

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

CITY OF WINTER HAVEN,
a Florida municipal corporation,

Plaintiff,

vs.

Case No. 08:09CV-00190-T-17EAJ

CLEVELAND INDIANS BASEBALL
COMPANY, LP, an Ohio limited partnership,

Defendant.

MOTION FOR LEAVE TO FILE AND SERVE
DEFENDANT'S AMENDED MOTION TO DISMISS
WITH SUPPORTING MEMORANDUM
[UNOPPOSED]

Defendant, Cleveland Indians Baseball Company, LP, by and through its undersigned attorneys, hereby moves for leave to file and serve its attached Amended Motion to Dismiss with Supporting Memorandum and shows the Court that Defendant's original Motion to Dismiss was filed and served on February 20 in this action with a separate Memorandum in Support of Defendant's Motion to Dismiss. However, Local Rule 3.01(a) of the Local Rules of this Court require that the motion and memorandum be filed as a single document. For this reason, the motion and memorandum have been amended by placing them in one document and refiled.

Certificate of Counsel

Pursuant to Rule 3.01(g) of the Local Rules of this Court, undersigned counsel has conferred with counsel for the Plaintiff, Neal L. O'Toole, who has no objection to this motion being granted and the attached amended motion and memorandum being filed and served on the Plaintiff.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 2, 2009, I electronically filed the foregoing Motion and Memorandum with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following counsel of record: Frederick J. Murphy, Jr., Boswell & Dunlap, LLP, P. O. Drawer 30, Bartow, FL 33831 and Warren Andrew Crawford, Esq. Boswell & Dunlap, LLP, P. O. Drawer 30, Bartow, FL 33831.

Respectfully Submitted, March 2, 2009

PETERSON & MYERS, P.A.

By: **/s/ J. Davis Connor**

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J. Davis Connor, Esq.