

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Stephanie P. McDonald, Circuit Court Judge

Case No. 2010-CP-10-10490

Appellate Case No.: 2015-001590

I'On Assembly, Inc., Brad J. Walbeck, and Lea Ann Adkins, individually and derivatively on behalf of I'On Assembly, Inc.,

Petitioners,

v.

The I'On Company, LLC, The I'On Club, LLC, The I'On Group, LLC f/k/a Civitas, LLC, and I'On Realty, LLC

Respondents.

**CONSENT MOTION FOR EXTENSION OF TIME TO FILE PETITIONS FOR WRIT
OF CERTIORARI**

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Josh Evans (Bar: 77448)
Dabny Lynn (Bar: 78703)
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Attorney for I'On Assembly

**CONSENT MOTION FOR EXTENSION OF TIME TO FILE PETITIONS FOR WRIT
OF CERTIORARI**

Pursuant to the South Carolina Appellate Court Rules (“SCACR”), Petitioners, I’On Assembly, Inc., Brad J. Walbeck, and Lea Ann Adkins, individually and derivatively on behalf of I’On Assembly, Inc.; Respondents, The I’On Company, LLC, The I’On Club, LLC, The I’On Group, LLC f/k/a Civitas, LLC, and I’On Realty, LLC; and, the I’On Assembly, Inc. (collectively “the Parties”) respectfully move for an extension to serve and file their Petitions for Writ of Certiorari (“Petitions”) that may be due on March 29, 2019.

The Parties request this extension because they are Petitioning to Rehear the Court of Appeal’s Substituted Opinion (No. 5588) filed February 27, 2019. While the Court of Appeals originally filed its Opinion on August 8, 2018, the Court withdrew this Opinion and re-filed a substantively different, Substituted Opinion after considering Respondents’ and Petitioners’ initial Petitions for Rehearing. The Parties’ Petitions to Rehear the Substituted Opinion are currently due on April 15, 2019.

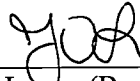
The Parties file this Motion out of an abundance of caution because they are unable to find clear precedent as to the propriety of filing a second Petition for Rehearing when the Court of Appeals withdraws its first opinion and files a second, different opinion. Under Rule 242(c), SCACR, the Parties understand that a Court of Appeal’s opinion is final for purpose of review by the Supreme Court when a Petition for Rehearing “has been acted upon by the Court of Appeals”. However, under Rule 242(d)(2), SCACR, the Parties understand that “only those questions raised in the Court of Appeals and in the Petition for Rehearing shall be included in the Petition for Writ of Certiorari as a question presented to the Supreme Court.” The Court of Appeals’ Substituted Opinion decides issues, and raises questions, that were not pertinent to the Parties’ Petitions to Rehear the Court’s original Opinion. Therefore, the Parties believe that, in light of the foregoing

restriction on questions that may be included in a Petition for Writ of Certiorari, a second Petition for Rehearing may be necessary and appropriate to preserve issues for further appeal. Nonetheless, in light of the dearth of precedent, the Parties seek leave for an extension of time to file their Petitions for Certiorari.

As such, the Parties request this Court grant an extension to serve and file their Petitions for Writ of Certiorari within thirty (30) days after their Petitions to Rehear the Court of Appeals' Substituted Opinion is acted upon and finally decided by the Court of Appeals.


A check for the \$50.00 filing fee associated with this Motion is enclosed.

JUSTIN O'TOOLE LUCEY, P.A.

By: 
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Josh Evans (Bar: 77448)
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March 18, 2019
Mount Pleasant, South Carolina

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By:  with the express permission of
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Charleston, South Carolina

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By: 

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Attorney for I'On Assembly, Inc.

March 15, 2019
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
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The Honorable Stephanie P. McDonald, Circuit Court Judge

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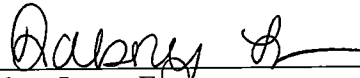
Respondents.

PROOF OF SERVICE

I, Dabny Lynn, hereby certify that on March 18, 2019 I served a copy of the *Consent Motion for Extension of Time to File Petitions for Writ of Certiorari* on the following counsel, via United States Mail, postage pre-paid, and addressed as follows:

Brian Duffy, Esq.
Julie Moore, Esq.
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Attorneys for Respondents

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Attorneys for P'On Assembly, Inc.

Signed: 
Dabny Lynn, Esq.

March 18, 2019
Mt. Pleasant, South Carolina

JUSTIN O'TOOLE LUCEY, PA

Attorney at Law

Justin Lucey
Joshua F. Evans
Stephanie D. Drawdy
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Anna S. McCann
Lauren M. Milton
Taylor M. Morris
Sohayla M. Roudsari
Collin H. Fuller

March 18, 2019

VIA U.S. MAIL

The Honorable Daniel E. Shearouse
South Carolina Supreme Court Clerk of Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

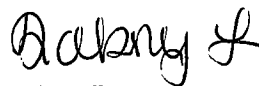
Re: Brad Walbeck v. The P'On Company
Appellate Case No.: 2015-001590

Dear Mr. Shearouse:

Enclosed please find the original and seven (7) copies of the parties' **Consent Motion for Extension of Time to File Petition for Writ of Certiorari** in the above-referenced matter. Also enclosed is a proof of service of this document upon counsel and a check in the amount of \$50.00 for filing this Motion. Please return an additional, filed copy of the Motion in the self-addressed, stamped envelope provided for your convenience.

Thank you for your time and attention to this matter. Please do not hesitate to contact us with any questions or concerns.

Sincerely,



Dabny Lynn

DL/dl

Enclosures

cc: Brian C. Duffy, Esquire
Julie L. Moore, Esquire
Shawn R. Willis, Esquire

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Company LUCEY, JUSTIN, LAW OFFICE OF

Address 415 MILL ST

MOUNT PLEASANT State SC ZIP 29464-4350

Internal Billing Reference I'ON-Walbeck

Recipients The Honorable Daniel Strachan Phone (803) 734-1200

Company SC Supreme Court Clerk of Court

Address SC Supreme Court Building

Address 1231 Gravois Street

City Columbia State SC ZIP 29201



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