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February 18, 2009

**VIA E-MAIL AND U.S. MAIL**

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The Hon. Charles A. Porter, Jr.  
Hennepin County District Court  
Fourth Judicial District  
Hennepin County Government Center  
300 S. Sixth Street  
Minneapolis, MN 55487

**Re: Brown, et al v. Browne, et al**  
**Court File No. 27-CV-09-2277**

Dear Judge Porter:

I am sending this correspondence on behalf of my clients, Robert Hodson, Michael Browne, PJ Hubbard, Anne McCandless, the Minneapolis Neighborhood Revitalization Program, Stacy Sorenson, and the Jordan Area Community Council ("Joint Defendants"). My purpose is to briefly address yesterday's filing deadline and Plaintiff's Motion to Strike.

My understanding was that Defendants were allowed to present responsive papers to Plaintiff's motion for injunctive relief with a deadline of Wednesday, February 17, 2009. I first learned that Defendant's responsive papers filing deadline was at 12:00 p.m., rather than when civil filing closed at 5:00 p.m., after the deadline had passed. At approximately 12:15 p.m., I received a voice-mail message from one of the attorneys requesting a copy of Joint Defendant's motion papers. Upon learning of this deadline, I immediately contacted your law clerk and advised her that I had just learned of the noon deadline and that the moving papers would be hand-delivered and filed immediately. The filing was accomplished at approximately 1:30 p.m.—or, approximately 90 minutes after the deadline.

I also advised your law clerk that in my conversation with the Court on February 10 and with each of the attorneys that have been involved in the litigation, that I was never made aware of the noon filing deadline. Included in these discussions was a telephone conversation with Ms. Clark on February 10 when she confirmed the February 17 deadline but made no mention of a noon filing deadline. The noon filing deadline was also not included in the many papers and documents that I received from numerous sources. Accordingly, Joint Defendants respectfully request that the Court relax the filing deadline in accordance with Rule 115.07 as there has been no prejudice to Plaintiffs under these circumstances.

Joint Defendants also seek the opportunity to address Plaintiff's Motion to Strike. Plaintiff asserts that Joint Defendant's motion papers "appear to be an attempt at a second bite at

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the apple.” That is certainly not the intent of Briggs and Morgan or the Joint Defendants. It was my understanding that each Defendant was being allowed the opportunity to address Plaintiff’s request for injunctive relief in accordance with Local Rule 115 and the Court’s directive. Accordingly, I prepared a responsive brief and presented arguments on behalf of Joint Defendants consistent with that understanding. I fail to see any prejudice to Plaintiff in allowing a full response by each of the Joint Defendants when Plaintiff is seeking such extraordinary relief. Joint Defendant’s arguments relating to exhaustion of remedies and the *Dahlberg* factors should be no surprise to Plaintiffs.

Finally, Plaintiff’s Motion to Strike is not permitted pursuant to Rule 115. If the Court intends to consider Plaintiff’s Motion to Strike, Joint Defendants would request an opportunity to formally respond. If the Court chooses not to consider the Motion to Strike, Joint Defendants would urge the Court to consider Joint Defendant’s Memorandum of Law pursuant to Rule 115.07 and deny Plaintiff’s demand for injunctive relief pursuant to the *Dahlberg* factors.

Sincerely,

Briggs and Morgan, P.A.



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David A. Schooler

DAS/rb

cc: Jill Clark  
Albert Goins  
Damon Ward