

**THE STATE OF SOUTH CAROLINA**  
**In the Supreme Court**

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge  
Edgar W. Dickson, Circuit Court Judge

Case No. 2007-CP-07-1396  
Ct. App. 2016-000218  
Appellate Case No. 2017-001305

**RECEIVED**  
**JUL 20 2017**  
**S.C. SUPREME COURT**

Anthony and Barbara Grazia, individually and  
on behalf of all other similarly situated Plaintiffs,

Respondents,

v.

South Carolina State Plastering, LLC,

Petitioner-Respondent.

and

South Carolina State Plastering, LLC,

Petitioner - Respondent,

v.

Del Webb Communities, Inc., Pulte Homes, Inc.,  
and Kephart Architects, Inc.,

Third-Party Defendants,

Of Which Del Webb Communities, Inc. and  
Pulte Homes, Inc., are

Respondents- Petitioners.

**Motion for Extension of Time**

The Grazias/ Respondents filed a Return to the Petition for a Writ of Certiorari and two motions on July 10, 2017, to which reply/returns are due today, July 20, 2017. The Petitioner-Respondent South Carolina State Plastering, LLC (SCSP) moves the Court for an order holding the proceeding in abeyance, or in the alternative, granting an extension of time due to the status of

proceedings in the parallel proceeding in Supreme Court Appellate Case No. 2017-000238. In support of the motion, SCSP would show unto the Court the following.

SCSPP filed a notice of appeal in the Court of Appeals seeking review of various intermediate orders relating to Rule 23 class certification and prelitigation proceedings under the Right to Cure Construction Dwelling Defect Act (RTC):

- The order of the Honorable J. Michael Baxley, “Order Making Preliminary Finding that Plaintiffs’ Proposed Class Meets the Requirements of Rule 23(a), SCRCF; Setting Parameters for Putative Class; Dismissing Plaintiffs’ Unfair Trade Practices Claim Without Prejudice; Imposing a Stay of Proceedings; and Setting Forth Procedures for Compliance with the Right to Cure Construction Dwelling Defect Act,” dated December 8, 2011 and filed December 19, 2011;
- The order of the Honorable J. Michael Baxley, “Order Dismissing Defendants’ Motions to Reconsider and Denying Defendants’ Motion for Clarification of Order Preliminarily Certifying Class,” dated May 1, 2012 and filed May 7, 2012;
- The order of the Honorable J. Michael Baxley, “Order Approving Class Notice, Mailing List, and Procedures for Right to Cure Process,” dated April 9, 2014 and filed April 18, 2014;
- The order of the Honorable Edgar W. Dickson, “Order Granting South Carolina State Plastering LLC’s Motion for Destructive Testing,” dated January 29, 2016 and filed February 12, 2016;
- The order of the Honorable Edgar W. Dickson, “Scheduling Order” dated May 16, 2016 and filed May 26, 2016;
- The order of the Honorable Edgar W. Dickson, “Order (No Motions Pending),” dated September 7, 2016 and filed September 9, 2016; and
- The order of the Honorable Edgar W. Dickson, “Order Dismissing Defendants’ Motions to Reconsider Pursuant to Rule 59(e),” dated December 29, 2016 and filed January 6, 2017.

That appeal was dismissed as interlocutory by the Court of Appeals, Ct. App. No. 2017-000218.

SCSP filed a Petition for a Writ of Certiorari in this Court on June 9, 2017 in the above captioned matter.

In a parallel proceeding, SCSP had also submitted a petition for extraordinary relief pursuant to S.C. Const. art. V, §5 and S.C. Code Ann. §14-3-310, seeking a writ of certiorari to review the intermediate orders of the trial court. S.Ct. No. 2017-000238. By Order dated July 10, 2017, the Court granted the petition for a writ of certiorari and reversed Judge Dickson’s order of September 9, 2016, entitled “Order (No Motions Pending). As the Court found, Judge Baxley only had made a preliminary finding that the requirements of Rule 23, SCRCF, had been met for the purposes of attempted compliance with the RTC. The Court has remanded the matter for a hearing and final ruling on class certification and directed that such hearing be held and a ruling issued within 30 days of the date of the order. That deadline has since been modified by this Court’s order of July 17, 2017, due to deadlines in the Right to Cure compliance process – namely, on August 11, 2017, the time will expire for response to the 4000+ individual offers made by SCSP. Under the new deadline, a hearing shall be held on or after August 21, 2017, and a ruling shall be issued by September 11, 2017.

On July 10, 2017 -- coincidentally, the same day that the Court issued its Order in No. 2017-000238 -- the Plaintiffs/Respondents served three documents in this action:

- Return in Opposition to the Petition for a Writ of Certiorari to the Court of Appeals, arguing that Judge Baxley’s certification was not preliminary and the orders were not immediately appealable under S.C. Codd § 14-3-330;
- Motion for Extraordinary Relief pursuant to Rule 221(b), SCACR, asking this Court to immediately return the Remittitur to the Circuit Court for a day certain trial; and
- Motion for Sanctions, pursuant to Rule 269, SCACR, arguing that Judge Baxley’s certification was not preliminary and the appeals are frivolous and taken to delay a date certain trial.

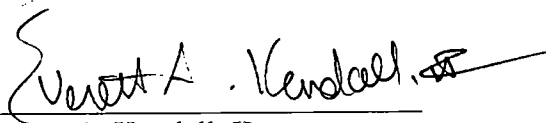
Under Rule 242, SCACR, a reply to the Return is due within 10 days, and similarly, under Rule 240, a return to the motions are due within 10 days -- July 20, 2017.

SCSP respectfully requests that the Court hold these deadlines in abeyance pending the claimants' offers to the RTC offers and the Circuit Court's hearing/ruling on class certification because many issues may be resolved and/or rendered moot by settlements under the RTC or the ruling on class certification. For example, the motion for an immediate remittitur is mooted by the Court's ruling in 2017-000238, remanding the case for a ruling on class certification, and the Court's reversal of Judge Dickson's order likewise should moot any basis for sanctions in the parallel appeal. However, the appeal also seeks review of intermediate orders in which the Circuit Court created a Right to Cure Process that does not meet the purpose or express provisions of the Act and has deprived SCSP of its substantial rights, and those issues might not be resolved/mooted. Thus, placing the deadlines in abeyance would be appropriate to narrow the issues and should prove most efficient for the Court and the parties.

In the alternative, SCSP would request an extension of 15 days for filing/serving the responses based on the convergent timing of the remand order and the Grazias' filing. Until the Court modified the deadlines on July 17, 2017, SCSP Counsel were focused on attempting to prepare for the July 19, 2017 hearing date that Judge Dickson had immediately set for a hearing on the class certification issue as well as dealing with other commitments. In addition, SCSP would ask that any extension be until August 4, 2018 based on the fact that the undersigned Counsel has a preplanned trip to Europe scheduled for July 24, 2017 through July 28, 2017.

WHEREFORE, based on the foregoing, the Petitioner South Carolina State Plastering respectfully requests that the Court hold the response deadlines in abeyance, or in the alternative, for an extension until August 4, 2017.

Respectfully submitted,

A handwritten signature in black ink that reads "Everett A. Kendall, II". The signature is written in a cursive style and is positioned above a horizontal line.

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**ATTORNEYS FOR PETITIONER-RESPONDENT  
South Carolina State Plastering, LLC**

Columbia, SC  
July 20, 2017

**THE STATE OF SOUTH CAROLINA  
In the Supreme Court**

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Court of Common Pleas

J. Michael Baxley, Circuit Court Judge  
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on behalf of all other similarly situated Plaintiffs, Respondents,

v.

South Carolina State Plastering, LLC, Appellant.

and

South Carolina State Plastering, LLC, Appellant,

v.

Del Webb Communities, Inc., Pulte Homes, Inc.,  
and Kephart Architects, Inc., Third-Party Defendants,

Of Whom Del Webb Communities, Inc. and  
Pulte Homes, Inc., are Respondents.

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**PROOF OF SERVICE**

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I certify that I have served the Motion for Extension of Time on The Honorable Edgar W. Dickson, Anthony and Barbara Grazia, individually and on behalf of all other similarly situated Plaintiffs and on Del Webb Communities, Inc., Pulte Homes, Inc., and Kephart Architects, Inc. by depositing a copy of it in the United States Mail, postage prepaid, on July 20, 2017 to all attorneys of record. The addresses for the attorneys of record are as follows:

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**[SIGNATURE PAGE TO FOLLOW]**



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July 20, 2017