

**ORIGINAL**

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COURT OF CLAIMS  
OF OHIO

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**IN THE COURT OF CLAIMS OF OHIO**

<b>DARLENE LANE FERRARO,</b>	)	<b>CASE NO. 2011-10371</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE PATRICK McGARTH</b>
	)	
<b>vs.</b>	)	<b><u>PLAINTIFF'S MEMORANDUM IN</u></b>
	)	<b><u>OPPOSITION TO DEFENDANT'S</u></b>
<b>THE OHIO STATE UNIVERSITY</b>	)	<b><u>MOTION FOR LEAVE TO</u></b>
<b>MEDICAL CENTER</b>	)	<b><u>CONDUCT TRIAL DEPOSITIONS</u></b>
	)	<b><u>OF GARY R. FURY AND JESSE R.</u></b>
<b>Defendant.</b>	)	<b><u>FURY</u></b>

**REPLY**

Plaintiff, Darlene Lane Ferraro, individually and as the fiduciary of the Estate of Junior Lee Lane, Deceased, opposes Defendant's Motion for Leave to Conduct Trial Depositions of Gary R. Fury and Jesse R. Fury dated February 24, 2014. Plaintiff already intends to call both witnesses during her case-in-chief. This Court had previously indicated, before the previously scheduled trial date was postponed, that arrangements could be made for Gary R. Fury to appear through video conferencing. Jesse R. Fury can testify in this manner as well. There is thus no need for either inmate to be transported to this Court, or for any of the attorneys to travel to the prison.

It should be noted that Gary Fury has already been deposed and was thoroughly cross-examined by the state's attorneys. No justification exists for a "do-over."

Granting Defendant the relief that is being sought would be pointless, as well as expensive and time-consuming. In accordance with customary practice, Defense counsel will be able to cross-examine both witnesses during Plaintiff's case-in-chief. It will neither be necessary, nor appropriate, for the defense to attempt to present the same witnesses again during their own case-in-chief. No justification therefore exists

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for allowing the state to conduct depositions that they will never be able to offer at trial.

**CONCLUSION**

Since Gary R. Fury and Jesse R. Fury will both be presented as witnesses by Plaintiff at trial, this Court should deny Defendants' Motion for Leave to Conduct Trial Depositions.

Respectfully Submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Memorandum** has been served by e-mail on this 5<sup>th</sup> day of March, 2014 upon:

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