

IN THE  
INDIANA COURT OF APPEALS  
CAUSE NO. 20A-MI-1900

THE CITY OF BLOOMINGTON,	)	Appeal from the Monroe Circuit Court,
INDIANA, et al.,	)	
	)	
Appellants-Respondents,	)	Cause No. 53C08-2006-MI-000958
	)	
v.	)	
	)	
ANDREW GUENTHER, et al.,	)	
	)	The Honorable Erik C. Allen,
Appellees-Petitioners.	)	Special Judge

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**APPELLEES' APPELLATE RULE 14(G)(2)**  
**MOTION FOR ORDER SHORTENING DEADLINES**

Appellees, ANDREW GUENTHER individually, and in his capacity as appointed member of the Bloomington Plan Commission, and WILLIAM ELLIS, in his capacity as Chairman of the Monroe County Republican Party (collectively, "Appellees"), by counsel *Carl Lamb & Associates, P.C.*, respectfully request pursuant to Appellate Rule 14(G)(2) that the Court issue an Order *Shortening Deadlines*. In support of this Motion, the Appellees state and show as follows:

- 1) Pursuant to Appellate Rule 14(G)(2):
  - (2) "*Shortening Deadlines*. The Court of Appeals, upon motion by a party and for good cause, may shorten any time period. A motion to shorten time shall be filed within ten (10) days of the filing of either the Notice of Appeal with the Clerk or the motion to the Court of Appeals requesting permission to file an interlocutory appeal." Ind. App. R. 14(G)(2).

- 2) Appellants filed their *Notice of Appeal* on November 25, 2020, as such this *Motion to Shorten Time* is timely under Ind. App. R. 14(G)(2) because it is being filed within ten (10) days after the filing of the *Notice of Appeal*.
- 3) Appellees request that the Court shorten, by fifteen (15) days, the Appellate Rule 45(B) Filing Deadlines for both parties to submit *Appellant's Brief* and *Appellee's Brief*.
- 4) Instead of the *Appellant's Brief* being due thirty (30) days after the date the Monroe Circuit Court Clerk serves its Notice of Completion of the Transcript on the parties, Appellees request that said time for Appellant's to submit their Appellant's Brief, be shortened to fifteen (15) days after the Notice of Completion of Transcript is served on the parties.
- 5) Likewise, the Appellees request that the Court issue an Order shortening the time for the Appellees to file their *Appellee's Brief* no later than fifteen (15) days after service of the *Appellant's Brief*.
- 6) Appellees request that if the Appellant's chose to file a *Appellant's Reply Brief*, that the deadline to file *Appellant's Reply Brief* be shortened to be due no later than seven (7) days after the service of the *Appellee's Brief*.
- 7) "[G]ood cause" exists for shortening the deadlines for the parties to submit briefs for the following reasons:
  - a) This matter has been pending for approximately six (6) months; the Appellees (Trial Court Petitioners) filed their original *Verified Complaint for Writ of Quo Warranto* on June 9, 2020. At the trial court, the parties have already briefed the main legal issues relevant to disposition of the claims, and there is not an abundance of contested facts. Shortening the time for parties to file briefs will not unfairly prejudice either party. Given the Appellant's history of filing requests on their deadline, i.e. their October 14, 2020, Motion for Interlocutory Appeal, Appellees have legitimate concern that the Appellants will not file their briefs until the end of their filing deadlines.

- b) Appellees are prejudiced by the continued delay of the resolution of their underlying trial court claims because they are unable to exercise their rights conferred under Indiana Law. The longer this matter stays in the Courts, the longer Appellee William Ellis's rightful appointment of Appellee Andrew Guenther to the City of Bloomington Plan Commission will be impaired. Appellee Guenther is unable to serve and vote on the Bloomington Plan Commission, as meetings of said Commission continue to take place. As a termed seat on the Bloomington Plan Commission, there is only a set amount of time where Appellee Guenther would be able to serve. As proceedings continue, Appellant Cockerham's usurpation of Appellee Guenther's seat is still in progress, inflicting more harm on Appellees over time.
- c) The seat in question on the Bloomington Plan Commission is a termed seat with a term lasting four (4) years. In January 2021, if proceedings are not yet completed, which is unlikely even if this Court grants this request, the seat in question would have been vacant for one (1) year. Extended proceedings erode the time Appellee Guenther would be able to serve if the Courts rule in favor of the Appellees.
- d) Extended proceedings are costly to Appellees, who unlike the Appellants are not impacted financially as a result of this lawsuit, given them no real incentive to expedite their actions in this litigation.
- e) The issues before this Court are of public importance that are time sensitive, as the Bloomington Plan Commission continues to meet and approve (or deny) petitions before its body. Appellees assert that Appellant Cockerham illegitimately occupies the seat in question, calling into question critical votes on developments within Bloomington. In January 2021, the Bloomington Plan Commission will consider rezoning maps for the 2019 Unified Development Ordinance, with the ability to offer amendments and critical votes on the future of development in the City of Bloomington. Appellee Guenther would suffer irreparable harm if he was blocked from this process.

- f) In January of 2021, the Bloomington Plan Commission will undertake several matters of great importance, including, but not limited to: 1) Election of Officers; 2) Appointments to Other Boards & Commissions; 3) Consideration of the Rezoning Maps of Bloomington's Unified Development Ordinance.
  - g) Having an expeditious ruling on this matter will prevent potential future litigation surrounding appointments under I.C. 36-1-8-10 that have taken place since this action was filed, for instance, Appellee Ellis made an appointment to the Public Transportation Corporation Board of Directors for the City of Bloomington under the same statute.
- 8) Since good cause exists, and this request is timely, Appellee's respectfully request that pursuant to Ind. App. R 14(G)(2) that the Court shorten the deadlines for the filing of briefs as described and requested hereinabove.

WHEREFORE, Appellees, by counsel, and pursuant to Appellate Rule 14(G)(2), request that the Court shorten the time, by fifteen (15) days, for the parties to submit their *Appellant's Brief* and *Appellees' Brief*, that if an *Appellant's Reply Brief*, is filed, that Appellant's deadline to submit said *Reply Brief*, be shortened from fifteen (15) to seven (7) days), and for any other relief deemed appropriate in the premises.

Respectfully Submitted,

**CARL LAMB & ASSOCIATES, P.C.**

*/s/ Carl Paul Lamb*

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Carl Paul Lamb  
Attorney for Appellees  
Indiana Attorney Number: 10286-53

**Certificate Of Service**

I, Carl Paul Lamb, hereby certify that a true and accurate copy of the foregoing document has been transmitted via E-Service Filing on 12-4-20 to the following:  
**Michael Rouker**, Daniel Dixon, Attorneys for the Respondents.

*/s/ Carl Paul Lamb*

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CARL PAUL LAMB

CARL LAMB & ASSOCIATES, P.C  
1101 West Second Street  
Bloomington, Indiana 47403  
(812) 332-1420  
(812) 332-4415 (Fax)  
[carl@carllamblaw.com](mailto:carl@carllamblaw.com)