

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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APR 26 1978

JAMES F. DAVEY, Clerk

.....
: JAMES H. LESAR,
:

: Plaintiff,
:

: v.
:

: U.S. DEPARTMENT OF JUSTICE,
:

: Defendant
:
:

Civil Action No. 77-0692

MOTION FOR EXTENSION OF TIME

Comes now the plaintiff, James H. Lesar, and moves the Court for an order extending the time within which to file his motion for summary judgment, now due on April 27, 1978, to and including May 11, 1978.

Plaintiff further moves the Court for an order extending the time within which he shall file a reply to defendant's cross motion for summary judgment, now due May 8, 1978, to and including May 22, 1978.

As grounds for this motion, plaintiff represents to the Court as follows:

Plaintiff is a sole practitioner who has practice over the past seven years has been confined almost entirely to pro bono, contingency, or deferred compensation cases. As a result, plaintiff has had virtually no income for years and has had to do all his own typing, filing, legal research and writing. (Plaintiff's net income for 1976 was \$696; last year he had a deficit of \$2400.) While this situation has begun to change, and should be-

gin to change markedly by the end of this year, at present plaintiff remains severely handicapped by his inability to retain help to assist him on more than an occasional basis.

Plaintiff is presently in a severe time crunch due in part to a number of unexpected developments which have occurred since the time schedule for summary judgment motions was set in this case. On March 31, 1977, the United States Court of Appeals ordered plaintiff to file a motion for new trial in Weisberg v. General Services Administration, Civil Action No. 75-1448. (A copy of this order is attached hereto.) Most importantly, the District of Columbia Court of Appeals set the case of Harold and Lillian Weisberg v. Williams, Connolly & Califano, No. 12772, down for oral argument on May 2, 1978. This is a case of critical importance for plaintiff's clients, the Weisbergs, who, having been driven out of their poultry farm business by helicopter flights over their farm, were then reduced to living in poverty for more than a decade by the negligence of the Williams law firm in allowing the statute of limitations to run on their Federal Tort Claims Act claims. The court below ruled that the Weisbergs' malpractice cause of action accrued on the date when the government first pled the statute of limitations as a defense to the Tort Claims Act lawsuit, and that therefore it became barred within three years thereafter, even though the Williams firm still continued to represent the Weisbergs as of that time and the court had made no ruling as to whether the Weisbergs Tort Claims Act claims were in fact barred. Thus, this case also presents an important legal issue of great interest all potential victims of legal malpractice. The undersigned counsel has a reply brief due in this case on April 30, 1977, and he must spend virtually all of his time between now and then writing the reply brief, which he has not yet begun. Then he must prepare for the oral argument which, to his great surprise, has been set for the very early date of May 2,

1978.

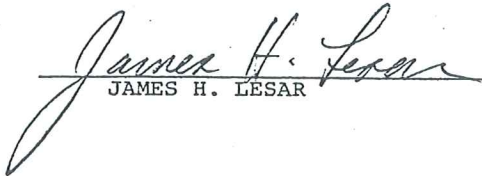
Because of his severe time crunch, plaintiff has had to move for a second extension of time in Weisberg v. Department of Justice, Case No. 78-1107. Appellant's brief in that case was due on April 24, 1978, but the plaintiff has not even been able to begin reviewing the file in that case, much less write the appeal brief.

Plaintiff customarily works seven days a week. Hopefully, once he is paid long-deferred compensation for some of the Freedom of Information Act cases he has handled for Harold Weisberg, he will then be able to retain some help and clear up the backlog that has developed in his practice.

Plaintiff has discussed this motion with Dan Metcalfe, defendant's attorney, who has advised him that he will not oppose this motion and will himself move for an extension of time.

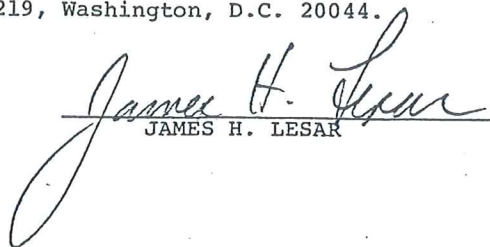
Plaintiff regrets having to make this motion, but in reality has no choice but to do so.

Respectfully submitted,


JAMES H. LESAR

CERTIFICATE OF SERVICE

I hereby certify that I have this 26th day of April, 1978
mailed a copy of the foregoing Motion for Extension of Time to
Mr. Dan Metcalfe, P.O. Box 7219, Washington, D.C. 20044.


JAMES H. LESAR

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 77-1831

Harold Weisberg,
Appellant

v.

General Services
Administration

September Term, 19 77

Civil Action 75-1448

United States Court of Appeals
for the District of Columbia Circuit
FILED MAR 5 1978
GEORGE A. FISHER
Clerk

BEFORE: Tamm and Robinson, Circuit Judges

ORDER

On consideration of appellant's motions to expedite oral argument and for leave to file reply brief with addendum, appellee's motion to strike portions of reply brief, and the oppositions thereto, we grant the motion for expedition and hold in abeyance the other motions.

Appellant seeks to present evidence to this Court which has not been presented to the District Court. The sound course is for appellant first to present his alleged new evidence to the District Court in a motion for a new trial. See Smith v. Pollin, 194 F.2d 349, 350 (D.C. Cir. 1951). In light of 5 U.S.C. §552(a)(4)(D), we direct the District Court to act expeditiously on such a motion so that we may hear oral argument on the appeal promptly if no remand under Smith v. Pollin is recommended. Accordingly, it is

ORDERED by the Court that appellant shall move in the District Court for a new trial, and that the District Court shall rule on such a motion within thirty days after it is filed, and it is

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United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 77-1831

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September Term, 19 77

FURTHER ORDERED by the Court that the Clerk is directed to schedule oral argument during the June sitting period of the Court, and it is

FURTHER ORDERED by the Court that the motions to file reply brief with addendum and to strike shall be held in abeyance pending the District Court's disposition of a motion for new trial.

Per Curiam

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
JAMES H. LESAR,

Plaintiff,

v.

Civil Action No. 77-0692

U.S. DEPARTMENT OF JUSTICE,

Defendant
.....

ORDER

Upon consideration of the motions of the plaintiff and the defendant for an extension of time, it is by the Court this _____ day of _____, 1978, hereby

ORDERED, that the motions for extension of time are granted and that the following schedule shall be adhered to: Each side is to file a cross-motion for summary judgment on or before May 11, 1978; each side shall file a reply brief on or before May 22, 1978; oral argument on the cross-motions for summary judgment shall be heard on _____, 1978.

UNITED STATES DISTRICT COURT