

**IN THE COMMON PLEAS COURT  
SUMMIT COUNTY**

MEMBER WILLIAMS, *et al.*,

CASE NO. CV-2016-09-3928

Plaintiffs

\*

-VS-

\*

Judge: James A. Brogen

KISLING, NESTICO & REDICK, LLC, *et al.*,

\*

**Defendant Ghoubrial's Brief in  
Opposition to Plaintiffs' Second Request  
for Extension to File Supplemental Brief in  
Support of Certification of Price Gouging  
Class**

Defendants

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Now comes Defendant, Samuel Ghoubrial ("Defendant"), by and through undersigned counsel, and hereby respectfully requests that Plaintiffs' second Motion for Extension of Time to File Supplemental Brief in Support of Certification of Price Gouging Class ("Plaintiffs' Motion") be denied. Among other things, Plaintiffs' unsupported and self-serving assertion that the granting of their requested *second* extension of time will "not unduly delay these proceedings or prejudice any party" is patently untrue. *See* Plaintiffs' Motion, pg. 1. The granting of the requested *second* extension would necessarily further delay these proceedings and it would prejudice the Defendant by making his response Brief due during the Christmas and New Year's holidays. As such, Plaintiffs' Motion seeking an additional 14-day extension should be denied.

All Parties were present before the Court at a status conference on November 9, 2022. The primary purpose of the status conference was to discuss Ninth District Court of Appeals' March 30, 2022, Decision and Journal Entry that reversed this Court's decision certifying Class A, the Price Gouging Class, and remanding the matter back to this Court with instructions for the Court

to conduct the rigorous analysis required by Civ. R. 23(B). *See* 3/30/22, Decision and Journal Entry of the Ninth District Court of Appeals, pg. 16. During the November 9, 2022, status conference, the Court requested supplemental briefing on the issue and Plaintiffs' counsel agreed to submit their brief within 14 days. The Defendants would then have 14 days from the filing of Plaintiffs' brief in which to respond. By agreement of the Court and all Parties, there would be no reply briefs filed, meaning all briefing would be completed with 28 days of the November 9, 2022, status conference, or by December 7, 2022.

On November 22, 2022, the date Plaintiffs' Supplemental Brief was due by express agreement of Plaintiffs' counsel, Plaintiffs filed their first Motion for Extension of Time to File their Supplemental Brief. *See* Docket. In their first Motion for Extension, Plaintiffs requested an additional 7 days, until November 30, 2022, in which to file their Supplemental Brief. *See* Plaintiffs' 11/22/22, Motion for Extension. In support of their first Motion for Extension, Plaintiffs' counsel cited his "workload, and the upcoming [Thanksgiving] holiday." *See Id.*, pg. 1. No Defendant opposed Plaintiffs' first Motion for Extension and that Motion was granted.

Then, on November 30, 2022, the date Plaintiffs' Supplemental Brief was due after their first Motion for Extension was granted, Plaintiffs filed their present Motion seeking an additional 14 days, until December 14, 2022, in which to file their Supplemental Brief. In support of this second Motion for Extension, Plaintiffs' counsel claims he needs "additional time to complete the 'rigorous analysis' called for by the Ninth District's ruling...." *See* Plaintiffs' Motion, pg. 1. Plaintiffs' counsel claims this despite knowing that the Ninth District ordered this Court, not him, to perform that rigorous analysis.<sup>1</sup> The point of the supplemental briefing is to permit the Parties

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<sup>1</sup> Plaintiffs acknowledge in their first Motion for Extension that Ninth District remanded the

to argue their respective positions in an effort to persuade and/or assist the Court. The purpose is not to actually perform the rigorous analysis that the Ninth District expressly ordered this Court to perform.

As things currently stand, if Plaintiffs' second request for an extension is granted and they are given an additional 14 days in which to file their Supplemental Brief, then they will have been given more time to prepare and file their supplemental brief than was contemplated and agreed by the Court and all Parties for the completion of all supplemental briefing (a total of 35 days). And, as previously stated, Defendant will be prejudiced by the granting of this request as his response to Plaintiffs' Supplemental Brief would then be due on December 28, 2022, right in the middle of the holidays. If the Court is inclined to grant Plaintiffs a second extension, they should only be given an additional 7 days in which to file their supplemental brief.

For the foregoing reasons, Defendant Samuel Ghoubril respectfully requests that Plaintiffs' Motion be denied. In the alternative, Plaintiffs should only be given an additional 7 days in which to file their Supplemental Brief. Whatever the Court ultimately decides, Defendant Ghoubril requests that he be given the same amount of additional time granted to Plaintiffs in which to file his reply to Plaintiffs' Supplemental Brief.

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case for this Court to undertake a more rigorous analysis .

Respectfully submitted,

/s/ Brad J. Barmen

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PROOF OF SERVICE

The foregoing document was filed on December 1, 2022, using the Court's e-filing system, which will serve copies on all necessary Parties.

/s/ Brad J. Barmen

BRAD J. BARMEN  
Attorney for Defendant