

IN THE SUPREME COURT OF OHIO

KRISTEN ELLIOTT-THOMAS)	CASE NO. 2017-0693
)	
Plaintiff-Appellee,)	
)	On Appeal from the Eleventh District Court
vs.)	of Appeals Case No. 2015-T-0007
)	
DAVID KANE SMITH, <i>et al.</i>)	Related Case: 2017-0872
)	
Defendants-Appellants.)	
)	

**DEFENDANTS-APPELLANTS DAVID KANE SMITH AND DAVID HIRT'S
MOTION FOR EXTENSION OF TIME TO FILE MERIT BRIEF**

FRANK CONSOLO (0042455)
Consolo Law Firm, LTD
212 Hoyt Block, 700 West St. Clair Ave.
Cleveland, OH 44112
216-696-5400 (P) / 216-696-2610 (F)
fconsolo@consololaw.com

Attorney for Plaintiff-Appellee

MARTIN T. GALVIN (0063624)
JONATHAN T. KROL (0088102)
(COUNSEL OF RECORD)
REMINGER CO., L.P.A.
101 West Prospect Avenue, Ste. 1400
Cleveland, Ohio 44115-1093
216-687-1311 – P / 216-687-1841 – F
mgalvin@reminger.com
jkrol@reminger.com

Attorneys for Defendants-Appellants

Pursuant to S.Ct.Prac.R. 303(B)(2)(b)(i), Defendants-Appellants David Kane Smith and David Hirt respectfully request a ten (10) day extension of time, until October 5, 2017, to file their Merit Brief in this case. No prior extensions of time have been sought or given in this case.

Appellants make this request in good faith and for no improper purpose, including delay. Appellants anticipate that this case might be consolidated with a related jurisdictional appeal (Case No. 2017-0872), which is currently pending (but not yet ruled upon). To permit the Court additional time to rule on the jurisdictional appeal and/or consolidate it with this certified conflict case, Appellants request a short extension to file a Merit Brief in this case. The Court's determination in that regard might affect both the substance and schedule of the briefs in this matter.

Appellants also submit this request in good faith in light of counsel of record's pressing professional obligations and out-of-town travel. It should be noted that undersigned counsel requested from opposing counsel a stipulation to extend the briefing schedule pursuant to S.Ct.Prac.R. 303(B)(2)(a). For unspecified reasons, opposing counsel refused to consent, necessitating this motion.

Due to the pending, related jurisdictional appeal and because of pressing business matters, Appellants respectfully request a ten (10) day extension of time to file their Merit Brief. To the extent that Court chooses to consolidate this matter with the pending jurisdictional appeal and set a different briefing schedule in the interim, Appellants will comply with any deadline(s) established.

Respectfully submitted,

/s/ Jonathan H. Krol

MARTIN T. GALVIN (0063624)

**JONATHAN T. KROL (0088102) (COUNSEL
OF RECORD)**

REMINER CO., L.P.A.

101 West Prospect Avenue, Ste. 1400

Cleveland, Ohio 44115-1093

216-687-1311 – P / 216-687-1841 – F

mgalvin@reminger.com

jkrol@reminger.com

Attorneys for Defendants-Appellants

CERTIFICATE OF SERVICE

A copy of the foregoing was filed with the Court's electronic filing system and the following parties have been served by regular U.S. Mail on the 22nd day of September, 2017:

Frank Consolo
Consolo Law Firm Ltd
212 Hoyt Block
700 West St. Clair Avenue
Cleveland, OH 44113

Attorney For Plaintiff-Appellee

/s/ Jonathan H. Krol
JONATHAN H. KROL (0088102)