

No. 20-304

TENTH JUDICIAL DISTRICT

NORTH CAROLINA COURT OF APPEALS

TOWN OF APEX,)	
)	
Plaintiff-Appellee,)	
v.)	<u>From Wake County</u>
)	15-CVS-5836
BEVERLY L. RUBIN,)	
)	
Defendant-Appellant.)	

**MOTION FOR EXTENSION OF TIME TO FILE
RESPONSE BRIEF TO *AMICUS CURIAE* BRIEF**

NOW COMES Plaintiff-Appellee Town of Apex (“Town”), by and through counsel, pursuant to Rule 27 of the Rules of Appellate Procedure, and hereby requests a thirty (30) day extension of time to file the Town’s Response Brief to the *Amicus Curiae* Brief filed by North Carolina Advocates for Justice and John Locke Foundation (“*Amicus* parties”) up to and including 30 August 2020. In support of said motion, the Town shows to the Court the following:

1. On 29 January 2020 the Defendant-Appellant Beverly L. Rubin (“Rubin”) filed a Notice of Appeal of the 21 January 2020 Order Denying Defendant’s Motion to Enforce Judgment and Alternative Petition for Writ of Mandamus and the 21 January 2020 Order Granting Plaintiff’s Motion for Relief from Judgment.

2. The Record on Appeal in this matter was filed on 14 May 2020 and the printed Record on Appeal was mailed to the parties 18 May 2020.

3. On 1 July 2020 the *Amicus Curiae* Brief for the *Amicus* parties was filed herein.

4. The Town’s response brief to the *Amicus Curiae* Brief filed by the *Amicus* parties is due to be filed in the Court of Appeals on 31 July 2020. The time for filing the Town’s response with the Court of Appeals has not expired.

5. Given counsel for the Town’s heavy work load between now and 31 July 2020 which includes, among other things, preparing four (4) briefs in this Court all of which are currently due 30 July 2020 or 31 July 2020 – the response brief to the *Amicus Curiae* brief referenced herein, an appellee brief to be filed herein, and an appellee brief and a response

brief to the same *Amicus Curiae* brief filed in COA20-305, it will be very difficult for counsel for the Town to complete and file the Town's response brief by 30 July 2020. Therefore, counsel for the Town requests a thirty (30) day extension to file the Town's response brief with the Court, through 29 August 2020.

6. Given the method in which Appellant and the *Amicus* parties prepared their briefs, the four briefs described herein in COA 20-304 and 20-305 should be filed by Appellee at the same time. As such, a similar extension motion has been filed for the other briefs described herein.

7. If the motion is granted, the Town will file its response brief to the *Amicus Curiae* Brief filed by the *Amicus* parties with the Court of Appeals on or before 30 August 2020.

8. Counsel for the *Amicus* parties has been consulted and consents to the thirty (30) day extension to file the response brief.

Accordingly, for good cause shown, the Town moves the Court pursuant Rule 27(c) of the Rules of Appellate Procedure to extend the time therefore up to and including 30 August 2020 to allow counsel

sufficient time to prepare and file the response brief to the *Amicus Curiae* Brief filed by the *Amicus* parties.

Respectfully submitted, this the 17th day of July 2020.

/s/ David P. Ferrell
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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served a copy of the foregoing **MOTION FOR EXTENSION OF TIME TO FILE RESPONSE BRIEF TO *AMICUS CURIAE* BRIEF** upon the parties by depositing the same in the United States mail, first class postage prepaid, addressed as follows:

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This the 17th day of July, 2020.

/s David P. Ferrell
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