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Dec 10 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
In the Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2020-CP-10-05443

Appellate Case No. 2021-001069

Mary and John Doe, Individually and as husband and wife, Respondents,

v.

Massage Envy Franchising, LLC; Jaxh, LLC d/b/a Massage Envy Spa (Long Grove Dr.); and
Michael E. Hughes, Defendants.

Of whom Massage Envy Franchising, LLC is the Appellant.

**CONSENT MOTION TO STAY APPEAL, OR IN THE ALTERNATIVE TO EXTEND
THE TIME FOR BRIEFING**

Appellant Massage Envy Franchising, LLC (“MEF”), with the consent of Respondents Mary and John Doe, respectfully moves pursuant to Rule 240 of the South Carolina Appellate Court Rules for an order from this Honorable Court staying all proceedings in this matter until March 15, 2022, or in the alternative, to extend the time for Appellant to file its Initial Brief until March 15, 2022. The reason for the request is that Appellant and Respondents are in the process of scheduling mediation of this matter and are hopeful to avoid the need for the Court’s

involvement, thereby conserving judicial resources and promoting efficiency. In support of this motion, Appellant MEF shows as follows:

1. Respondents initially filed the underlying litigation in the Court of Common Pleas of Charleston County on or around December 11, 2020. MEF timely filed a Motion to Dismiss, or in the Alternative, Stay Litigation and to Compel Arbitration of Plaintiff Mary Doe's Claims, and/or in the Alternative to Dismiss Plaintiffs' Claims Pursuant to Rule 12(b)(6) ("Motion to Compel Arbitration") on May 24, 2021.

2. Following briefing and a hearing, the Circuit Court entered an order denying the Motion to Compel Arbitration on August 25, 2021.

3. On September 22, 2021, MEF filed a timely Notice of Appeal of the Circuit Court's decision.

4. This Court has granted MEF two extensions to file its Initial Brief, such that currently, Appellant's Initial Brief is due on or before December 22, 2021.

5. The Parties have been working to schedule mediation,¹ but given schedules, the holidays, and selecting an appropriate mediator given the nature of this matter, mediation cannot occur until January or February.

6. An order granting a stay or extension until March 15, 2021, will permit the Parties to conserve resources in the hopes of avoiding the need for this Court's involvement.

7. Counsel for MEF has consulted with counsel for Respondents regarding the relief requested in this motion, and Respondents consent to this relief.

¹ The intent of the mediation is for it to be global, meaning it will include parties who are not party to this appeal, which in turn involves additional coordination of schedules.

8. Pursuant to Supreme Court Orders 2021-08-25-01 and 2021-08-25-02, Appellant files and serves this motion via email using the email addresses listed in the Attorney Information System, and it will separately send motion the \$50 filing fee by U.S. Mail.

WHEREFORE, MEF respectfully requests this Court stay all proceedings in this case until March 15, 2022, or in the alternative, extends the deadline for Appellant’s initial brief until March 15, 2022, to allow MEF and Respondents to attempt to resolve this matter through mediation to conserve judicial resources and promote efficiency. MEF will notify the Court on or before March 15, 2022, as to the results of mediation and its intentions regarding this appeal. This stay would be without prejudice to either party’s rights in this appeal.

Respectfully Submitted,

/s Lindsay A. Joyner
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Lindsay A. Joyner, SC BAR NO. 77437
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December 10, 2021
Columbia, South Carolina

Other Counsel of Record:

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*Attorneys for Jmbh, LLC, Jaxh LLC d/b/a Massage
Envy Spa (Long Grove Dr.), and
Michael Hughes*

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Massage Envy Franchising, LLC; Jaxh, LLC d/b/a Massage Envy Spa (Long Grove Dr.); and
Michael E. Hughes, Defendants.

Of whom Massage Envy Franchising, LLC is the Appellant.

PROOF OF SERVICE

This is to certify that the undersigned counsel has caused to be served this day (1) copy of Consent Motion to Stay Appeal, or in the Alternative to Extend the Time for Briefing via electronic mail at the address stated in Supreme Court Order, 2021-08-25-02, Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules, and as set forth below to the following:

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*Attorneys for Jmbh, LLC, Jaxh LLC d/b/a Massage
Envy Spa (Long Grove Dr.) and Michael Hughes*

A copy of the email serving counsel for Respondents is attached hereto.

Respectfully Submitted,

GALLIVAN, WHITE & BOYD, P.A.

/s Lindsay A. Joyner
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December 10, 2021

*Attorneys for Appellant Massage Envy
Franchising, LLC*

From: [Lindsay Joyner](#)
To: [Savage Law Firm Paralegal \(paralegal@savagelawchs.com\)](#); "[David Savage](#)"; "[Andrew J. Savage](#)"
Cc: [John T. Lay \(jlay@GWBlawfirm.com\)](#); [Atkins, Robert A \(ratkins@paulweiss.com\)](#); "[Molly Craig](#)"; [jeanmarie.jennings@hoodlaw.com](#); [Leigh Ball](#)
Bcc: "[9461_3 Mary and John Doe Individually and as husband and wife v Massage Envy Franchising LLC JAXH LLC D B A Massage Envy Spa Long Grove Dr and Michael E Hughes Email 9461_3](#)"
Subject: Mary Doe , plaintiff, et al VS Massage Envy Franchising Llc , defendant, et al C/A No. 2020CP1005443 [GWB-IMANMAIN.FID868967]
Date: Friday, December 10, 2021 8:18:47 AM
Attachments: [2021.12.10 Ltr to COA re consent motion to stay or extend.pdf](#)
[2021.12.10 Motion to Stay or Extension.pdf](#)

David and Andy,

As permitted by Supreme Court Order 2021-08-25-03, part (d) and as discussed previously, I am herewith serving via email Appellant Massage Envy Franchising, LLC's Consent Motion to Stay Appeal, or in the Alternative to Extend the Time for Briefing in the above-captioned matter. Shortly, I will be filing these documents with the Court of Appeals as permitted by Order 2021-08-25-03, part (b)(2), and will attach this email to the proof of service of the same.

Should you have any issues opening the attachments, please let me know. Thank you.

With warmest regards,

Lindsay



Lindsay Anne Joyner
Partner
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From: Lindsay Joyner
Sent: Thursday, November 11, 2021 2:13 PM
To: [Savage Law Firm Paralegal \(paralegal@savagelawchs.com\)](#) <paralegal@savagelawchs.com>; [David Savage](#) <dsavage@savagelawchs.com>; [Andrew J. Savage](#) <Andy@savlaw.com>
Cc: [John T. Lay \(jlay@GWBlawfirm.com\)](#) <jlay@GWBlawfirm.com>; [Atkins, Robert A \(ratkins@paulweiss.com\)](#) <ratkins@paulweiss.com>; [Molly Craig](#) <molly.craig@hoodlaw.com>; [jeanmarie.jennings@hoodlaw.com](#); [Laura Sabo](#) <lsabo@gwblawfirm.com>
Subject: RE: Mary Doe , plaintiff, et al VS Massage Envy Franchising Llc , defendant, et al C/A No. 2020CP1005443 [GWB-IMANMAIN.FID868967]



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December 10, 2021

VIA ELECTRONIC FILING (ctappfilings@sccourts.org)
The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1229 Senate Street
Columbia, South Carolina 29201

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SC Court of Appeals

Re: *Mary and John Doe, Individually and as husband and wife, Respondents v. Massage Envy Franchising, LLC; Jaxh, LLC d/b/a Massage Envy Spa (Long Grove Dr.); and Michael E. Hughes, Defendants, Of whom Massage Envy Franchising, LLC is the Appellant.*
Appellate Case No. 2021-001069
GWB File No. 9461-3

Dear Ms. Kitchings:

Attached for electronic filing in accordance with Supreme Court Order 2021-08-25-02, part (b)(2), and pursuant to Rule 203 of the South Carolina Appellate Court Rules, please find a Consent Motion to Stay Appeal, or in the Alternative to Extend the Time for Briefing in the above-captioned matter. As permitted by Order 2021-08-25-03, no other copies, whether paper or electronic, are being provided, unless requested by the Court.

By copy of this letter, we are serving counsel for Respondents via email as permitted by Order 2021-08-25-02, part (d)(1), and attached is a proof of service to that effect.

A check in the amount of \$50.00 for the filing fee associated with this Motion for Extension of Time is being forwarded to your attention via U.S. Mail.

If you have any questions or need additional information, please do not hesitate to contact me.

With kind regards, I am

Sincerely,

GALLIVAN, WHITE & BOYD, P.A.



Lindsay A. Joyner

Page 2

LAJ/lhs

Enclosure

cc: David L. Savage
Andrew J. Savage, III
Molly H. Craig
Jean Marie Jennings
John T. Lay, Jr.
Robert Atkins