

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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SEP 12 2019

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

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-Respondents,

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-Petitioners.

**CONSENT MOTION FOR AN EXTENSION OF TIME AND TO EXCEED PAGE
LIMITS AS TO PETITIONERS-RESPONDENTS' REPLY TO RESPONDENTS-
PETITIONERS' RETURN**

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Pursuant to the South Carolina Appellate Court Rules (“SCACR”), Petitioners-Respondents, 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-Petitioners, 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, respectfully move for an Order: (1) extending Petitioners-Respondents’ time to serve and file their *Reply to Respondents-Petitioners’ Return* (“Reply”) that is due on September 18, 2019 by four (4) days; and, (2) allowing Petitioners-Respondents to file a Reply in excess of fifteen pages.

A. Motion for Extension of Time

On July 31, 2019, the Parties filed a Motion in which Respondents-Petitioners requested an extension until August 30, 2019 to serve their Return in excess of page limits; and, which Petitioners-Respondents requested an additional (10) days to serve their Reply to this Return in anticipation of its lengthier arguments.

On August 9, 2019, this Court issued an Order granting the Parties’ extension requests and noting that further extensions requests would be granted for “extraordinary circumstances”. However, Petitioners-Respondents reside and work in Charleston County, and as a result of Hurricane Dorian, Petitioners-Respondents lost a week of the time this Court previously saw fit to grant them in serving their Return. Accordingly, Petitioners-Respondents respectfully request that the Court provide them an additional four (4) days to serve their Reply, in line with this Court’s Order acknowledging that Hurricane Dorian constituted an extraordinary circumstance that warranted at least four (4) days of additional time to respond to court deadlines.

Pursuant to the Supreme Court of South Carolina's July 16, 2014 Order, please see the below extraordinary circumstances associated with Hurricane Dorian that warrant the granting of the requested four (4) day extension:

Number One

- On Saturday, August 31, 2019, the Governor of South Carolina issued an executive order declaring a state of emergency throughout the State of South Carolina in anticipation of the arrival of Hurricane Dorian.

- On Sunday, September 1, 2019, the Governor issued an executive order mandating the evacuation of all persons located in certain designated evacuation zones in Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Georgetown, and Jasper Counties beginning at noon on Monday, September 2, 2019. Additionally, beginning on September 2, 2019, the Governor directed the closure of all schools and state government offices in the above-listed counties.

- On Thursday, September 5, 2019, Hurricane Dorian passed along the entirety of the South Carolina coastline.

- On Friday, September 6, 2019, mid-morning, Governor McMaster lifted the last of the mandatory evacuations.

- On Monday, September 9, 2019, the Supreme Court issued an Order regarding the computation of time during Hurricane Dorian. The Supreme Court found that "Hurricane Dorian *adversely affected* the ability of many lawyers and litigants to comply with deadlines in court proceedings" and declared Tuesday, September 3, 2019, thru Friday, September 6, 2019, to be statewide "holidays" for the purposes of computing time under Rule 263, SCACR.

- Petitioners-Respondents were adversely affected by Hurricane Dorian due to Governor McMaster's Orders and the declared state of emergency. Petitioners-Respondents

request that the four (4) days deemed statewide holidays by the Supreme Court of South Carolina be added to its Reply deadline in this matter due to the extraordinary circumstances above.

Number Two

- Due to the impending hurricane, Petitioners-Respondents' counsel attempted to contact Respondents-Petitioners' counsel on Friday, August 30, 2019, on or about 1:30 p.m., to request an electronic copy of its *Return*. Respondents-Petitioners' staff informed Petitioners-Respondents' counsel that the office was closed, but she placed a copy in the mail on Friday, August 30, 2019, although the *Proof of Service* states that a copy was deposited in the mail the day before, on August 29, 2019.¹

- The United States Post Office was closed due to Governor McMaster's Orders. Therefore, Petitioners-Respondents' counsel did not receive the mailed copy of *Respondents-Petitioners' Return* until September 9, 2019 (see Exhibit A).

Based upon the current briefing schedule, Petitioners-Respondents' Reply is currently due on or before Wednesday, September 18, 2019. Consequently, anticipating a favorable reception and subsequent granting of this extension motion, Petitioners-Respondents' Reply would then be due on or before Monday, September 23, 2019.

B. Motion to Exceed Page Limits

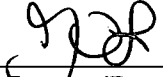
Petitioners-Respondents also request to exceed page limits because they do not believe that the fifteen (15) pages authorized for Replies under our Appellate Court Rules is enough for them

¹ Petitioners-Respondents believe this was simply a clerical mistake. Petitioners-Respondents did receive an e-mailed version of Respondents-Petitioners' Return on August 30, 2019 and calculated their Reply date to be September 19, 2019 based on this date versus September 18, 2019 based on the Return's Proof of Service.

to respond to Respondents-Petitioners' 32-page Return. Petitioners-Respondents believe they should be afforded twenty-five (25) pages to respond.

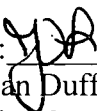
A check for the \$50.00 filing fee associated with this Motion is enclosed

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PROOF OF SERVICE

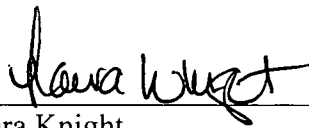
I, Laura Knight, hereby certify that on September 11, 2019, I served a copy of the *Consent Motion for an Extension of Time and to Exceed Page Limits as to Petitioners-Respondents' Reply to Respondents-Petitioners' Return to Petitioners-Respondents' Petition for Writ of Certiorari* on the following counsel, via United States Mail, postage pre-paid, and addressed as follows:

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Signed: 

Laura Knight

September 11, 2019
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