

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

THEODORE NICKEL,

Plaintiff-Appellee,

v.

No. 11-1158

UNITED STATES OF AMERICA,

Defendant-Appellant.

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

v.

No. 11-1419

WISCONSIN STATE CIRCUIT COURT FOR
DANE COUNTY; THEODORE NICKEL,
Commissioner of Insurance of the State of Wisconsin,
As Rehabilitator of the Segregated Account of
Ambac Assurance Corporation;
AMBAC ASSURANCE CORPORATION,

Defendants-Appellees.

**UNOPPOSED MOTION BY APPELLEES WISCONSIN COMMISSIONER OF
INSURANCE, WISCONSIN STATE CIRCUIT COURT FOR DANE
COUNTY, AND AMBAC ASSURANCE CORPORATION FOR EXTENSION OF
TIME TO FILE RESPONSE BRIEFS**

Appellees Theodore Nickel, the Commissioner of Insurance of the State of Wisconsin, as court-appointed Rehabilitator of the Segregated Account of Ambac Assurance Corporation (“Wisconsin Commissioner of Insurance”), the Wisconsin State Circuit Court for Dane County, and Ambac Assurance Corporation, submit this

unopposed motion for a fifteen (15) day extension of time to file their response briefs in the above-captioned, consolidated appeals, from November 28, 2011, to and including December 13, 2011.

In support of this motion, the Commissioner's counsel, Michael B. Van Sicklen, states as follows:

1. On August 22, 2011, this Court issued an Order, consolidating the above-captioned appeals for briefing and disposition, and set September 28, 2011, as the due date for the United States' consolidated opening brief. This Court also noted that: "Counsel for appellees are encouraged to avoid unnecessary duplication by filing a joint brief or a joint appendix or by adopting parts of a co-appellee's brief."

2. On September 8, 2011, this Court granted the United States' motion for an additional 7,000 words, permitting the filing of a consolidated opening brief of up to 21,000 words.

3. On September 20, 2011, this Court granted the United States' motion for extension of time to file its opening brief by thirty (30) days, and set October 28, 2011 as the due date for the United States' opening brief.

4. On October 28, 2011, the United States filed its opening brief. That brief is 96 pages (20,104 words) long. By rule, appellees' response briefs are currently due on or before November 28, 2011.

5. The undersigned counsel for the Wisconsin Commissioner of Insurance has conferred with counsel for co-appellees Wisconsin State Circuit Court for Dane County and Ambac Assurance Corporation, and the appellees jointly request a fifteen (15) day

extension of the deadline for filing response briefs in the consolidated appeals, to and including December 13, 2011. This extension of time is requested based on the length of the United States' opening brief, as well as the number and complexity of the issues raised therein, and because of the time needed for the appellees to coordinate to avoid unnecessary duplication in their response briefs, and to consider the filing of either a joint response brief or the adoption of parts of co-appellees' response briefs, to the extent possible.

6. When the United States moved this Court for a thirty (30) day extension to file its opening brief and for an extra 7,000 words in its opening brief, counsel for the United States noted that it would consent if appellees sought extra time or words after seeing the United States' opening brief. While appellees do not need the full thirty extra days granted the United States, and do not need extra words beyond the word limit permitted by rule, they would appreciate, and would put to good use, the extra fifteen (15) days requested in this motion.

7. On November 8, 2011, the undersigned counsel sent an email to counsel for the United States, Anthony Sheehan, of the United States Department of Justice, attaching a draft copy of this motion, and informing him of the appellees' intention to seek an extension. I have received an email response from Mr. Sheehan, indicating that the United States does not oppose the relief requested in this motion.

CONCLUSION

For the foregoing reasons, appellees' unopposed motion for extension of time to file their response briefs should be granted, and the deadline for filing response briefs in the above-captioned consolidated appeals should be extended by fifteen (15) days, to and including December 13, 2011.

Dated this 8th day of November, 2011. FOLEY & LARDNER LLP

s/Michael B. Van Sicklen

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**DECLARATION IN SUPPORT OF UNOPPOSED MOTION BY APPELLEES
WISCONSIN COMMISSIONER OF INSURANCE, WISCONSIN STATE
CIRCUIT COURT FOR DANE COUNTY, AND AMBAC ASSURANCE
CORPORATION FOR EXTENSION OF TIME TO FILE RESPONSE BRIEFS**

Michael B. Van Sicklen, counsel for the Commissioner, states as follows:

1. I am an attorney at Foley & Lardner LLP in Madison, Wisconsin.

2. The facts recited in the foregoing motion are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct. Executed this 8th day of November, 2011 in Madison, Wisconsin.

s/Michael B. Van Sicklen
Michael B. Van Sicklen

*Attorney for the Wisconsin
Commissioner of Insurance, as Court-
Appointed Rehabilitator of the
Segregated Account of Ambac Assurance
Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2011, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. I further certify that I have mailed the foregoing document by U.S. first-class mail, postage prepaid, to the following non-ECF participants:

Peter A. Ivanick
Emily L. Saffitz
Henry J. Ricardo
Richard W. Reinthaler
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s/ Michael B. Van Sicklen
Michael B. Van Sicklen