

**IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE JUDICIAL DISTRICT
FRANKLIN COUNTY, OHIO**

Veronica Wagner Covatch, <i>et al.</i> ,	:	
Plaintiffs	:	CASE NO.: 15AP000699
-vs.-	:	
Central Ohio Sheltie Rescue, Inc., <i>et al.</i> ,	:	
Defendants	:	

APPELLANTS’ MOTION TO ENLARGE TIME FOR FILING OF MERIT BRIEF

Now come the Appellants in the above-captioned action, Central Ohio Sheltie Rescue, Inc., hereinafter referred to individually as, “COSR,” and Penny Sanderbeck, hereinafter referred to individually as, “Sanderbeck,” and by and through their undersigned attorney, they respectfully MOVE this Honorable Court for an Order to enlarge the time for them to file their merit brief, such that the said brief should be due not sooner than twenty (20) days after the transcript of the July 23, 2015, hearing before the Trial Court is filed, for the reasons and upon the authorities contained in the following Memorandum In Support.

Respectfully submitted,

/s/John A. Bell, Attorney [electronic signature August 19, 2015]
 John A. Bell, Esq. 0025853
 Counsel for the Defendants-Appellants
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MEMORANDUM IN SUPPORT

FACTS

This appeal was filed on July 23, 2015, and on that date, a transcript of the hearing (that same date) before the Trial Court was ordered from Official Court Reporter Misty Kanoski. On August 5, 2015, the Clerk of the Court of Appeals filed a “Notice of Filing of the Record,” which did not include the hearing transcript.

The transcript of the July 23, 2015, hearing, will demonstrate that the Defendants-Appellants were not permitted to present witnesses and evidence after the conclusion of the testimony of a single witness, Deborah Finelli of the Franklin County Animal Shelter. This intemperate and inappropriate action of the Trial Court is of utmost importance to the instant appeal.

The transcript of the July 23, 2015, hearing is not yet complete as of the filing of this Motion, and an Affidavit of the Court Reporter is attached hereto and incorporated by reference herein as if fully rewritten. The Court Reporter anticipates completion of the hearing transcript August 28, 2015.

It should also be noted that the Trial Court still has not filed an Entry to journalize several rulings it made on July 23, 2015, before, during and after the evidentiary hearing. The instant appeal will also address several of these rulings, including the decision to overrule the Defendants-Appellants’ Motions to compel discovery or to limit proof.

LAW AND ARGUMENT

Rule 14(B) of the Ohio Rules of Appellate Procedure [App.R. 14(B)] states:

(B) Enlargement or reduction of time. For good cause shown, the court, upon motion, may enlarge or reduce the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after the expiration of the prescribed time. The court may not enlarge or reduce the time for filing a notice of appeal or a motion to certify pursuant to App. R. 25. Enlargement of time to file an application for reconsideration or for en banc consideration pursuant to App. R. 26(A) shall not be granted except on a showing of extraordinary circumstances.

The presentation and disposition of the instant appeal requires the transcript of the July 23, 2015, hearing before Judge Brandt of the Municipal Court.

Therefore, the Defendant-Appellants respectfully ask that this Honorable Court enlarge the time for the filing of their merit brief, such that the said brief is due no sooner than twenty (20) days after the transcript of the July 23, 2015, hearing is filed with the Clerk of the Court of Appeals.¹

Respectfully submitted,

/s/John A. Bell, Attorney [electronic signature August 29, 2015]
John A. Bell, Esq. 0025853
Counsel for the Defendants-Appellants
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CERTIFICATE OF SERVICE

I hereby certify that on this nineteenth (19th) day of August 2015, I have served a true copy of the foregoing APPELLANTS' MOTION TO ENLARGE TIME FOR FILING OF MERIT BRIEF upon all parties or counsel entitled to such service, through the Clerk of Courts' "E-Flex" filing system, or by hand delivery, or by placing it in regular U.S. Mail, first class postage fully prepaid, addressed to:

Mr. James H. Banks, Esq., and
Ms. Nina M. Najjar, Esq,
P. O. Box 40
Dublin, Ohio 43017-0040

Mr. Scott Sheets, Esq.
Assistant Franklin County Prosecuting Attorney
373 South High Street
Fourteenth Floor
Columbus, Ohio 43215-4591

Respectfully submitted,

/s/John A. Bell, Attorney [electronic signature August 19, 2015]
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¹ The Court Reporter advises Counsel that the Clerk of the Court of Appeals has not notified her of a due date for the transcript, which she is accustomed to receiving.

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 Central Ohio Shelter Rescue, Inc., *et al.*, :
 Defendants :

AFFIDAVIT OF COURT REPORTER FOR ATTACHMENT TO APPELLANTS'
 MOTION TO ENLARGE TIME FOR FILING OF MERIT BRIEF

Now comes Misty Kanoski, Official Court Reporter for the Franklin County Municipal Court, hereinafter referred to as "Your Affiant," and being first duly cautioned and sworn according to law, she deposes and says as follows for her Affidavit:

1. Your Affiant was the Court Reporter present for the July 23, 2015, hearing in the Franklin County Municipal Court, before the Honorable Judge Brandt, in the case known in that Court as, *Veronica Wagner Covatch, et al., v. Central Ohio Shelter Rescue, Inc., et al.*, case number 2014CVF024571.
2. Following the said July 23, 2015, hearing in the above-mentioned case, attorney John A. Bell, trial counsel for the Defendants in that case, ordered a transcript of the hearing be prepared by Your Affiant for submission to the Court of Appeals.
3. Your Affiant anticipates that the transcript of the above-mentioned July 23, 2015, hearing, will not be ready until Aug 28, 2015.

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4. Your Affiant has been informed that this Affidavit will be attached to a Motion for Enlargement of Time for Filing Merit Brief, and attests that the facts contained herein are true and complete for that purpose.

And further Your Affiant sayeth naught.

Misty Kanoski
Misty Kanoski, Court Reporter

STATE OF OHIO)
 : ss.
FRANKLIN COUNTY)

Subscribed and sworn to before me, a Notary Public in and for Franklin County, Ohio, by the above-named Misty Kanoski, in witness whereof I have set my hand and affixed the Seal of my office this 11 day of August 2015.

John A. Bell
Seal
John A. Bell, Esq. 0025853
Notary Public - Attorney-at-Law
My Commission does not expire.

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