

**ORIGINAL**  
IN THE COURT OF CLAIMS OF OHIO

2014 JAN 27 PM 3: 57

DARLENE LANE FERRARO, :  
 :  
Plaintiff, :  
 :  
v. :  
 :  
OHIO STATE UNIVERSITY :  
MEDICAL CENTER, :  
 :  
Defendant.

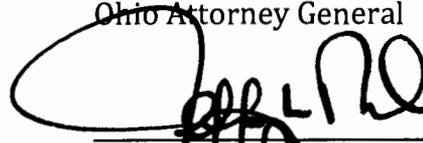
Case No. 2011-10371  
Judge Patrick M. McGrath

**DEFENDANT'S MOTION TO DELAY START OF TRIAL**

Defendant The Ohio State University Medical Center ("OSUMC") hereby respectfully requests that the trial of this matter be delayed one day. The trial is currently scheduled to begin on April 9, 2014. A memorandum in support of this motion is set forth below.

Respectfully submitted,

MICHAEL DeWINE  
Ohio Attorney General



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Co-counsel for Defendant

**ON COMPUTER**

## **MEMORANDUM IN SUPPORT**

This litigation surrounds a fatal traffic accident that occurred on September 10, 2009, on Interstate 71 approximately 300 feet north of milepost 238, in the city of Brook Park, Ohio. Two vehicles were involved in the accident, a 1997 Dodge Ram pickup truck driven by Gary Fury and a 2004 Mercedes C240 driven by Dr. Rolf Barth. At the time of the accident, approximately 9:23 p.m., Mr. Fury's pickup truck was stopped on I-71 north, just north of Snow Road. Dr. Barth was also traveling northbound on I-71 when he struck the rear of Mr. Fury's stopped pickup truck.

In the area where the accident occurred, I-71 is an eight-lane highway consisting of four northbound lanes and four southbound lanes, which are divided by a four-foot high concrete wall. The roadway is straight and the pavement was dry at the time of the collision. The only lighting of the area was from a luminaire mounted on a dual-mast arm attached to a pole anchored to the top of the concrete dividing wall. The mast arm extended approximately 15 feet into the northbound lane, placing the light approximately eight feet into the left-most lane (lane 4). The poles are spaced about 233 feet apart.

Prior to the collision, Jesse Fury and Plaintiff's decedent, Junior Lane, had exited Mr. Fury's pickup truck and were in the roadway attempting to reconnect a tow dolly that had come loose from its connection at the back of Mr. Fury's truck. The truck, which was completely stopped, was in the third lane of traffic. When the collision occurred, Mr. Lane was located in the area where the two vehicles come in contact and he was subsequently killed.

During a status conference on January 16, 2014, the Court rescheduled the trial to

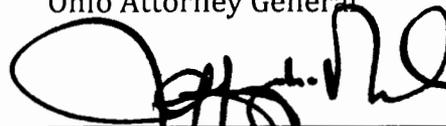
begin on April 9, 2014. The matter has been bifurcated and the Court reserved three days for trial. Plaintiff's counsel indicated during the conference that he would call Dr. Barth as his first witness and defense counsel agreed to make him available without the need of a subpoena.

Unbeknownst to defense counsel at the time, Dr. Barth is scheduled to be out of the state until the evening of April 9. Plaintiff has indicated that he will not agree to allow Dr. Barth to testify during the second day of trial. Therefore, Defendant seeks to delay the start of the trial one day until April 10, 2014.

Based upon the foregoing, Defendant respectfully request that the trial of this matter be delay one day, from April 9 2014 to April 10, 2014.

Respectfully submitted,

MICHAEL DeWINE  
Ohio Attorney General



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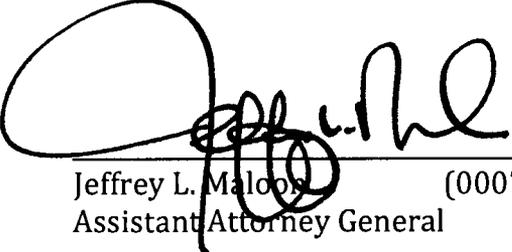
Co-counsel for Defendant

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing motion was served via electronic transmission and regular U.S. Mail, postage prepaid, this 27<sup>th</sup> day of January 2014, upon the following counsel of record:

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