

Jeremy D. Eveland, MBA, JD (231552)  
Jared B. Pearson  
**EVELAND & ASSOCIATES**  
8833 South Redwood Road, Suite C  
West Jordan, Utah 84088  
Telephone: (801) 676-5506  
Facsimile: (801) 676-5508  
Attorneys for Appellants

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UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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JOHN G. BRANCA, ET AL.

Plaintiff-counter-defendant-Appellee,

vs.

HEAL THE WORLD FOUNDATION,  
UNITED FLEET,

Defendant-counter-claimant-Appellant,

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**MOTION TO EXTEND TIME  
TO FILE BRIEF**

Case No. 11-56926

Pursuant to Rule 31-2.2(b) of the Federal Rules of Appellate Procedure, and based upon the arguments set forth in the accompanying declaration, Appellants Heal the World Foundation and United Fleet requests that this Court extend the deadline on which Appellants' brief is due.

DATED: May 23, 2012.

EVELAND & ASSOCIATES

/s/ Jeremy D. Eveland  
JEREMY D. EVELAND  
Attorney for Appellant

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Plaintiff-counter-defendant-Appellee,

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**DECLARATION IN SUPPORT OF  
MOTION TO EXTEND TIME  
TO FILE BRIEF**

Case No. 11-56926

Counsel for Appellant, Jeremy D. Eveland, hereby declares, under penalty of perjury, that the foregoing is true and correct:

1. I represent the Defendant-counter-claimant-Appellant in the above-entitled matter.
2. I am over 18 years of age and competent to testify in matters contained herewith.
3. All statements contained herein are based upon my knowledge, information and belief.
4. On or about February 6, 2012, my office was retained by Melissa Johnson to represent Heal the World Foundation and United Fleet in their appeal to the Ninth Circuit Court of Appeals.

5. On or about February 8, 2012, I filed an appearance with the United States Court of Appeals for the Ninth Circuit.

6. Upon review of the Court's Time Schedule Order I discovered that the brief was due on April 9, 2012, and court transcripts needed to be ordered by December 1, 2011.

7. My assistant, Morgan Silva, contacted previous counsel for the Appellant, Steven C. Smith, on or about February 13, 2012, he informed her that he had requested court transcripts from Anne Kiel Wasser, official court reporter to the Honorable Dolly M. Gee, but had not yet received them.

8. On or about February 15, 2012, my assistant, Morgan Silva, contacted Ms. Wasser and was told that Ms. Wasser had some other priorities but would get the transcript to my office as soon as she could.

9. In the meantime, the Court's Mediation program scheduled a conference call with the attorneys of record.

10. Although the attorneys determined that they would not attempt mediation, the briefing schedule was revised wherein the brief deadline was extended to June 1, 2012.

11. On or about May 16, 2012, court reporter Anne Wasser emailed my assistant Morgan Silva and informed her that she still could not provide the transcript and would be able to "give you a better answer the end of this month . . . ." (Email attached as "Exhibit A")

12. I am unable to draft an adequate brief without a record of the preceding hearings and events.

13. In addition, my client has run into some obstacles in her attempt to collect evidence in support of the brief and only recently provided me with certain documents that I need to adequately represent appellants.

14. Therefore, since the date in which I will be able to attain the necessary transcripts is still unknown, I would request a 90 day extension in which to submit Appellant's brief.

15. I believe I have exercised due diligence up to this point, and shall continue to do so in order to submit the brief within the next 90 days.

16. On or about May 22, 2012, I contacted Nina Boyajian of Greenberg Traurig, LLP, to inform her of my intent to file the Motion at hand. Ms. Boyajian stated that her office would object to said Motion.

DATED: May 23, 2012.

EVELAND & ASSOCIATES

/s/ Jeremy D. Eveland

JEREMY D. EVELAND

Attorney for Appellant

[www.TeamMichaelJackson.com](http://www.TeamMichaelJackson.com)

# **EXHIBIT A**

**Jared Pearson, Esq.**

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**From:** Morgan Silva [morgan@evelandlawfirm.com]  
**Sent:** Friday, May 18, 2012 10:31 AM  
**To:** 'Jared Pearson, Esq.'  
**Subject:** FW: John Branca et al v. Heal the World Foundation, et al.

On Wed, May 16, 2012 at 4:44 PM, Anne Kielwasser <anne.kielwasser@gmail.com> wrote:  
Hi Morgan -

I haven't been able to work on any orders other than appealed orders. Sorry for the inconvenience and delay, but there is nothing I can work on until I'm able to turn in appealed cases that take priority.

I'll be able to give you a better answer the end of this month when I can work on your order.

Anne

ANNE KIELWASSER, CSR, RPR  
Official Court Reporter to The Honorable Dolly M. Gee  
United States District Court  
312 N. Spring Street  
Suite 432  
Los Angeles, CA 90012

Office: 213-894-2969

FOR TRANSCRIPT ORDERS: www.AKtranscripts.com

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9th Circuit Case Number(s)

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### CERTIFICATE OF SERVICE

#### When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

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### CERTIFICATE OF SERVICE

#### When Not All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) .

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Signature (use "s/" format)