

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

No. 3:22-cv-2118-X

TIMOTHY BARTON,
CARNEGIE DEVELOPMENT, LLC,
WALL007, LLC,
WALL009, LLC,
WALL010, LLC,
WALL011, LLC,
WALL012, LLC,
WALL016, LLC,
WALL017, LLC,
WALL018, LLC,
WALL019, LLC,
HAOQIANG FU (A/K/A MICHAEL FU),
STEPHEN T. WALL,

Defendants,

DJD LAND PARTNERS, LLC, and
LDG001, LLC,

Relief Defendants.

**RECEIVER’S EXPEDITED MOTION TO EXTEND TIME TO
FILE REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Cort Thomas, as the court appointed Receiver (“Receiver”) requests an extension of the deadline to file his Reply in Support of Motion for Summary Judgment Regarding Southern Properties Capital, Ltd.’s Claimed Ownership Interest in Certain Receivership Entities and Properties (the “Reply”). *See* Dkts. 206 and 207.¹ In support, the Receiver respectfully shows the

¹ Because the Reply is currently due on June 20, 2023, the Receiver requests expedited consideration of this Motion.

Court as follows:

1. On March 16, 2023, the Court granted the Receiver's Motion to Continue Hearing Regarding Approval of Sales, et cet., Dkt. 188, and ordered the Receiver to file a motion for summary judgment regarding Southern Properties Capitals, Ltd.'s ("SPC") competing property interest in certain apartment developments (the "Order"). Dkt. 190. Pursuant to the Order, the Receiver's Motion was due on or before April 13, 2023, SPC's Response was due on or before May 4, 2023 and the Receiver's Reply was due on or before May 18, 2023. Dkt. 190.

2. On April 13, 2023, the Receiver filed his Motion for Summary Judgment Regarding Southern Properties Capital, Ltd.'s Claimed Ownership Interest in Certain Receivership Entities and Properties (the "Motion"). Dkts. 206 and 207.

3. On April 26, 2023, with SPC's agreement and SPC's request for an extension of its Response deadline, the Receiver requested an extension of his Reply deadline. Dkt. 220. On April 27, 2023, the Court granted the Receiver's and SPC's Agreed Motion to Extend Briefing Deadlines pursuant to which SPC's Response was due on or before May 16, 2023 and the Receiver's Reply was due June 5, 2023. Dkt. 221.

4. On April 24, 2023 SPC filed a Motion to Strike portions of the Motion. Dkt. 215. To cure any potential prejudice arising from inclusion of all four properties in the Motion, the Court extended SPC's Response deadline to May 30, 2023, and extended the Receiver's Reply deadline to June 20, 2023. Dkt. 234.

5. All told, SPC had six and a half weeks, between April 13, 2023 and May 30, 2023 to prepare and file its Response.

6. SPC's timely Response includes ten declarations and more than 2,000 pages of evidence.

7. The Receiver requests a ten-day extension of the deadline for his Reply, to and including June 30, 2023. The extension is requested to allow the Receiver sufficient time to prepare the Reply and also object to and move to strike much of the testimony of several witnesses.²

8. Pressing and intervening deadlines and personal obligations necessitate the requested extension. Intervening and competing work includes the Receiver and counsel's TRO practice in state case, multiple deadlines in other cases,³ as well as separate briefing or administrative obligations in this case.⁴

9. Thus, the extension is not sought for purposes of delay but to accommodate the work required in this and other cases.

10. The Receiver conferred with SPC regarding a two-week extension of his Reply deadline and the shorter ten-day extension requested in this Motion. SPC opposes any extension.

11. Despite SPC's protestations, it will not be prejudiced by this short delay, as it was not prejudiced by any prior extension it sought or received.

12. The Receiver accordingly requests a ten-day extension to prepare and file his Reply in support of the Motion, as well as to file a separate Objection or Motion to Strike SPC's evidence.

² The Receiver conferred with SPC regarding extending the page limitation by five pages to allow inclusion of the evidentiary objections in the Reply. SPC stated if the Receiver sought such a page extension it would request leave to file a Sur-Reply. Accordingly, if necessary, the Receiver will address evidentiary objections, including a likely motion to strike improper expert testimony, in an objection or motion to strike filed separately from his Reply.

³ Since SPC filed its Response, briefing in other cases by the Receiver or his counsel has included, but not been limited to, a supplemental brief addressing First Amendment issues in an appeal following oral arguments, two expedited turnover applications in a case pending in a rural state county, a Reply in support of a motion to dismiss pending in Judge Scholer's Court and an expedited Response to a Motion to Seal filed in the same case, and responding to a lengthy motion for summary judgment on a coverage matter in a case pending before Judge Rutherford.

⁴ In addition to the Reply in support of the Motion and objections to or a motion to strike SPC's evidence, the Receiver and his counsel are also working on a Response to the Motion to Intervene filed by First Development of Ohio, Dkt. 245, a Reply in support of the Receiver's Fee Petition, Dkt. 256, negotiating and drafting three different settlement agreements and the related motions regarding approval of those motions, and in the last two weeks have also devoted a significant amount of time to issues pertaining to vacating the Turtle Creek Property and preparing a Declaration in Support of the SEC's Opposition to Barton's latest Emergency Motion to Stay filed in the Fifth Circuit.

WHEREFORE, PREMISES CONSIDERED, the Receiver requests an extension of his Reply deadline to respond to the Motion and to object or move to strike SPC's evidence, through and including June 30, 2023.

Respectfully submitted,

By: /s/ Charlene C. Koonce

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**ATTORNEYS FOR RECEIVER
CORTNEY C. THOMAS**

CERTIFICATE OF CONFERENCE

The undersigned certifies that counsel for the Receiver conferred with counsel for SPC regarding the relief requested above. SPC opposes the relief requested in this Motion.

/s/ Charlene C. Koonce

Charlene C. Koonce

CERTIFICATE OF SERVICE

Pursuant to FED. R. CIV. P. 5(d)(1)(B), as amended, no certificate of service is necessary, because this document is being filed with the Court's electronic-filing system.

/s/ Charlene C. Koonce

Charlene C. Koonce