

**IN THE SUPREME COURT OF FLORIDA**

**CASE NO. SC09-\_\_\_\_\_**

**JOHN MAREK,**

**Appellant,**

**v.**

**STATE OF FLORIDA,**

**Appellee.**

\_\_\_\_\_ /

**MOTION TO ACCEPT INITIAL BRIEF AS TIMELY FILED**

COMES NOW, **JOHN MAREK**, by and through undersigned counsel and respectfully requests that this Court accept his Initial Brief as timely filed. In support of his request, Mr. Marek submits as follows:

1. On June 23, 2009, at approximately, 2:00 p.m., this Court set a briefing schedule and notified Mr. Marek's counsel that the initial brief was due to be filed by 5:00 p.m. June 24, 2009.

2. Mr. Marek's counsel made his best efforts to complete the brief on time. However, several factors beyond his control caused him to be unable to file the brief within the time constraints set forth by this Court. Initially, counsel had other litigation matters to attend to in Mr. Marek's case, i.e., filing the appropriate motions with the circuit court. And, while trial counsel attempted to set his many other cases aside for the twenty-eight hour time period, matters arose that he needed to attend to.

3. In addition, due to the short notice and condensed time period, undersigned's law partner was unavailable to assist in the drafting of the brief due to personal issues that could not

be changed.<sup>1</sup>

4. And, last night, while undersigned attempted to finalize the brief intermittent power outages due to thunderstorms caused him to lose power and have to wait for power to be restored as well as re-do portions of the brief that had not been saved when power went out.

5. Finally, undersigned was unable to be awake for the entire thirty-seven hour time period, including the hours prior to and following the briefing schedule, before the brief was due yesterday.

WHEREFORE, Mr. Marek respectfully requests that this Court accept his brief as timely filed.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by US Mail delivery to Carolyn Snurkowski, Assistant Deputy Attorney General, Department of Legal Affairs, The Capitol PL01, Tallahassee, Florida 32399-1050 on June 25, 2009.

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<sup>1</sup>At the time of the last briefing period, undersigned worked on the brief with his law partner and another attorney with whom he often works. Thus, the time frame was met. However, this time due to the short notice, neither of those attorneys – the only other attorneys familiar with Mr. Marek’s case and the issues – were available.

