kirsten K. Madsen, counsel for Appellee the State of Montana respectfully requests a 14-day extension of the time to file the Answering Brief of Appellee State of Montana until Wednesday, March 8, 2023. This is Appellee's third request for extension. The answer brief is currently due on February 22, 2023.

As set forth in the accompanying Supporting Declaration of Counsel, this request is sought due to an unexpected loss in the undersigned's family which necessitated extending the deadline to file a

brief of a separate case before the United States Court of Appeals for the Ninth Circuit.

Opposing counsel has been contacted and does not oppose this motion. The undersigned is grateful for the collegiality and understanding of Messrs. Stephens and Lacny.

RESPECTFULLY SUBMITTED this 13th day of February, 2023.

By:   
KIRSTEN MADSEN  
Special Deputy Lincoln County Attorney  
Commissioner of Securities & Insurance,  
Office of the Montana State Auditor  
840 Helena Avenue  
Helena, MT 59601

## SUPPORTING DECLARATION OF COUNSEL FOR APPELLEE

STATE OF MONTANA       )  
  : ss.  
County of Lewis and Clark )

I, KIRSTEN MADSEN, in compliance with Mont. R. App. P. 26(2), declare under penalty of perjury that the following is true and correct:

1. I am a competent adult citizen of the State of Montana. I am an attorney licensed to practice law in Montana. I was admitted to practice before the Montana Supreme Court in 2009. I have personal knowledge of the matters declared herein.

2. I am currently employed by the State of Montana in two attorney positions: (1) my primary, full-time employment is as Legal Counsel for the Montana Commissioner of Securities & Insurance, Office of the State Auditor (CSI); (2) I am also employed as a temporary attorney with the Department of Administration, Risk Management and Tort Defense (RMTD) Division for the sole purpose of representing defendant Sergeant Larry Pasha in a § 1983 lawsuit, *Dewayne Bearchild v. Larry Pasha* (*infra*, at ¶8), currently on appeal to the Ninth Circuit, Cause No. 21-35768.

3. I appear in the above-captioned appeal before this Court as counsel of record for Appellee the State of Montana. A variety of attorneys have appeared on behalf of the State in the associated criminal matter of *State of Montana v. Kip Hartman*; I am the lead attorney on this related civil matter concerning the sanctions imposed upon Mr. Shandor Badaruddin and his appeal thereof. Pursuant to Rule 26(2), Mont. R. App. P., I submit this declaration in support of my written motion for a 14-day extension of the time to file the Answering Brief on behalf of Appellee the State of Montana in the above-captioned case.

4. The Answering Brief is currently due next Wednesday, February 22, 2023. Mont. R. App. P. 26(2)(a).

5. The Answering Brief was first due on October 24, 2022. *Id.*, at (b).

6. I am requesting an extension of 14 days until Wednesday, March 8, 2023. *Id.*, at (c).

7. This extension is necessitated primarily by an unexpected loss in my family and, as explained below, the subsequent extension of a briefing deadline in the *Bearchild* appeal before the Ninth Circuit.

8. As detailed in my Supporting Declaration of Counsel for Appellee (Nov. 17, 2022), at ¶¶7-8, I previously sought an extension of the deadline to file the Answering Brief in this matter (until February 22, 2023) in part to accommodate the filing of the Answering Brief in the *Bearchild* appeal (*supra*, ¶2). At the time of my prior Declaration, the *Bearchild* brief was due to the Ninth Circuit on January 20, 2023. *Id.*, ¶8. I represented to this Court that I “[did] not expect to be able to turn my full attention to this case before 2023,” when that other brief would be filed. *Id.*, ¶11. Thus, I sought a 90 day extension which would provide me 30 days following submission of the *Bearchild* brief to complete the briefing here. *Id.*

9. Unfortunately, on Saturday, January 14, 2023, I had an unexpected death in my family and needed to be away from work for several days immediately prior to the extended deadline for filing the *Bearchild* brief on January 20. I filed an unopposed motion for a short extension in that matter on Monday, January 16. That request was later granted by the Ninth Circuit and the *Bearchild* brief was finally filed on Tuesday, January 31, 2023.

10. I have worked diligently to address my appellate cases based on the order they were filed and as efficiently as possible. While I've been able to dedicate my attention to the State's Answering Brief in this matter over the last 10 days, the unexpected loss in my family and subsequent need for a short extension in the *Bearchild* matter has left me a couple weeks behind the anticipated timeline set forth in my prior Declaration, *id.*, ¶11. Since February 1, this case has been my top priority, ahead of all other litigation and appeal deadlines, and I have engaged the assistance of my co-workers to address demands of other matters assigned to me wherever possible. I will continue to work diligently to complete the research and drafting of this brief so that it can be filed within the time requested. I submit that the forgoing paragraphs demonstrate both the exercise of diligence and the substantial need for additional time under Rule 26(2)(e), Mont. R. App. P.

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11. On February 9, 2023, I contacted counsel for Appellant about this request and confirmed that they do not oppose a two week extension.

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

Executed in Helena, Montana on this 13th day of February, 2023.

  
KIRSTEN MADSEN

## **CERTIFICATE OF SERVICE**

I, Kirsten Madsen, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 02-13-2023:

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Electronically signed by Brandy Morrison on behalf of Kirsten Madsen  
Dated: 02-13-2023