

STATE OF NEW MEXICO  
THIRTEENTH JUDICIAL DISTRICT  
COUNTY OF VALENCIA

THE SOCORRO ELECTRIC COOPERATIVE, INC.  
Plaintiff,

v.

CHARLENE WEST, et al  
Defendants.

Case No: D-1314-CV-2010-849  
Judge: Albert J. Mitchell, Jr.

And

CHARLES WAGNER, individually and as  
Class representative, etc.,

Cross Claim Plaintiff,

v.

SOCORRO ELECTRIC COOPERATIVE, INC.,  
et al.,

Cross Claim Defendants.

**DEFENDANT'S MOTION TO EXTEND TIME**  
**TO FILE RESPONSES TO PLAINTIFF'S JANUARY 25, 2012, MOTIONS**

Charles Wagner, individually and as class representative, ("Defendant"), files this motion to extend time to respond to Socorro Electric Cooperative, Inc.'s ("Plaintiff") five motions<sup>1</sup> under Rule 1-006(B)(1), NMRA 2010. Defendant requests a two week extension to respond to Plaintiff's motions. This is Defendant's first request for an extension of time to respond and in support will show:

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<sup>1</sup> Plaintiff's Motion to Dismiss for Failure to Join an Indispensible Party, Motion to Dismiss Claims for Lack of Subject Matter Jurisdiction Under New Mexico Rural Electric Cooperative Act, Plaintiff's Motion to Dismiss for Lack of Standing, Motion to Dismiss Claims and for Judgment on the Pleadings Based on Failure to Plead Under Rule 1-009(b), and Plaintiff's Motion for Partial Summary Judgment as to All Claims Involving Voting Rights

1. Without prior notice, counsel for Plaintiff filed the five above-mentioned motions late in the day on Wednesday, January 25, 2012.

2. Lead class counsel for Defendant, William Ikard, was out of town from January 25-28, 2012.

3. Upon his return to Austin he began to experience hemorrhaging in his nose. He was in and out of the emergency room a total of four times between January 29-30, 2012, before undergoing emergency surgery on January 31, 2012. Mr. Ikard spent the night of his surgery in the intensive care unit of the hospital and was not able to return to work until Monday, February 6, 2012, three days before Defendant's responses to Plaintiff's five motions were due under the applicable rules of procedure.

4. Mr. Ikard's associate, Ms. Selinger, notified Mr. Foster, counsel for Plaintiff, on January 30 via e-mail to explain the extent of Mr. Ikard's illness and that Mr. Ikard would be out of the office until midweek. (Attached hereto as Exhibit A.) However, at this time, even Mr. Ikard's doctor did not know how serious Mr. Ikard's illness was nor did Mr. Ikard anticipate that he would have to undergo emergency surgery.

5. Ms. Selinger again gave Mr. Foster an update on Mr. Ikard's absence via telephone on January 31, 2012.

6. On February 6, 2012, Ms. Pallante with Deschamps & Kortemeier Law Office, co-counsel for Defendant, sent Mr. Foster a request to extend the time for Defendant to respond to the five motions. (Attached hereto as Exhibit B.)

7. In response, Mr. Foster stated that he would "gladly agree to a reasonable extension of time" if Defendant would agree to stipulate to two other motions filed by Plaintiff

on February 1, 2012.<sup>2</sup> In light of Mr. Foster's admission, it is clear that Plaintiff would not be prejudiced or their interest compromised by the requested extension.

8. Defendant makes this request for extension for good cause and not to cause undue delay in these proceedings.

For these reasons, Defendant respectfully requests a two-week extension to file their responses to Plaintiff's five motions; thereby making Defendant's responses due Thursday, February 23, 2012.

Respectfully submitted,

IKARD WYNNE LLP  
2801 Via Fortuna, Suite 501  
Austin, Texas 78746  
(512) 275-7880  
(512) 275-7333 [Facsimile]

"Electronically filed" /s/ William Ikard  
William Ikard  
State Bar No. 10385500  
Carrie Helmcamp  
State Bar No. 00784243  
Kimberly Selinger  
State Bar No. 24072333

ATTORNEYS FOR DEFENDANT

***Co-Counsel for Defendant:***

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<sup>2</sup> Plaintiff's Motion for Protective Order and Plaintiff's Motion to Stay Discovery

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing was served on the persons identified below on the date and in the manner stated.

***Via facsimile 505.842.0653***

Paul J. Kennedy  
Darin M. Foster  
201 12th Street N.W.  
Albuquerque, New Mexico 87102

***Via facsimile 575.835.0049***

Thomas Fitch  
Polly Tausch  
Post Office Box 1647  
Socorro, New Mexico 87801

Date: 2/8/12

/s/ Shiloh M. Pallante  
Shiloh M. Pallante

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