

IN THE SUPREME COURT OF OHIO

JANE DOE, : Case No. 06 1155
 :
 Plaintiff-Appellee, : On Appeal from the Hamilton
 : County Court of Appeals,
 : First Appellate District
 v. : Case No. C050438
 :
 : Trial Court No. A0409650
 ARCHDIOCESE OF CINCINNATI, :
 :
 Defendant-Appellant. :
 :
 :

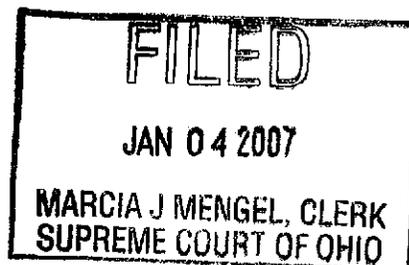
UNOPPOSED MOTION FOR ORDER GRANTING NEW DEADLINE
TO FILE APPELLEE'S MERIT BRIEF

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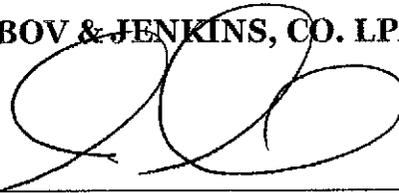
**UNOPPOSED MOTION FOR ORDER SETTING NEW DEADLINE
TO FILE APPELLEE'S MERIT BRIEF**

Pursuant to S.Ct.R. XIV sec. 2(D)(2), Appellee Jane Doe moves the Court for an Order setting a new deadline of January 4, 2007 for the filing of Appellee's Merit Brief. Service of Appellant's merit brief was not made in conformance with the applicable rule.

Appellant's counsel has been consulted and consents to an Order granting the requested relief in the interests of justice. Appellee's merit brief is tendered herewith and attached as Exhibit A. Accordingly, Appellee respectfully requests that the Court establish January 4, 2007, as the new deadline for filing of Appellee's merit brief pursuant to S.Ct.R. XIV sec. 2(D)(2) and accept the brief tendered herewith as timely filed.

Respectfully submitted,

MEZIBOV & JENKINS, CO. LPA



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COUNSEL FOR PLAINTIFF-APPELLEE
JANE DOE

MEMORANDUM

Appellant's counsel mistakenly sent its merit brief to an old office address for Appellee's counsel rather than the address indicated on Appellee's jurisdictional brief. This fact is confirmed by Appellant's merit brief which lists the address for Appellee's counsel as 1726 Young Street, Cincinnati, Ohio 45202 on both the first page as well as in the certificate of service.

Appellee's attorneys relocated to their current offices at 401 East Court Street, Ste. 600, in Cincinnati more than one year ago. Appellee's counsel's correct address was plainly indicated on the face of Appellee's jurisdictional brief filed in this matter. Under S.Ct.R. I sec. 3(A), the first page of Appellee's jurisdictional brief constituted Appellee's "designation of counsel of record." Filings such as Appellant's merits brief were required to be served on counsel at the office indicated on the designation.

Unfortunately, the forwarding order from Appellee's counsels' former address to their current address, which had previously been in place with the postal service, expired by the time Appellee's counsel sent its merit brief to counsel's former address. As a result, Appellee's counsel did not receive Appellant's merit brief until mid-December 2006.

Supreme Court Rule XIV sec. 2(D)(2) provides that the Court may impose a new deadline for filing a responsive document in the interest of justice if service was not made as required by the Rule. Appellant inadvertently failed to serve Appellee's counsel of record by sending Appellee's merit brief to an address other than that indicated on counsel's designation of counsel of record.¹ As a result of this failure, Appellee's counsel

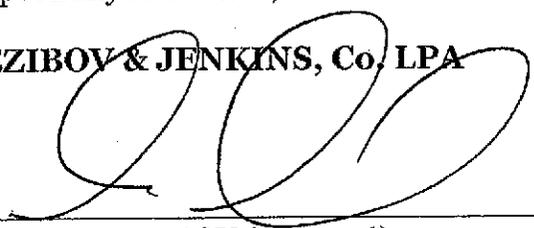
¹ Appellant's counsel's error was certainly understandable. Presumably the address used on filings in the trial court or court of appeals process in this case was simply "pasted" into the documents filed with the Supreme Court.

did not actually receive Appellant's merits brief until several weeks later, which, coupled with the intervening holiday, delayed Appellee's response.²

In view of the circumstances, and in the interests of justice, Appellant's counsel has consented to the issuance of an Order establishing January 4, 2007 as the new deadline for filing Appellee's merit brief. Said brief is tendered herewith and attached as Exhibit A. No prejudice should result from the requested relief. Accordingly, Appellee respectfully requests that the Court issue an Order establishing January 4, 2007 as the new deadline for filing of Appellee's merit brief pursuant to S.Ct.R. XIV sec. 2(D)(2) and accept the brief tendered herewith as timely filed.

Respectfully submitted,

MEZIBOV & JENKINS, Co. LPA



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COUNSEL FOR PLAINTIFF-APPELLEE
JANE DOE

² Appellee has never been served with a copy of the Amicus Brief filed by the Ohio Catholic Conference.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion has been sent to Mark VanderLaan, Esq., Kirk M. Wall, Esq. and Timothy M Dinsmore & Shohl, 255 East Fifth Street, Suite 1900, Cincinnati, OH 45202 via regular U.S. Mail on this 4th day of January, 2006.



MARC D. MEZIBOV (0019316)