

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
THIRD DISTRICT**

CARLOS CARUS, JR.,

Appellant

Case No. 3D23-0281

vs.

Lower Court Case No.

20-11733 CC 05

GLADYS FIDELIA,

Appellee

_____ /

APPELLANT’S MOTION
FOR EXTENSION OF TIME TO FILE INITIAL BRIEF

Appellant CARLOS CARUS, JR respectfully moves the Court for an order extending the time for filing his Initial Brief for 10 days, until September 4, 2023. In support of this motion, Appellant states as follows:

1. On July 28, 2023, Appellant filed his Motion to Supplement the Record which tolled the time to file the Initial Brief. See, Fla. R. App. P. 9.300(a).

2. On August 15, 2023, the Court granted the motion to supplement and directed the filing of the initial brief within 10 days.

3. Said deadline to file the initial brief was mistakenly calendared for “9”/25/23 instead of “8”/25/23. Said typographical clerical error was a result of excusable neglect and said oversight was not for the purpose of an intentional delay of this matter. “Excusable neglect is found ‘where

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inaction results from clerical or secretarial error, reasonable misunderstanding, a system gone awry or any other of the foibles to which human nature is heir.” Elliot v. Aurora Loan Servs., LLC, 31 So. 3d 304, 307 (Fla. 4th DCA 2010) (quoting Somero v. Hendry Gen. Hosp., 467 So. 2d 1103, 1106 (Fla. 4th DCA 1985)).

4. Said clerical calendaring error was brought to the attention of undersigned after receipt of Appellee’s motion for order to show cause filed today, August 28, 2023.

5. As undersigned counsel has another appellate brief due today and a trial scheduled this week in another lower court case, Appellant requests a 10 day extension to file the initial brief in this matter, until September 4, 2023.

6. This motion is made in good faith and the relief requested would not cause prejudice to the Appellee.

7. In light of the foregoing, an extension of time to file the Initial Brief would be in the interest of judicial efficiency and to allow the merits to be properly addressed.

8. In accordance with Rule 9.300(a) of the Florida Rules of Appellate Procedure, Appellant’s counsel certifies that due to the expediency of Appellee’s motion, she did not attempt to confer with

opposing counsel, Tyler Mesmer, Esq., prior to the filing of this motion but will immediately confer after said filing.

WHEREFORE, Appellant respectfully requests that the Court enter an order extending the time for filing his Initial Brief for 10 days, until September 4, 2023.

Respectfully submitted,

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By: /S/ Kenzie N. Sadlak
Kenzie N. Sadlak
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CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2023, a true and correct copy of the foregoing was served via email to tmesmer@taclosinglaw.com for Tyler E. Mesmer, Esq., Topouzis & Associates, PC, 100 SE 2 St, Suite 2000, Miami, FL 33131.

/S/ Kenzie N. Sadlak
Kenzie N. Sadlak