

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

RECEIVED

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

JUN 12 2019

S.C. SUPREME COURT

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 AS TO THE PETITIONERS'  
PETITIONS FOR WRIT OF CERTIORARI**

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**CONSENT MOTION FOR EXTENSION AS TO THE PETITIONERS' 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., with the consent of 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 (collectively “the Parties”), respectfully move for an Order extending the time to serve and file their Petitions for Writ of Certiorari (“Cert Petitions”) that are due on June 21, 2019 by twenty (20 days) to July 11, 2019.

**A. Background**

The Petitioners request this extension because they are petitioning this Court to review two Court of Appeal Opinions: An Original Opinion (No. 5588) that was filed August 8, 2018; and a substantively different, Substituted Opinion (also No. 5588) that was re-filed on February 27, 2019. The Parties filed Petitions for Rehearing as to both Opinions.

On April 10, 2019, the Parties filed a Consent Motion asking this Court to hold the time to submit their Cert Petitions in abeyance until one month after their Petitions to Rehear the Court of Appeals’ Substituted Opinion were decided (“Abeyance Motion”).

On April 16, 2019, this Court issued its Order on the Parties’ Abeyance Motion. This Court denied the Motion “as unnecessary” since “the time to serve and file a petition for writ of certiorari under Rule 242 [SCACR] [does] not begin to under until the Court of Appeals act on the pending petition[s] for rehearing.” *See* (April 16, 2019 Order Denying Abeyance Motion) *citing* Rule 242(c), SCACR, (“A petition for writ of certiorari shall be served on opposing counsel and filed with proof of service. . .within thirty (30) days after the petition for rehearing or reinstatement is finally decided by the Court of Appeals.”). Therefore, if granted, this will be the first extension of time on the due date for the Cert Petitions.

On May 22, 2019, the Court of Appeals denied the Parties' Petitions to Rehear the Substituted Opinion. As such, the Parties' Cert Petitions to this Court are due thirty (30) days after this date or by June 21, 2019. *Id.*

**B. Motion for Extension of Time**

The Petitioners request this Court issue an order granting them until July 11, 2019 to serve and file their Cert Petitions. "Extraordinary" circumstances justify extending the Petitioners' Cert Petitions deadline for twenty days. When the Court of Appeal's denied the Parties' Petition for Rehearing on May 22<sup>nd</sup>, Petitioners' Counsel just finished trying a complex, construction defect case in Charleston County. Immediately following this trial, Petitioners' Counsel tried another construction defect case in Aiken County that did not conclude until May 29<sup>th</sup>. Separately, and additionally, on this same day, a close relative of two attorneys in Petitioners' Counsel firm was hospitalized in Greenville County where he remains on life support; these attorneys have missed time at work attending to their relative. One of these attorneys was part of this case's trial team and both are part of this case's appeal team. Lastly, Petitioner's lead Counsel is scheduled to be absent from the state for a week in mid-June.

Due to these circumstances, plus the fact that the extension requested will be the first extension received, the Petitioners respectfully ask this Court to grant them until July 11, 2019, to serve and file their Cert Petitions.

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

[SIGNATURE PAGE TO FOLLOW]

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June 11, 2019  
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**PROOF OF SERVICE**

I, Dabny Lynn, hereby certify that on June 11, 2019 I served a copy of the *Consent Motion for Extension of Time as to the Petitioners' Petitions for Writ of Certiorari* on the following counsel, via United States Mail, postage pre-paid, and addressed as follows:

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Signed:   
Dabny Lynn, Esq.

June 11, 2019  
Mt. Pleasant, South Carolina