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COURT OF CLAIMS  
OF OHIO

2013 MAY 20 AM 10: 29

IN THE COURT OF CLAIMS OF OHIO

DARLENE LANE FERRARO, )

CASE NO. 2011-10371

Plaintiff, )

JUDGE ALAN C. TRAVIS

vs. )

PLAINTIFF'S REPLY IN SUPPORT  
OF MOTION FOR EXTENSION OF  
EXPERT REPORT DEADLINE

THE OHIO STATE UNIVERSITY )  
MEDICAL CENTER )

Defendant. )

REPLY

Plaintiff, Darlene Lane Ferraro, individually and as the fiduciary of the Estate of Junior Lee Lane, Deceased, submits this Reply in support of their Motion for Extension of Expert Report Deadline dated April 30, 2013. Plaintiff had requested leave until May 20, 2013 in which to submit their expert reports. Notably, dispositive motions are not due until September 3, 2013 and the liability phase of the trial is not scheduled to commence until December 9, 2013. The proposed extension thus did not threaten to delay these proceedings in any manner.

Plaintiff's expert was able to finish the report sooner than expected. A copy was issued to defense counsel on May 12, 2013.

When a motion for extension of time is presented to a trial court, the primary question is whether any prejudice will be suffered by granting the request. *Occionero v. Cox*, 8<sup>th</sup> Dist. No. 92334, 2009-Ohio-3891, 2009 W.L. 2400222, ¶13 (Aug. 6, 2009).

Nevertheless, Defendant, the Ohio State University Medical Center, has made no attempt in its Memorandum in Opposition to explain how there could be any harm in permitting the additional time to submit the expert report. Defendant appears to be under the impression that it is enough to proclaim that: "There is no excuse for a delay

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in this case[.]” *Defendant’s Memorandum*, p. 1. It seems to have been forgotten that courts should strive, as far as reasonably possibly, to adjudicate disputes upon their merits instead of procedural grounds. *DeHart v. Aetna Life Ins. Co.*, 69 Ohio St. 2d 189, 431 N.E. 2d 644, 647 (1982); *National Mut. Ins. Co. v. Papenhagen*, 30 Ohio St. 3d 14, 15, 505 N.E. 2d 980, 981 (1987).

It is hardly uncommon for experts, as well as attorneys, to require additional time to comply with court deadlines. This is particularly so in a relatively complicated wrongful death action, such as the instant case. As established in Plaintiff’s Motion, the unusually heavy press of business precluded a report from being submitted in accordance with the original schedule. Given that Defendant has been unable to articulate how any possible prejudice could be suffered, this application should be granted.

### CONCLUSION

For the foregoing reasons, the expert report Plaintiff submitted on May 12, 2013 should be deemed to be timely filed.

Respectfully Submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Reply** has been served by regular U.S. Mail, on this 17<sup>th</sup> day of May, 2013 upon:

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May 17, 2013

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Re: **Ferraro v. The Ohio State University Medical Center,**  
**Court of Claims of Ohio, Case No. 2011-10371**

Dear Sir/Madam:

Enclosed please find an original plus two copies of Plaintiff's Reply in Support of Motion for Extension of Expert Report Deadline. Please file these documents in your customary manner and return a time-stamped copy back to my office in the enclosed self-addressed stamped envelope.

Very truly yours,



Paul W. Flowers

PWF/cls  
Enclosure

Cc: Jeffrey L. Maloon, Esq. (w/enclosure)  
Shawn R. Pearson, Esq., Esq. (w/enclosure)  
Mitchell A. Weisman, Esq. (w/enclosure)