

STATE OF NORTH CAROLINA
DURHAM COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
25CV001214-310

KELLY F. MOORE, individually and
as Executor of the ESTATE OF
DRUE A. MOORE; MILES MOORE,
individually and on behalf of his
minor brother, COLE MOORE; KMC
MOORE LLC, as Trustee of the
REDWOOD TRUST, u/a/d April 10,
2017; and RICK GRAVES, as Trustee
of the REDWOOD LIFE
INSURANCE TRUST u/a/d
November 15, 2018,

Plaintiffs,

v.

ROBERT SCOTT BROOKS;
WINTHROP INTELLIGENCE, LLC;
D. SCOTT ROBINSON; OPES
DIRECTED FIDUCIARY
SERVICES, LLC; ROBINSON LAW
GROUP LLC d/b/a OPES LAW;
REDWOOD WI HOLDINGS, LLC;
REDWOOD RE I, LLC; REDWOOD
RE II, LLC; TETON GLOBAL
VENTURES LLC; and DAC
WORLDWIDE LLC,

Defendants.

**ORDER ON STIPULATION FOR
EXTENSION OF TIME**

1. This matter is before the Court following the filing on 3 September 2025 of the parties' Stipulation for Extension of Time for Defendant Robert Scott Brooks to File Reply. (ECF No. 86).

2. In their filing, the parties purport to extend through 8 September 2025 Brooks's deadline to file a reply brief in support of his pending motion to dismiss,

(ECF No. 73). The parties assert that their “stipulation does not require a court order,” citing “BCR Rule 4(e).” (ECF No. 86 at 2).

3. Rule 4 of the Business Court Rules was amended effective 2 September 2025 by an Order of the Supreme Court of North Carolina entered on 20 August 2025. *See Or. Am. N.C. Bus. Ct. R.* (Aug. 20, 2025). By “Rule 4(e),” the parties appear to reference the prior version of BCR 4.1(e), which provided that “[n]othing in these rules precludes parties from entering into binding stipulations in the manner permitted by Rule 6(b) of the Rules of Civil Procedure.” BCR 4.1(e) (version effective through Sept. 1, 2025).

4. The recently amended version of Rule 4.1(e), however, provides that “[a] deadline that has been set or modified by an order of the Court may be extended only by a further order of the Court. The parties may not act unilaterally under BCR 4.2(b) or (c) to extend the deadline.” BCR 4.1(e). Further, amended Rule 4.2(b) provides that,

[f]ollowing the procedure found in Rule 6(b) of the Rules of Civil Procedure, the parties may enter into binding stipulations to extend a deadline to respond to a *pleading*. When this occurs, the parties must file a Notice of Stipulation that informs the Court of the new deadline. The deadline may not be extended, in the aggregate, more than 30 days.

BCR 4.2(b) (emphasis added).

5. Regardless of the version upon which the parties rely, however, Rule 6(b) of the Rules of Civil Procedure only permits the parties to “enter into binding stipulations without approval of the court enlarging the time, not to exceed in the aggregate 30 days, within which an act is required or allowed to be done *under these rules*” (i.e., the North Carolina Rules of Civil Procedure). N.C. R. Civ. P. 6(b)

(emphasis added). Rule 6(b) does not contemplate stipulations to extend briefing deadlines set by the Court or otherwise under the Business Court Rules, and it is the Business Court Rules—specifically, BCR 7.7—that set the deadline to serve a reply brief in Business Court cases unless the Court orders otherwise. *See* BCRs 1.2, 7.7.

6. Thus, inasmuch as the parties purport to have the ability to extend briefing deadlines without a Court order, they are incorrect, and they may not do so. Any party wishing to extend a briefing deadline before the Court must file a motion and obtain the Court’s leave. But, as the Court informed counsel during an earlier hearing and consistent with the newly amended BCR 4.2(c), the parties may extend deadlines to respond to discovery requests.¹

7. Here, in its discretion and in the interest of judicial efficiency, the Court will construe the parties’ stipulation as a consent motion to extend Brooks’s time to file a reply brief and will extend the time for serving the brief through 8 September 2025 as requested.

8. Nonetheless, counsel and the parties are cautioned that any future efforts to extend a party’s briefing deadlines must be made by formal motion and may not be completed by stipulation.

¹ Under that Rule, “[w]ithout notifying the Court, the parties may agree to extend a deadline to respond to a written discovery request. The parties may not extend the deadline beyond the discovery period specified in the Court’s Case Management Order.” Here, in light of the pending motions to dismiss, the Court has deferred entry of a Case Management Order until its resolution of those motions or until the Court otherwise determines that such an Order is appropriately entered.

9. Therefore, the Court **ORDERS** that Brooks shall have through and including 8 September 2025 to file his reply brief in support of his motion to dismiss.²

SO ORDERED, this 4th day of September 2025.

/s/ Matthew T. Houston

Matthew T. Houston
Special Superior Court Judge
for Complex Business Cases

² The Court notes that a similar stipulation was filed by the parties with respect to an earlier briefing deadline in the case. (ECF No. 79). As that deadline, as purportedly extended, has already passed and the brief has been filed and served, the Court does not further address the stipulation beyond noting that, like the present stipulation, it was invalid and not permitted by applicable Rules.