

April 1, 2024

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By Electronic & U.S. Mail

Honorable Scott S. Harris
Clerk of the Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

Re: *Killilea v. Coan, No. 23-721*

Dear Mr. Harris:

The undersigned is counsel of record for Petitioner Gayle Killilea (“Killilea”) in the above-captioned matter. Killilea filed her petition on December 29, 2023—over three months ago. I write in response to the request for an extension of time to respond to the petition filed on March 29, 2024 by Cooper & Kirk, ostensibly on behalf of respondent, Richard M. Coan as bankruptcy trustee for the estate of Sean Dunne (the “Trustee”). Although reasonable requests for extensions of time are characteristically accommodated, Killilea opposes the request as presented for several uncharacteristic reasons, but, as noted, would not oppose a two-week extension.

First, Cooper & Kirk is not authorized to represent the Trustee. Under 11 U.S.C. § 327, authority to represent a bankruptcy trustee must be obtained from the bankruptcy court *before* the representation may be undertaken, which authority has not been granted at this time. The bankruptcy court *has* authorized the Trustee’s counsel of record, Mr. Miltenberger, to serve as the Trustee’s appellate counsel, and Mr. Miltenberger has served in that role in this Court since Killilea filed her petition over three months ago. In addition, in November of 2023, the Trustee sought and obtained authority from the bankruptcy court to have a second counsel, Mr. Antonelli (listed in Cooper & Kirk’s extension request) also represent the Trustee in this Court. If the Trustee’s authorized counsel of record, Mr. Miltenberger, or the Trustee’s second authorized counsel, Mr. Antonelli, required additional time to prepare a response, presumably they would have requested it with a proper showing. The request for an extension of time by Cooper & Kirk as unauthorized, third counsel for the Trustee is improper.

Second, the requested extension would put the Trustee’s response at May 17, 2024, with distribution of the petition, any response, and any reply in the ordinary course presumably for the last conference of the term. To the extent the Court has other pressing matters for its last conference, the request for an extension of time by the Trustee’s unauthorized, supplemental counsel represents an unwarranted imposition occasioned merely by the Trustee’s last-minute effort to add yet another law firm to his legal team.

Third, the Trustee has already unreasonably delayed the disposition of the petition. The Trustee’s initial deadline to respond was February 5, 2024. Without seeking an extension, the Trustee filed his initial response more than two weeks late, on February 23, 2024.

The bankruptcy court may in short order authorize the Trustee to retain Cooper & Kirk as an additional third counsel to represent him—a hearing has been scheduled for April 2, 2024 for that purpose. If the bankruptcy court does so, Cooper & Kirk may assist Mr. Miltenberger and Mr. Antonelli in the preparation of the Trustee’s response. If the bankruptcy court does not authorize Cooper & Kirk to represent the Trustee, Mr. Miltenberger and Mr. Antonelli may finish preparing and submit the Trustee’s response themselves. In either event, and as an accommodation, Killilea would not object to a two-week extension to May 2, 2024 for the Trustee to file his response.

Sincerely,

/s/ G. Eric Brunstad, Jr.
G. Eric Brunstad, Jr.

Counsel for Petitioner Gayle Killilea