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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT KENAI

DAVID S. HAEG)
)
Appellant,)
) Appeal Case No.: 3KN-06-844 CI
vs.)
)
BRENT R. COLE,)
)
Appellee)

Alaska Bar Case No. #2006F007

REPLY TO OPPOSITION TO
MOTION TO ACCEPT FILING APPELLEE'S BRIEF
ONE DAY LATE

Counsel acknowledges that Mr. Haeg is correct that under Appellate Rule 503.5, a motion to extend time to file a brief must be filed before the expiration of the time prescribed for filing the brief and must be accompanied by the affidavit. Mr. Haeg is incorrect in asserting that this appellate rule applies to this case. Appellate Rule 503.5 applies to a motion for extension of time for filing a brief in the supreme court or the court of appeals. *See Appellate Rule 503.5(a)*. Rather this case is before an "appellate court ancillary to a case" and the motion is governed by Appellate Rule 503. Moreover, the Appellee did not file such a Motion for Extension of Time to File Appellee's Brief. Instead, on April 16, 2007, the next business day after the brief was due,¹ the Appellee filed his brief with a Motion to Accept Filling Appellee's Brief One Day Late.

¹ April 14 was a Saturday and April 15 was a Sunday. The Court does not accept filings on those dates.
Reply to Opposition Motion to Accept Filing Appellee's Brief One Day Late
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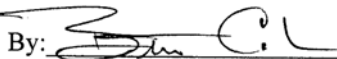
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To the extend this motion was deficient, the Appellee apologizes and attaches with this Reply an affidavit of counsel to satisfy Mr. Haeg's concerns. *See Affidavit of Counsel.* In short, counsel believed he was going to get his brief filed on the appropriate day so he did not file a motion for extension of time to file brief. When it became apparent, that this was not going to happen given that counsel lives in Anchorage and the brief had to be filed in Kenai, he simply finished the brief and directed it be filed along with appropriate motion.

It is still believed Mr. Haeg has not been prejudiced by this one day delay since oral argument is not scheduled to occur until May 9, 2007, unless of course he believes only his side of the story should be presented before the court in resolving this meritless appeal.

DATED this 3rd day of May, 2007, at Anchorage, Alaska.

MARSTON & COLE, P.C.
Attorneys for Defendant

By: 
Brent R. Cole
AK State Bar No. 8606074

CERTIFICATE OF SERVICE

This is to certify that on
May 3, 2007, a true and correct
copy of the foregoing document was
mailed hand-delivered
faxed to the following:

David S. Haeg
PO Box 123
Soldotna, AK 99669

By:  _____