

AC 43027 : APPELLATE COURT  
MATTHEW WITTMAN, ET AL. : STATE OF CONNECTICUT  
V. :  
INTENSE MOVERS, INC., ET AL. : DECEMBER 20, 2019

**WITTMANS' OPPOSITION TO ALEXANDER LEUTE AND WILLIAM LEUTE'S  
MOTION TO FILE A LATE BRIEF AND APPENDIX**

Pursuant to Rules 60-2(5) and 66-2 of the Rules of Appellate Procedure, plaintiffs/appellees Matthew Wittman and Carol Wittman (the "Wittmans") respectfully oppose defendants/appellants Alexander Leute and William Leute's (the "Leutes") Motion to File a Late Brief and Appendix dated December 20, 2019 on the grounds that (a) the Leutes falsely represent that the Wittmans consented to the Leutes' motion to file a late brief through January 3, 2020 when, in fact, the Wittmans consented to the filing of a late brief and appendix only through December 24, 2019 and (b) the Leutes can file the late brief and appendix by December 24, 2019 because the signed judgment file that was missing from their appendix was issued by the Superior Court on December 18, 2019.

**Factual Grounds for Opposition**

According to the notice issued on the docket on July 18, 2019, the Leutes' appellant brief and appendix were due on December 9, 2019. It appears the Leutes attempted to file their brief on December 9, 2019, but it was returned because they did not file an appendix. The Leutes made a second attempt to file their brief with an appendix on December 10, 2019, but those filings were returned because the appendix did not contain the judgment

file signed by the Superior Court. To date, the Leutes have failed to file a complete brief and appendix.

On December 16, 2019, Alexander Leute sought consent from the Wittmans to file a late brief. During a telephone conversation on December 17, 2019 between Alexander Leute and Valerie Ferdon, Esq., counsel for the Wittmans, Alexander Leute represented that he would be receiving the judgment file signed by the court by December 20, 2019 and would file his brief no later than December 23, 2019. Consequently, Attorney Ferdon emailed Alexander Leute on December 17, 2019 stating, “we will not oppose your motion to file a late brief so long as your brief is filed on or before December 24, 2019.” See Email Correspondence attached as **Exhibit A**.

The next day, Alexander Leute filed a Motion for Extension of Time requesting an extension up to and including January 3, 2020, untruthfully stating that “Plaintiffs’ counsel in his [*sic*] email to us of December 17, 2019 does not oppose our request for motion to file a late brief.” Def. Mot. at 5. The Wittmans, however, agreed to the filing of a late brief and appendix only on or before December 24, 2019.

Moreover, the Leutes untruthfully represent they are still “awaiting the superior court clerk’s signature on the [judgment file] so that it can be included in the appendix,” Def. Mot. at 4, when, in fact, the Superior Court issued its signed judgment file on December 18, 2019, a copy of which is attached as **Exhibit B**. Thus, the Leutes do not need an additional ten days up to January 3, 2020 to file their brief and corrected appendix. Accordingly, the Leutes have no good cause to file their late brief and appendix after December 24, 2019 and bring about yet more delay.

Additionally, if the Court grants the Leutes time to file a late brief and appendix, the Wittmans request that the Court direct the Leutes to only cure their error in omitting the signed judgment file in the appendix and not to modify the substantive contents of the brief that they attempted to file on December 9 and 10, 2019. Since the missing signed judgment file is the only reason they rely on in requesting permission to file a late brief and appendix, they should not be allowed more time to make substantive changes to the brief.

Respectfully submitted,  
PLAINTIFFS/APPELLEES,  
MATTHEW WITTMAN AND CAROL WITTMAN

By: /s/Richard S. Order  
Richard S. Order, Esq.  
Valerie M. Ferdon, Esq.  
Updike, Kelly & Spellacy, P.C.  
100 Pearl Street, P.O. Box 231277  
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Facsimile: (860) 548-2680  
Juris No. 065040  
rorder@uks.com  
vferdon@uks.com

**CERTIFICATION OF SERVICE**

THIS IS TO CERTIFY that a copy of this objection was mailed or electronically delivered on December 20, 2019 to all counsel and pro se parties of record :

Alexander Leute  
90 Carter Drive  
Stamford, CT 06902  
aleute3@gmail.com  
*(via U.S. Mail and E-mail)*

William Leute  
90 Carter Drive  
Stamford, CT 06902  
williamleute@yahoo.com  
*(via U.S. Mail and E-mail)*

Michael T. Grant, Esq  
LECLAIRRYAN PLLC  
One Financial Plaza  
755 Main Street, Suite 200  
Hartford, CT 06103  
michael.grant@leclairryan.com  
*(via E-mail only)*

I further certify that a copy of this opposition has been delivered to each of my clients who are parties to the appeal. I further certify that this opposition does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law. I further certify that this opposition complies with all applicable Rules of Appellate Procedure

By:     /s/Valerie M. Ferdon  
Valerie M. Ferdon, Esq.  
Updike, Kelly & Spellacy, P.C.

# **EXHIBIT A**

**From:** Valerie M. Ferdon  
**To:** ["aleute3 ."](#)  
**Cc:** ["Grant, Michael T."](#); ["william leute"](#); [Richard S. Order](#); [Pam McDonald](#)  
**Subject:** RE: E File Brief for Appeal  
**Date:** Tuesday, December 17, 2019 4:50:05 PM

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Alex,

I write to correct my previous email – we will not oppose your motion to file a late brief so long as your brief is filed on or before December 24, 2019.

Valerie

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**From:** Valerie M. Ferdon  
**Sent:** Tuesday, December 17, 2019 4:43 PM  
**To:** 'aleute3 .'  
**Cc:** Grant, Michael T.; william leute; Richard S. Order; Pam McDonald  
**Subject:** RE: E File Brief for Appeal

Alex,

We will not oppose your motion to file a late brief.

Valerie

**From:** aleute3 . [<mailto:aleute3@gmail.com>]  
**Sent:** Monday, December 16, 2019 4:16 PM  
**To:** Valerie M. Ferdon  
**Cc:** Grant, Michael T.; william leute; Richard S. Order; Pam McDonald  
**Subject:** Re: E File Brief for Appeal

Hello again Valerie and Richard,

Do you consent to us filing a motion to file a late brief? I meant to ask that in my last email. Please let us know. We had an issue with getting the judgement summary in a timely manner and an issue with the Kinko's personnel, hence the missing pages and terrible formatting on the appendix.

Thank you,

Alex

On Mon, Dec 16, 2019 at 4:12 PM aleute3 . <[aleute3@gmail.com](mailto:aleute3@gmail.com)> wrote:

Hello Valerie,

Thank you for your patience. We will be filing the complete Appendix with no errors as soon as we get the Judgement Summary signed and returned back to us from the court in

# **EXHIBIT B**

STATE OF CONNECTICUT

Docket No.: FST-CV-16-603-0430-S

Matthew Wittman  
614 Cathcart Avenue  
Orlando, Florida 32803

: Superior Court

Carol Wittman  
690 Osceola Avenue, No 208  
Winter Park, Florida 32789

: Judicial District of Stamford/Norwalk

: at Stamford

v.

Intense Movers, Inc.  
90 Carter Drive  
Stamford, CT 06902

Alexander Leuté  
90 Carter Drive  
Stamford, CT 06902

William R. Leute III  
90 Carter Drive  
Stamford, CT 06902

: May 20, 2019

**PRESENT: Hon. Kenneth Povodator, JTR**

**JUDGMENT**

This action by writ and complaint, claiming damages came to this Court on December 13, 2016, and thence to December 26, 2018 when plaintiffs filed a motion to enforce settlement agreement and thence to January 28<sup>th</sup>, 2019 when the parties appeared and were at issue to the Court, as on file.

The Court, having heard the parties, finds the issues for the plaintiff.

245.00

Whereupon it is adjudged that the parties reached a binding settlement, and the defendants have not challenged the accuracy of the version of the settlement agreement (with Attachments) attached to the plaintiffs' submission in support of this motion (#222.00) as reflecting the terms to which the parties agreed. The agreement is equitable insofar as it represented an agreement among all shareholders, and was the product of extensive negotiation (and at least one effort at mediation), with all shareholders signing off on the memorandum of understanding that is the core of the settlement. Therefore, the agreement of the parties as memorialized in the settlement agreement and attached documents as attached to the plaintiff's submission (#222.00), modified as to dates as indicated above (initial payment by June 10, 2019; subsequent payments to commence in July 2019) is enforceable and binding on all of the parties. Again, the court finds the agreement to be equitable, given the circumstances as set forth above.

BY THE COURT



Scott Abel, Assistant Clerk