

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Shirley G. Robinson, Administrative Law Court Judge

Appellate Case No. 2022-001179

KDP II, LLCAppellant,

v.

South Carolina Department of Health and
Environmental ControlRespondent.

**CONSENT MOTION FOR THIRD EXTENSION OF TIME
FOR FILING OF APPELLANT’S INITIAL REPLY BRIEF**

PLEASE TAKE NOTICE that the Appellant, KDP II, LLC (“KDP”), with the consent of the Respondent, South Carolina Department of Health and Environmental Control (“DHEC”), as indicated by counsel’s signature below, hereby moves this Court to extend the time for filing of KDP’s Initial Reply Brief.

The current deadline for the filing of Appellant’s Initial Reply Brief was extended by this Court to March 23, 2023. Counsel anticipated in good faith that the new deadline would provide ample time for the work necessary to prepare the briefing. However, a series of unexpected events and unusual circumstances now require Appellant to seek an additional extension of the deadline. Accordingly, counsel hereby requests the Court extend the deadline for filing of Appellant’s Initial Reply Brief for an additional 14 days to April 6, 2023.

The grounds for this additional request for extension include counsel's case demands and certain personal matters. As to case demands, Mr. Walker and Mr. Gressette currently have a series of 6 briefing deadlines during the next two weeks. Additionally, Mr. Gressette is preparing for a Supreme Court argument currently set for March 30, 2023 (the week following the deadline at issue here). Both Mr. Gressette and Mr. Walker also have ongoing discovery and other case matters proceeding during this period. Further, unexpectedly, an out-of-town mediation had to be rescheduled to March 22, 2023, (the day before the deadline at issue here) in order to hold the mediation before one of the participants begins an extended medical leave. Mr. Walker and Mr. Gressette are also both counsel in that case. These unusual events and multiple deadlines within a short period of time have also been complicated by Mr. Gressette's medical treatment for an eye condition. While it is anticipated the matter can be treated and managed without any permanent eye damage, Mr. Gressette was instructed that in addition to treatment he should avoid eye strain and limit periods of reading and computer use for a period of 30 days. Complying with these instructions and prioritizing health treatment while also working to meet necessary deadlines, client needs, and other workload obligations can be managed during this period; however, but it is extending the amount of time normally required to complete tasks.

This unusual timing of multiple significant deadlines in succession over the next two weeks, unexpected rescheduling of matters, ongoing regular case demands, and medical treatment instructions have combined to create extraordinary circumstances and the need for Appellant's current request that this Court extend the filing deadline for Appellant's Initial

Reply Brief for an additional 14 days to April 6, 2023.¹

Counsel does not make this unusual request for an additional extension lightly, affirms that it is not for improper purpose or delay.

WHEREFORE, with consent of the Respondent, Appellant asks that this Court, under these extraordinary circumstances, to extend the deadline for filing of Appellant's Initial Reply Brief and Designation of Matter, making the new deadline April 6, 2023.

Respectfully submitted,

/s/ Thomas P. Gressette Jr.

Thomas P. Gressette, Jr. (S.C. Bar #14065)

Email: Gressette@WGLFIRM.com

WALKER GRESSETTE & LINTON, LLC

P.O. Box 22167

Charleston, SC 29413

(843) 727-2200 telephone

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March 20, 2023

ATTORNEYS FOR APPELLANT

WE CONSENT:

/s/ Sallie P. Phelan

Sallie P. Phelan

ASSISTANT GENERAL COUNSEL

Direct: (843) 953-0229

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1362 McMillan Avenue, Suite 400

Charleston, SC 29405

March 20, 2023

ATTORNEYS FOR RESPONDENT

¹ Counsel notes for the Court that the original time period allowed for this filing was ten days. The request for an additional 14 days is an unusual period of time, but it is specifically sought based upon counsel's best assessment of the time needed under these unique circumstances.

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PROOF OF SERVICE

I certify that I have served the **Consent Motion For Third Extension of Time For Filing of Appellant’s Initial Reply Brief** by electronic mail on March 20, 2023, addressed to the attorneys of record:

Sallie P. Phelan (SC Bar No. 14150)

(phelansp@dhec.sc.gov)

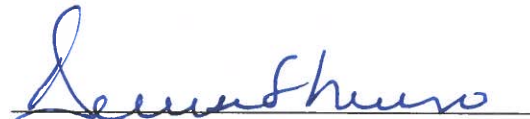
Bradley D. Churdar (SC Bar No. 12829)

(churdabd@dhec.gov)

South Carolina Department of Health & Environmental Control

1362 McMillan Avenue, Suite 400

Charleston, SC 29405



Denise Musso,

Paralegal



G. Trenholm Walker
Thomas P. Gressette, Jr.
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March 20, 2023

VIA EMAIL and FEDERAL EXPRESS NO.: 8179 2975 3839

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201
Via e-filing: ctappfilings@sccourts.org

RE: *KDP II, LLC v. S.C. Department of Health and Environmental Control*,
Appellate Case No. 2022-001179

Dear Ms. Kitchings:

Enclosed please find a Consent Motion for Extension to File Initial Reply Brief. The unique circumstances necessitating this Motion are set forth in the filing.

Please contact me if there are any questions.

The filing fee of \$50.00 is enclosed with the hard copy of this letter being sent by regular mail.

Thank you in advance for your consideration.

Yours very truly,

A handwritten signature in blue ink, appearing to be "T. Gressette", is written over the typed name.

Thomas P. Gressette, Jr.

cc: Sallie Phelan, Esq.
Bradley Churdar, Esq.

Enclosure (as stated)

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Mar 20 2023
SC Court of Appeals

Walker Gressette & Linton, LLC

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Respectfully submitted,

/s/ Thomas P. Gressette Jr.
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/s/ Sallie P. Phelan
Sallie P. Phelan
ASSISTANT GENERAL COUNSEL
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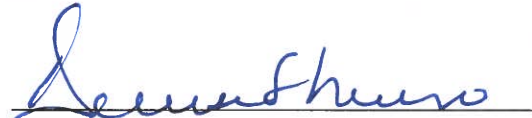
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