

NORTH CAROLINA COURT OF APPEALS

DELMA BLINSON; JERRY R. JOHNSON;)
 KELLIENÉ FISHER; DONALD R. REID; )
 BRIAN GOSSAGE; WILFORD R. DOWE;)
 and KENT MISEGADES )
 Plaintiffs, )

v. )

From Wake County
 05 CVS 8378

STATE OF NORTH CAROLINA; )
 JAMES T. FAIN, III, Secretary of the )
 N.C. Department of Commerce, in his )
 official capacity; CITY OF WINSTON- )
 SALEM, North Carolina and ALLEN )
 JOINES, Mayor of Winston-Salem, in his )
 official capacity; FORSYTH COUNTY, )
 North Carolina and GLORIA D. )
 WHISENHUNT, Chairperson of the Board )
 of Commissioners of Forsyth County, in her )
 official capacity; THE MILLENNIUM )
 FUND; WINSTON-SALEM BUSINESS, )
 INC.; THE WINSTON-SALEM )
 ALLIANCE; and DELL, INC., )
 Defendants. )

FILED
 2006 OCT 31 A 8:36
 CLERK OF SUPERIOR COURT
 OF NORTH CAROLINA

PLAINTIFFS' MOTION TO STAY THE FILING OF BRIEFS, OR IN THE  
ALTERNATIVE, FOR EXTENSION OF TIME TO FILE BRIEFS

NOW COME Plaintiffs, by and through counsel, and respectfully move the Court, pursuant to Rules 2 and 27(c) of the North Carolina Rules of Civil Procedure, to stay the filing of briefs in the instant appeal until thirty (30) days from the date the North Carolina

Supreme Court issues its ruling on Plaintiffs' Petition for Discretionary Review, filed October 16, 2006, or in the alternative, for an extension of time of fourteen (14) days, to and including November 22, 2006, within which to file their appellate brief. In support of this Motion, Plaintiffs respectfully show the Court the following:

1. Counsel for Plaintiffs have consulted with counsel for Defendants in this matter regarding this Motion To Stay Or For Extension of Time. The State Defendants do not object to this Motion. Defendant Dell Inc and the Local Defendants have opposed Plaintiffs' pending petition for discretionary review by the Supreme Court on the ground that its review prior to a decision by the Court is unnecessary and unwarranted.

Therefore, Defendant Dell and the Local Defendants oppose any suspension of the briefing schedule in this Court. However, Dell and the Local Defendants do not oppose Plaintiffs' alternative request for an extension of time in which to file their brief with this Court.

2. The time for filing Plaintiffs' appellate brief has not yet expired. The Record on Appeal was mailed to all parties on October 9, 2006. Therefore, pursuant to Appellate Rules 13(a) and 27(a), Plaintiffs' brief is due on November 8, 2006.

3. A stay in the filing of appellate briefs is necessary for reasons of judicial economy, in order to avoid wasting the Court of Appeal's time and resources in this matter, should our state Supreme Court grant Plaintiffs' pending Petition for Discretionary Review.

4. Should this Court not grant Plaintiffs' Motion for a Stay, then a two week extension is necessary in order to allow the undersigned counsel needed additional time

in order to properly prepare the brief and address the very complex legal issues involved in this appeal.

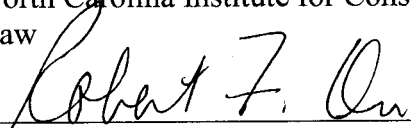
5. Plaintiffs have not previously sought a stay or extension of time regarding the filing of their appellate brief.

WHEREFORE, Plaintiffs respectfully request that the court grant their Motion for Stay Or Extension of Time, staying the filing of Plaintiffs' brief in this appeal until 30 days after the North Carolina Supreme Court rules on the pending Petition for Discretionary Review, or in the alternative, granting the requested extension of time, permitting Plaintiffs an additional fourteen (14) days, to and including November 22, 2006, within which to file their appellate brief.

This the 31<sup>st</sup> day of October, 2006.

Respectfully Submitted,

North Carolina Institute for Constitutional  
Law



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*Attorneys for the Plaintiffs*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing PLAINTIFFS' MOTION TO STAY THE FILING OF BRIEFS, OR IN THE ALTERNATIVE, FOR EXTENSION OF TIME TO FILE BRIEFS was served on all parties by depositing a true copy thereof with the United States Postal Service, first-class postage prepaid, addressed to the following:

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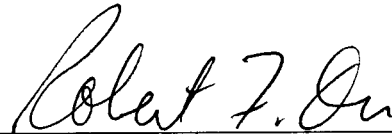
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This the 3<sup>rd</sup> day of October, 2006.

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