

January 3, 2019

**William Greenberg**  
Judge**IN THE UNITED STATES COURT OF APPEALS FOR VETERANS****RICKEY R. MITCHELL**

Appellant,

:

:

vs.

:

Docket No. 18-4

**ROBERT L. WILKIE**

Secretary of Veterans Affairs,

Appellee.

:

:

**Appellant's Protective Motion for a 45 day Extension of Time,****from January 2, 2019 to February 19, 2019, to File the Principal Brief**

The appellant hereby files this protective motion for an extension of time to file his brief. Appellant requests that this motion be ruled upon only if the Court denies the parties pending joint motion for a continued stay of proceedings.

The appellant moves the Court for a 45 day extension of time within which to file the Principal Brief, from January 2, 2019 to February 19, 2019. If not for this motion, the Principal Brief would be due on January 2, 2019. This motion is a protective motion which has been filed after hours. The parties have previously filed a December 21, 2018 joint motion for a continued stay of proceedings pending a possible joint resolution of the appeal. Presumably due to the holidays and court closures, however, the Court has not yet ruled on this motion. The Secretary's position on the instant motion is unknown, as after hours contact has been unsuccessful.

Appellant has previously requested a 45 day extension of time to review the record. Appellant also made a request to re-schedule the Rule 33 conference date due to a

conflict. Both requests were granted by the Court. Appellee has filed no previous requests for extensions in this matter. Due to the complexity of this matter, a stay of proceedings has been in effect since September 20, 2018.

This relief is sought on the grounds of workload. Counsel is in need of additional time to research the issues and to prepare the opening brief herein.

WHEREFORE, should the Court deny the parties joint motion for a continued stay of proceedings pending a possible joint resolution of the appeal, Appellant respectfully moves the Court to grant a 45 day extension of time, or until February 19, 2019, in which to file the Appellant's Principal Brief with the Court.

Respectfully submitted,

/s/Tara R. Goffney

Tara R. Goffney  
Counsel for Appellant  
PO 678, Baychester Sta.  
Bronx, New York 10469  
(718) 515-0700