

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

MIAMI LUXURY LLC

A/A/O JIMMY ALTIDOR,

Case No. 23-2083

Appellant,

L.T. Case No. 2021-002694-CA-01

vs.

GEICO INDEMNITY INSURANCE
CO.,

Appellee.

**APPELLANT'S SECOND MOTION FOR EXTENSION OF TIME TO FILE
INITIAL BRIEF**

Appellant, MIAMI LUXURY LLC A/A/O JIMMY ALTIDOR (the "Appellant"), by and through undersigned counsel, and pursuant to Florida Rule of Appellate Procedure 9.300, moves for a second extension of time to file its Initial Brief, and in support, states as follows:

1. On January 25, 2024, Appellant filed a motion for extension of time to submit its Initial Brief, which was initially due for service on January 29, 2024.

2. On March 7, 2024, Appellant received an Order from this Court indicating that the time for filing the initial brief has expired and that the appeal would be dismissed unless the initial brief is filed within ten (10) days from the Order, or within said time the Court is otherwise notified that

this matter is being diligently prosecuted. See Order entered on March 7, 2024 attached as **Exhibit “A.”**

3. Based on the Order received on March 7, 2024, Appellant became aware that this Court had granted its initial motion for extension of time, granting an extension until February 26, 2024. An order on Appellant’s initial motion for extension of time was not entered, but rather a notation in the docket for this case is all that appears as an indication of the granting of the extension.

4. Based on the aforementioned, Appellant did not receive notice of the Court’s ruling on the initial motion for extension of time through the Florida eFiling Portal, which resulted in an oversight that was entirely unknowing and without any willful misconduct or intentional disregard of this Court's orders.

5. A dismissal is an extreme sanction reserved only for the most flagrant violations of appellate rules. Fla. Wellness & Rehab. Ctr., Inc. v. Feldman, 262 So. 3d 234, 237 (Fla. 3d DCA 2018); see also, Affirmative Ins. Co. v. Gomez, 14 So. 3d 1244, 1245 (Fla. 4th DCA 2009).

6. Further, due to the current workload of the undersigned counsel, as well as pressing deadlines and trial preparation in other matters, the Appellant respectfully requests an additional thirty (30) days to complete and file its Initial Brief. See Fla. R. App. P. 9.300(b) (“Except as

prescribed by subdivision(d) of this rule, service of a motion shall toll the time schedule of any proceeding in the court until disposition of the motion.”).

7. Undersigned counsel is lead counsel for the plaintiff in the matter of Emilio Llanes v. Universal Property & Casualty Insurance Company, Case No. CACE-22-015855 in the Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida, which is set as the No. 1 case on the trial docket starting Monday, March 18, 2024 in front of Judge Shari Africk Olefson.

8. Due to trial preparation and the unintentional oversight expressed above, Appellant’s counsel requires an additional extension of time of thirty (30) days to be able to submit the Initial Brief in this case.

9. Given the short amount of time that this case has been in the appeal process, Appellants diligence in moving this matter and attempt to correct the inadvertent oversight expressed herein, the interest in this case being resolved on the merits, and the lack of prejudice to the Appellee, Appellant respectfully prays that this Court grant the relief sought herein.

10. The interests of justice favor adjudication of Appellant's case on the merits rather than the extreme sanction of dismissal.

11. An extension would allow Appellant sufficient time to prepare an initial brief addressing the merits of the appeal. The reason for the extension is not unreasonable under the circumstances.

12. This Motion is made in good faith and not for the purpose of unnecessary delay, and no party will be prejudiced as a result of this extension of time.

WHEREFORE, Appellant, MIAMI LUXURY LLC A/A/O JIMMY ALTIDOR, respectfully requests this Court enter an Order granting the instant Motion, providing the Appellant an additional thirty (30) days from the date of this Court's Order to file its Initial Brief.

Respectfully,

LAW GROUP OF SOUTH FLORIDA, LLC

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By: /s/ Santino Ruiz

Santino Ruiz, Esq.

Florida Bar No. 1007721

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by this Court's E-Portal automatic E-Mail service on this **Friday, March 15, 2024** to the following:

Sharon C. Degnan, Esq.
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Counsel for Appellee

By: _____ /s/ Santino Ruiz _____
Santino Ruiz, Esq.
Florida Bar No. 1007721

EXHIBIT "A"

IN THE DISTRICT COURT OF
APPEAL
OF FLORIDA
THIRD DISTRICT

March 7, 2024

Miami Luxury LLC, etc.,
Appellant(s)

3D2023-2083

v.

Trial Court Case No. 21-2694

GEICO Indemnity Insurance
Company,
Appellee(s).

Pursuant to the time schedule provided in the Florida Rules of Appellate Procedure, the time for filing the initial brief has expired. This cause will be subject to dismissal unless the document referred to is filed within ten (10) days from the date of this Order, or within said time the Court is otherwise notified that this matter is being diligently prosecuted.

A True Copy
ATTEST

~~3D 2023-2083~~ 3/7/24 Prieto
Mercedes M. Prieto, Clerk
District Court of Appeal
Third District



CC: Sharon C. Degnan
David M Drahos
Santino Ruiz

EA