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IN THE OHIO COURT OF CLAIMS
COLUMBUS, OHIO

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OF OHIO

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| JAMES M. FLEMING, |) | CASE NO. 2011-09365 |
| |) | |
| PLAINTIFF, |) | JUDGE PATRICK M. MCGRATH |
| |) | |
| V. |) | PLAINTIFF'S |
| |) | MOTION TO EXTEND |
| KENT STATE UNIVERSITY, |) | THE DISCOVERY DEADLINE |
| |) | AND BRIEFING SCHEDULE |
| DEFENDANT. |) | |
| |) | |

Now comes Plaintiff, James E. Fleming, by and through undersigned counsel and hereby moves this Court for sixty day enlargement of the dates set forth for completion of discovery and briefing schedule for the reasons set forth herein. Counsel for Plaintiff has communicated with counsel for Defendant, and Defendant does not oppose this extension of the dates in this matter.

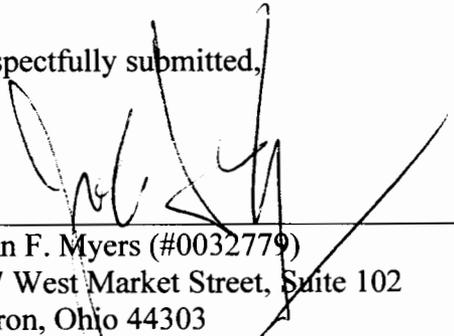
This action is in the damages phase of the proceedings. Counsel for Plaintiff had unexpected back surgery in early April 2013 and did not return to work until May 20, 2013, and is currently working a reduced schedule. See attached declaration of counsel at paras. 2-9. By Order dated April 1, 2013, this Court had extended the discovery deadline to May 10, 2013 and briefing deadlines. Due to Plaintiff's counsel's medical issues, Plaintiff respectfully requests that the discovery deadline be extended June 28, 2013 and that the Court extend the briefing schedule.

This motion is not meant for purposes of delay, but to permit Plaintiff additional time, due to counsel's medical condition, to provide responses to Defendant's discovery requests and to participate in formulating his position on damages. See Exhibit A at para. 10. As mentioned above, counsel for Defendant does not oppose this motion.

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Wherefore, Plaintiff respectfully requests that the Court grant this motion and issue an Order extending the dates for the discovery deadline to June 28, 2013 and extending the briefing schedule.

Respectfully submitted,

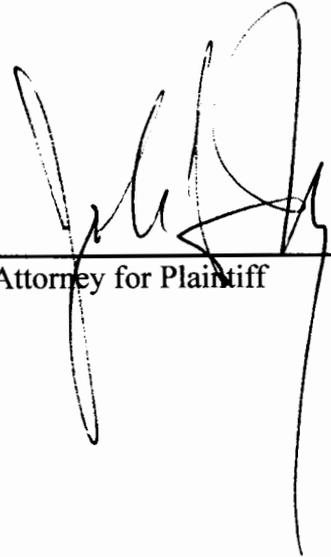


John F. Myers (#0032779)
697 West Market Street, Suite 102
Akron, Ohio 44303
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hlndmyers@neo.rr.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to extend the discovery deadline and briefing schedule was served this 3rd day of June, 2013 by regular US mail and email upon:

Randall W. Knutti, Esq.
Christopher P. Conomy, Esq.
Ohio Attorney General's Office
Court of Claims Defense Section
150 East Gay Street, 18th Floor
Columbus, Ohio 43215
Randall.Knutti@OhioAttorneyGeneral.gov
Christopher.Conomy@OhioAttorneyGeneral.gov
Attorneys for Defendant



Attorney for Plaintiff

**IN THE OHIO COURT OF CLAIMS
COLUMBUS, OHIO**

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|-------------------------------|---|---------------------------------|
| JAMES M. FLEMING, |) | CASE NO. 2011-09365 |
| |) | |
| PLAINTIFF, |) | JUDGE PATRICK M. MCGRATH |
| |) | |
| V. |) | PLAINTIFF COUNSEL'S |
| |) | DECLARATION IN SUPPORT |
| KENT STATE UNIVERSITY, |) | MOTION TO EXTEND |
| |) | THE DISCOVERY DEADLINE |
| DEFENDANT. |) | AND BRIEFING SCHEDULE |
| |) | |

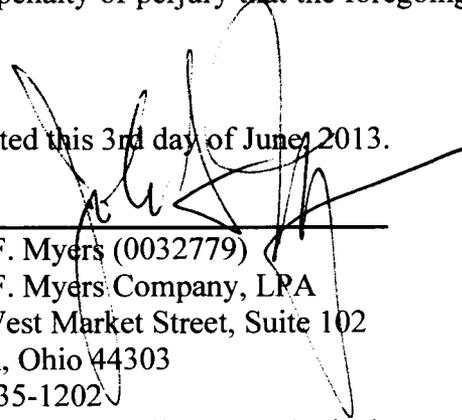
I, John F. Myers, make the following Declaration in lieu of an affidavit, in accordance with 28 U.S.C. 1746. I understand that my declaration is to be filed in the above captioned action and that it is the legal equivalent of a statement under oath. I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. *(Please note, I make this declaration, rather than an affidavit, as explained more fully, I do not have ready access to a notary public.)*

1. I am the counsel of record for the Plaintiff in the above-captioned action and make this affidavit in support Plaintiff's motion to extend the discovery deadline and briefing schedule.
2. Due to an unexpected medical condition, explained below, I was unable to work from April 4, 2013 until this past week.
3. On the morning of April 4, 2013 I was transported to the emergency room at St. Thomas Hospital in Akron, Ohio; later that day I was transported to and admitted to Akron City Hospital.
4. On April 6, 2013 I underwent unexpected surgery.

5. On April 10, 2013 I was transported to Summa Rehab Hospital in Akron, Ohio for rehabilitation.
6. I was released from Summa Rehab Hospital on April 23, 2013, and have had and will continue to have at home and outpatient care and therapy for the next few months.
7. At this point in time I am not able to drive and am not able to walk without a walker. I am also engaging in outpatient physical therapy two to three times per week.
8. As of May 20, 2013, I have returned to the practice of law and am currently working a reduced schedule.
9. Plaintiff does not seek additional time for purposes of delay, but to afford an appropriate amount of time for his counsel to recover from surgery and engage in therapy so that he may complete discovery in this matter.
10. My prognosis for recovery is good, but I am presently eight weeks out of surgery and my physical therapy is ongoing.

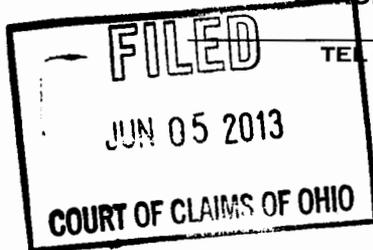
I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed this 3rd day of June 2013.



John F. Myers (0032779)
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June 3, 2013

Mark H. Reed
Clerk of the Court
The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215

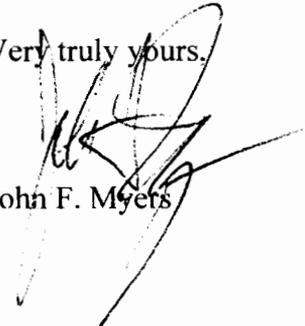
Re: James Fleming v. Kent State University; Case No. 2011-09365

Dear Sir:

Enclosed for filing please find Plaintiff's Unopposed Motion to Extend Discovery Deadline and Briefing Schedule. I have enclosed a copy for date stamp and return in the enclosed, self-addressed, stamped envelope.

Thank you for your prompt attention to this matter.

Very truly yours,


John F. Myers

Enclosures

cc: Randall W. Knutti, Esq.
Christopher P. Conomy, Esq.