

MEMORANDUM OF PLAINTIFF/APPELLANT HAROLD WEISBERG

Reluctantly, plaintiff/appellant Weisberg seeks a second extension of time in which to file his brief (now due October 1, 1986) because the unusual conditions of his life, explained in his first motion for an extension of time, have further reduced the limited time he has had to devote to this and made preparation impossible; because of the potential importance of the questions involved in this litigation to himself and to others, including interpretations of the federal rules, matters he believes no nonlawyer, pro se litigant can handle efficiently or properly; and because he has been and is seeking counsel. He has had special problems in obtaining counsel because, with an income of only \$368 from Social Security, he is not able to pay counsel. His efforts therefore are and have been limited to those who might assume this responsibility pro bono.

It is not possible for Weisberg to get to any law library for the necessary research and he has depended on others to provide him with copies of authorities, including cases cited in the March 4, 1986, Order and Memorandum of the district court. He had been promised copies of these cited authorities earlier and then by last month, but to date he has received only five of them. He hopes to receive more, but probably not all, in the near future.

He is aware of this court's dislike of prolonging litigation. He seeks only an additional six weeks of time and, if granted, if he has not obtained counsel, he will file by then whatever he is able to prepare. (He, too, would like this matter resolved so that it will no longer intrude in what remains of his life.)

As stated in his earlier motion, what his doctors ordered then took up five hours daily, a major part of every day. On August 20 he was instructed to engage in additional therapy which he has not yet begun in order to have that time to devote to work on preparation of his brief. There also have been and will be additional medical needs, his and those of his family, anticipated and unanticipated. What is of little

or no consequence to most others but can have great significance to one with Weisberg's medical problems. For example, a simple insect bite on his foot required an unscheduled visit to his doctor and special medication because if the skin on that foot breaks it may not heal and can cause the loss of that foot and leg. More than a half day the week in which this motion is prepared will be consumed by the regular (every six weeks) trip to Washington, via medical transportation, for examination by and consultation with the cardiovascular surgeon who performed Weisberg's three cardiovascular surgeries. Although he has not been able to drive outside of Frederick since 1977, Weisberg does provide necessary local transportation to others in his family. (His wife, who also has difficulty in getting around, does not drive and there is no local public transportation.) All that remains of another day that week after his therapy will be taken by several medical appointments of his wife and 96-year-old mother-in-law. He also provides his wife's transportation for grocery and other shopping. These are needs he must meet and, like making two trips every week to the medical laboratory for blood-testing, he has no choice and they do take time.

The treatments for the medical conditions he suffers that consume so much time every day will never change as long as they are within his capabilities. Changes in his medications in an effort to relieve the extreme weariness he reported have not done so. He will forever be required to sit with his legs elevated and there appears to be little prospect that he will not fall asleep involuntarily from time to time when he sits and rests or reads. The new therapy he has not been able to begin, referred to above, was prescribed in the hope that it might relieve some of this weariness by improving blood circulation.

What consumes so much of every day is that about which Weisberg has no real choice.

He has been promised an answer to his most recent approach to pro bono counsel by the middle of this month.