

NORTH CAROLINA COURT OF APPEALS

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SAM’S MART, LLC, )  
)  
Plaintiff-Appellee/Cross- )  
Appellant, )  
)  
vs. )  
)  
QUALITY STRUCTURES, INC., )  
and JOHN K. FREUDENTHAL, )  
individually, )  
)  
Defendants-Appellants/Cross- )  
Appellees. )

From Mecklenburg County  
No. 13-CVS-6485

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DEFENDANTS-APPELLANTS/CROSS-APPELLEES’ MOTION  
FOR ADDITIONAL EXTENSION OF TIME  
FOR TRANSCRIPT DELIVERY

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Pursuant to N.C. R. App. P. 7(b)(1), 27(c)(2), 27(d), and 37 (2015), Quality Structures, Inc., and John K. Freudenthal (jointly, “Defendants-Appellants/Cross-Appellees”) respectfully move this Court for an additional thirty (30) day extension of time to and including Monday, 12 October 2015, for Official Court Reporter Christine M. Elminowski (“Ms. Elminowski”) to deliver the transcripts she has been engaged to produce. Defendants-Appellants/Cross-Appellees state the following to support this Motion:

1. The trial court entered its Judgment in this action on 30 March 2015.

2. Defendants-Appellants/Cross-Appellees filed and served their Notice of Appeal from the Judgment (amongst other rulings) on 29 April 2015.

3. Sam's Mart, LLC ("Plaintiff-Appellee/Cross-Appellant"), filed and served a Notice of Cross Appeal from the Judgment (amongst other rulings) on 7 May 2015.

4. On 13 May 2015, Defendants-Appellants/Cross-Appellees filed and served a Documentation of Transcription Contracts evincing the arrangements made for transcription of the following proceedings:

- 16 October 2013 Hearing – Transcription by Official Court Reporter Pamela A Harris ("Ms. Harris"),
- 26 September 2014 Hearing – Transcription by Official Court Reporter Melody C. Trout ("Ms. Trout"),
- 9 – 25 February 2015 Trial – Transcription by Ms. Elminowski, and
- 17 March 2015 Hearing – Transcription by Lisa D. Smith ("Ms. Smith").

5. Sunday, 12 July 2015, was the sixtieth day after 13 May 2015, thereby making Monday, 13 July 2015, the initial transcript delivery deadline. See N.C. R. App. P. 7(b)(1), 27(a) (2015).

6. Ms. Trout delivered the transcript for which she was engaged on 18 June 2015, and Ms. Harris delivered the transcript for which she was engaged on 5 July 2015.

7. Defendants-Appellants/Cross Appellees thereafter obtained for Ms. Smith and Ms. Elminowski (a) a thirty-day extension of time from the trial court to and including 12 August 2015, to complete their respective transcript engagements; and (b) a thirty-day extension of time from this Court to and including 11 September 2015, to complete their respective transcript engagements.

8. Ms. Smith recently informed the undersigned that she will be delivering the transcript requested of her by the current deadline.

9. Ms. Elminowski, in turn, recently informed the undersigned that she needs another extension of time to complete her transcript engagement, specifically citing a present shortage of court reporters in Mecklenburg County and her continuous court appearances as grounds therefor.

10. Defendants-Appellants/Cross-Appellees thus respectfully request this Court to extend the transcript delivery deadline for Ms. Elminowski by thirty (30) days, to and including Monday, 12 October 2015.

11. Defendants-Appellants/Cross-Appellees respectfully submit that good cause exists for this Court to grant such extension of time, which they seek in good faith and not for the purpose of undue delay.

**WHEREFORE**, Defendants-Appellants/Cross-Appellees respectfully pray that this Court enter an Order extending the transcript delivery deadline for Official

Court Reporter Christine M. Elminowski by thirty (30) days, to and including Monday, 12 October 2015.

Respectfully submitted electronically this the 9<sup>th</sup> day of September, 2015.

**JAMES, McELROY & DIEHL, P.A.**

/s/ Preston O. Odom, III<sup>1</sup>

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*Counsel for Defendants-Appellants/Cross-Appellees*

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<sup>1</sup> I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this **DEFENDANTS-APPELLANTS/CROSS-APPELLEES' MOTION FOR ADDITIONAL EXTENSION OF TIME FOR TRANSCRIPT DELIVERY** has this date been served upon Plaintiff-Appellee/Cross-Appellant by electronic mail to its counsel of record as follows:

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Rachel M. Blunk – [RMB@sharpless-stavola.com](mailto:RMB@sharpless-stavola.com)

This the 9<sup>th</sup> day of September, 2015.

**JAMES, McELROY & DIEHL, P.A.**

/s/ Preston O. Odom, III

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