

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

CLAY G. COLSON,

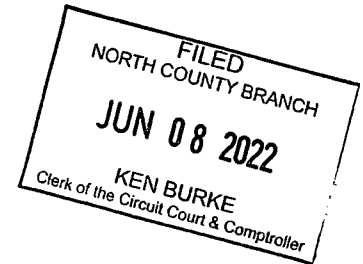
CASE NO.: 21-005793-CI

Plaintiff,

v.

THE CITY OF TARPON SPRINGS, FLORIDA,

Defendant.



**PLAINTIFF'S MOTION TO ENLARGE TIME
TO FILE AN AMENDED COMPLAINT**

COMES NOW, the Plaintiff, CLAY G. COLSON, and files his Motion to Enlarge Time to File an Amended Complaint showing:

1. On May 9, 2022, Judge Muscarella signed the proposed order submitted by counsel for the Defendant, CITY OF TARPON SPRINGS, and the Order Granting Defendant CITY OF TARPON SPRINGS' Motion to Dismiss for Failure to Join Indispensable Parties was filed on May 10, 2022.
2. I have filed my Motion for Reconsideration of Order Granting Defendant CITY OF TARPON SPRINGS' Motion to Dismiss for Failure to Join Indispensable Parties and incorporate the same herein by reference.
3. My Motion for Reconsideration points out that such Order provides that the CITY's Motion to Dismiss for Failure to Join Indispensable Parties is granted without prejudice, but then, it provides that failure to file an amended complaint within 30 days shall result in dismissal with prejudice.

4. Such Order also does not explain who the Court considers indispensable parties and states that the amended complaint is due within 30 days of the date of the hearing when I recall that Judge Muscarella stated that I would have 30 days from the date of the Order to file an amended complaint. Therefore, it is not clear whether such Order accurately reflects Judge Muscarella's decision at the hearing on May 2, 2022, and therefore, whether an amended complaint was due on June 1, 2022 or whether an amended complaint is due on June 9, 2022.
5. My Motion for Reconsideration also points out that counsel for the CITY did not cite a single case concerning indispensable parties to an action to challenge the consistency of a development order with a comprehensive plan pursuant to Florida Statutes §163.3215 and that at the hearing on May 2, 2022, I pointed out that the Second District Court of Appeal's decision in *City of St. Petersburg, v. Marelli*, 728 So.2d 1197 (Fla. 2d DCA 1999) held that a property owner and developer for whom a variance was granted is not an indispensable party, and thus, that such precedent requires denial of the CITY's motion to dismiss.
6. My Motion for Reconsideration requests the Court to reconsider the Order Granting Defendant CITY OF TARPON SPRINGS' Motion to Dismiss for Failure to Join Indispensable Parties and clarify or vacate it.
7. I intend to file an amended complaint if the Court does not vacate the Order Granting Defendant CITY OF TARPON SPRINGS' Motion to Dismiss for Failure to Join Indispensable Parties in its entirety, and although I have been preparing to do so, I need additional time to file an amended complaint if the Court only clarifies such Order.

WHEREFORE, I respectfully request an additional 20 days from the date of entry of the

Court's order on my Motion for Reconsideration of Order Granting Defendant CITY OF TARPON SPRINGS' Motion to Dismiss for Failure to Join Indispensable Parties in which to file an amended complaint if necessary.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion has been served by U.S. Mail to Jay Daigneault, Esq. of Trask Daigneault, LLP at 1001 S. Fort Harrison Ave., Suite 201 in Clearwater, FL 33756 on this 7 day of June 2022.



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