

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 06-cv-02528-JLK-CBS

BRAY, *et al.*

Plaintiffs,

v.

QFA ROYALTIES LLC, a Delaware limited liability company,

Defendant.

**UNOPPOSED MOTION FOR EXTENSION OF TIME FOR PLAINTIFFS TO RESPOND
TO DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

COME NOW plaintiffs, by and through their counsel, Gregory R. Stross, and move this Court for an order extending the period for Plaintiffs to file a response to Defendant's Motion for Partial Summary Judgment, to and including February 26, 2007, and state in support as follows:

CERTIFICATION OF COUNSEL PURSUANT TO D.C.COLO.LR 7.1A. Plaintiffs' counsel certifies that he communicated with defendant's counsel on January 31, 2007 concerning the substance of this motion. Defendant's counsel indicated that he does not object to the requested extension of time for Plaintiffs to respond to the Motion for Partial Summary Judgment.

This action was filed on December 15, 2006, with Plaintiffs seeking injunctive relief in an emergent manner. The Court conducted a forthwith hearing on December 22, 2007. An

Order was entered maintaining the status quo of the parties until a preliminary hearing could be conducted on February 12-14, 2007.

On January 10, 2007 the parties filed a Stipulated Motion to Set Discovery Schedule on Expedited Basis and Set Briefing Schedule And Extend Deadlines. CM/ECF document #26. The Court granted that motion on the same day. CM/ECF document #27. The discovery order in place provides that Defendant shall have until 15 days following the Courts' ruling on the Motion For Preliminary Injunction in which to answer or provide other response to Plaintiffs' Complaint. Immediately prior to jointly determining the discovery schedule, Defendant nonetheless filed a Motion for Partial Summary Judgment concerning whether a Federal question exists under Plaintiffs' second claim for relief. CM/ECF document #25.

Plaintiffs believe the Defendant's Motion for Summary Judgment is premature. The very purpose in extending the period to respond to the complaint was to allow the parties time to focus upon conducting discovery for the preliminary injunctive hearing. Substantial discovery has taken place in an extraordinarily short period, but this discovery has limited plaintiffs' ability to address the motion.

On January 30, 2007 Plaintiffs filed, through the CM/ECF system, correspondence directed to the Court concerning the subject of this motion. (Plaintiffs' counsel attempted to file that correspondence in the CM/ECF system on the evening of January 29, 2007, but was unsuccessful due to password difficulties.) Plaintiffs' counsel was subsequently contacted by staff in the Clerk of District Court office and directed to re-file any request for continuance in an appropriate pleading form.

Because there is no formal scheduling order in place and the case is currently postured only to the address the propriety of preliminary injunctive relief, it is appropriate to allow plaintiffs to forebear from responding to the motion until after twelve days following the hearing.

WHEREFORE, Plaintiffs respectfully request the Court enter an order extending the time up to and including February 26, 2007 within which Plaintiffs may respond to Defendant's Motion For Partial Summary Judgment. A proposed order is simultaneously filed.

DATED: January 31, 2007
Denver, Colorado

GREGORY R. STROSS
ATTORNEY AT LAW

By: s/Gregory R. Stross

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CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2007, I electronically filed the foregoing *Unopposed Motion For Extension Of Time To Respond The Defendant's Motion For Partial Summary Judgment* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

lmacphee@perkinscoie.com — Leonard H. MacPhee, Esq.
fredric.cohen@dlapiper.com — Fredric A. Cohen, Esq.

By: s/Gregory R. Stross
Gregory R. Stross