

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION**

**KING LINCOLN BRONZEVILLE
NEIGHBORHOOD ASSOCIATION, ET AL.,**

PLAINTIFFS,

VS.

JENNIFER BRUNNER, ET AL.,

DEFENDANTS.

CASE NO. 2:06-CV-745

JUDGE MARBLEY

MAGISTRATE JUDGE KEMP

**PLAINTIFFS' MOTION TO EXTEND TIME TO REPLY TO MOVING
INTERVENORS' RESPONSE TO PLAINTIFFS' MOTION TO STRIKE**

Plaintiffs move to extend the time to Monday, September 8, 2008 for their reply to moving intervenors' response to plaintiffs' motion to strike the pending motion for leave to intervene.

Respectfully submitted,

/s/ Clifford O. Arnebeck, Jr.
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Counsel for Plaintiffs

MEMORANDUM IN SUPPORT OF MOTION

Plaintiffs request an extension, to September 8, 2008, to reply to moving intervenors' response to plaintiffs' motion to strike their motion for leave to intervene.

Plaintiffs' trial attorney, because of his competing work load, including preparation of a response to the Defendant's opposition to Plaintiffs' motion for relief from the stay in this case, and a long scheduled out-of-state family summer vacation through the end of August, requires more time to complete a proper response and review the same with his co-counsel, one of whose authorization was put at issue in the declaration of former paralegal for plaintiffs' counsel, Ms. Lupo.

The undersigned contacted Ms. Lupo on September 4th, to request consent to this request. She advised that the moving litigants had agreed to confer with each other in these matters, and that she would initiate a conference call with all the pro se moving intervenors, convey the request and that one of them would call with their response this morning. Mr. Kettler advised co-counsel Fittrakis this morning by telephone and me by voice mail that his group would not consent to an extension of time.

Plaintiffs' trial counsel to the best of his recollection has always requested consent of opposing counsel in his requests for extensions of time, as a matter of professional courtesy. With respect to his second request for an extension to respond to the Secretary of State's opposition to the motion to lift the stay, Mr. Coglianese had made clear his willingness to consent to an extension and his deference to requesting counsel's judgment in terms of what was reasonable and

necessary. Because of the ongoing communications in regard to the necessity and scope of relief from stay in advance of the 2008 election, plaintiffs' trial counsel thought that the lack of opposition from the defendant was implicit. However, this initial second request for additional time to respond erroneously omitted any reference to consultation or consent and therefore failed to conform to local rule 7.3.

With respect to plaintiffs' initial request for an extension of time to respond to the moving intervenors' response to plaintiffs' motion to strike, because of this group's failure to consult with counsel for plaintiffs in regard to their proposed intervention and the plaintiffs' strong opposition to their intervention, plaintiffs' trial attorney assumed that the moving intervenors would not consent to an extension request. For that reason, the undersigned did not consult with this group, prior to filing the first request and unintentionally failed to follow Loc. R. 7.3(a), for which he apologizes to all concerned.

Wherefore, plaintiffs urge that the requested extension is in the interest of the efficient administration of justice on the merits and should be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify a copy of the foregoing was served upon counsel of record by means of the Court's electronic filing system and upon the *pro se* moving intervenors by ordinary mail on this 4th day of September 2008 .

/s/ Clifford O. Arnebeck, Jr.