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9 Attorneys for Joyce Livestock

10 IN THE SUPREME COURT OF THE STATE OF IDAHO
11

12 IN RE: SRBA, CASE NO. 39586)

13 JOYCE LIVESTOCK COMPANY,)

14 Appellant,)

15 vs.)

16 UNITED STATES OF AMERICA,)
17 et al,)

18 Respondent)

19 JOYCE LIVESTOCK COMPANY,)

20 Respondent,)

21 vs.)

22 UNITED STATES OF AMERICA,)
23 et al,)

24 Appellant)

JOYCE LIVESTOCK'S
OPPOSITION TO THE UNITED
STATES' MOTION FOR EXTENSION
OF TIME

Supreme Court No. 32278

Supreme Court No. 32279

25 **I. INTRODUCTION**

26 Joyce Livestock has been advised by counsel for the United States that the United States
27 intends to file its fourth motion for extension of time in the within consolidated appeals, seeking an
28 extension of time to and including June 16, 2006 to file its responsive brief in Supreme Court Case

1 No. 32278. This is the United States' fourth motion for extension of time and the first since this
2 Court advised the United States that no further extensions of time would be granted. *See* March 14,
3 2006 Order Re: Appellant's Brief. The United States' continued pattern of seeking extensions of
4 time is severely prejudicial to Joyce Livestock and prevents Joyce Livestock from obtaining timely
5 and rightful redress in this case. Accordingly, Joyce Livestock hereby objects to the United States'
6 Motion for Extension of Time, requests that the Court deny the United States' Motion in its entirety,
7 and, if the United States' fails to timely file its responsive brief, Joyce Livestock requests that the
8 Court enter judgment in Joyce Livestock's favor in these consolidated appeals.

9 II. ARGUMENT

10 A. The United States should be held to the briefing deadlines set by this Court.

11 In November 2005, the United States filed, and was granted, an unopposed Motion for
12 Extension of Time to File Response to Motion to Consolidate. In February 2006, the United States
13 filed a Motion for Extension of Time to File Opening Briefs, a motion that was unopposed by Joyce
14 Livestock, and joined by Joyce Livestock. Again, on March 10, 2006, the United States requested
15 an additional one month extension of time to file its opening briefs on appeal.^{1/} In response, in its
16 March 14, 2006 Order, this Court granted the United States' third requested extension of time but
17 with the following admonition:

18
19 IT IS FURTHER ORDERED that NO FURTHER EXTENSIONS OF TIME TO
20 FILE APPELLANT UNITED STATES OF AMERICA'S BRIEF shall be granted.
21 In the event counsel for Appellant for the United States of America fails to timely file
Appellant's Brief, the appeal shall be DISMISSED as to Docket Number 32279,
Joyce Livestock Company v. United States.

22 *See* Order Re: Appellant's Brief (*emphasis in original*). While this Order referenced the United
23 States' filing of its Appellant's Brief, the underlying rationale behind the Court's order is equally
24 applicable to the situation at hand now: further delay in the United States' participation in this
25 appeal will not be tolerated by the Court.

26 As previously briefed, requests for extensions of time are not favored, and should only be

27
28 ^{1/} Joyce Livestock filed a Response in Opposition to United States's Motion for
Extension of time on March 11, 2006.

1 granted by the Supreme Court upon a clear showing of good cause. *See* I.A.R. 34(e); *see also* I.A.R.
2 46. This conforms with the Idaho Rules of Professional Conduct, and the official comments thereto,
3 which require counsel to use all reasonable efforts to expedite litigation. Rule 3.2 provides as
4 follows:

5 A lawyer shall make reasonable efforts to expedite litigation consistent with the
6 interests of the client.

7 *(Commentary)* Dilatory practices bring the administration of justice into disrepute.
8 Although there will be occasions when a lawyer may properly seek a postponement
9 for personal reasons, it is not proper for a lawyer to routinely fail to expedite
litigation solely for the convenience of the advocates. Nor will failure to expedite be
reasonable if done for the purpose of frustrating an opposing party's attempt to obtain
rightful redress or repose.

10 I.R.P.C. 3.2 (*including commentary*). The litigation between Joyce Livestock and the United States
11 has been active since 1997, and these consolidated appeals have been on file with this Court since
12 September 2005. At least two of the requested extensions of time filed by the United States have
13 been made as a result of their failure to timely authorize the filing substantive briefs in the within
14 appeals.

15 The United States' brief is due on Thursday, May 18, 2006, and it should be held to this
16 deadline. While under other circumstances, scheduling conflicts as alleged by the United States
17 may justify an extension of time, such a favor should not be granted when what is presented is a
18 fourth request for extension of time over a seven month period. Joyce Livestock has been required
19 to expend time, effort, money, and other resources to participate in this appeal while at the same
20 time the United States has, time and again, delayed resolution of this case. Such dilatory practices
21 are unconscionable and should not be tolerated. Under such circumstances, the United States'
22 requested extension of time should be denied, and if it is unable to comply with the deadlines set by
23 this Court, then judgment should be entered in favor of Joyce Livestock.

24 B. If the United States Obtains an Extension of Time, Joyce Livestock Should Receive
25 an Equal Extension of Time to File Its Response Brief.

26 If the Court grants the United States its requested extension of time, Joyce Livestock,
27 pursuant to I.A.R. 32 and 34 requests a commensurate extension of time within which to file Joyce
28 Livestock's Responsive Brief in these consolidated appeals so that Joyce Livestock is not prejudiced

1 by the United States' requested extension of time. Further grounds supporting this motion are set
2 forth in the accompanying Motion for Extension of Time and supporting Affidavit of Elizabeth P.
3 Ewens.

4 III. CONCLUSION

5 By way of its March 14, 2006 Order, this Court made clear that further delay by the United
6 States in the prosecution of these appeals would not be tolerated. Under such circumstances, and
7 given the number of extensions previously sought by the United States, Joyce Livestock opposes the
8 United States' Motion for Extension of Time and requests that the Court deny the United States'
9 Motion in its entirety. If the United States is unable to comply with the briefing schedule now in
10 effect, Joyce Livestock further requests that the Court enter judgment in Joyce Livestock's favor and
11 award Joyce Livestock all relief sought by way of Joyce Livestock's appeal Supreme Court Case
12 No. 32278. Any other result is severely prejudicial to Joyce Livestock and adverse to the fair
13 administration of justice.

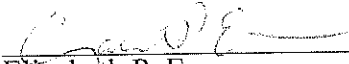
14 In the alternative, if the Court grants the United States' requested extension of time, Joyce
15 Livestock requests an equal and commensurate extension of time within which to file its Response
16 Brief in consolidated Case No. 32279. See Motion for Extension of Time and Affidavit of
17 Elizabeth P. Ewens filed currently herewith.

18 Dated this 16 day of March 2006.

19 Respectfully submitted,

20 McQUAID BEDFORD &
21 VAN ZANDT, LLP

22 By:


Elizabeth P. Ewens
Michael J. Van Zandt

23 Attorneys for Joyce Livestock

24 LING, ROBINSON & WALKER

25 By:


Roger D. Ling

26 Attorneys for Joyce Livestock

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11 award Joyce Livestock all relief sought by way of Joyce Livestock's appeal Supreme Court Case
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13 administration of justice.

14 In the alternative, if the Court grants the United States' requested extension of time, Joyce
15 Livestock requests an equal and commensurate extension of time within which to file its Response
16 Brief in consolidated Case No. 32279. See Motion for Extension of Time and Affidavit of
17 Elizabeth P. Ewens filed currently herewith.

18 Dated this 10 day of March 2006.

19 Respectfully submitted,

20 McQUAID BEDFORD &
21 VAN ZANDT, LLP

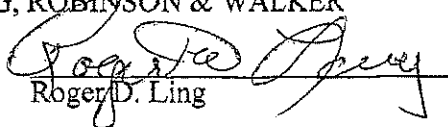
22 By:


Elizabeth P. Ewens
Michael J. Van Zandt

23 Attorneys for Joyce Livestock

24
25 LING, ROBINSON & WALKER

26 By:


Roger D. Ling

27 Attorneys for Joyce Livestock
28

1
2 **CERTIFICATE OF SERVICE**
3

4 I certify that on March 10, 2006, I served a true and correct copy of foregoing **JOYCE**
5 **LIVESTOCK'S OPPOSITION TO THE UNITED STATES'S MOTION FOR EXTENSION**
6 **OF TIME** upon the following individuals by placing the document in the United States Mail,
postage paid, and addressed as follows:

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