

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DISTRICT**

DAVID GROCHOCINSKI, not individually,)	
but solely in his capacity as the Chapter 7)	
Trustee for the bankruptcy estate of)	
CMGT, INC.)	
Plaintiff,)	No. 06 C 5486
)	
v.)	Judge Virginia M. Kendall
)	
MAYER BROWN ROWE & MAW LLP,)	
RONALD B. GIVEN, and CHARLES W.)	
TRAUTNER,)	
)	
Defendants.)	

**PLAINTIFF’S UNOPPOSED MOTION FOR EXTENSION OF TIME
TO RESPOND TO MOTION FOR SUMMARY JUDGMENT**

Plaintiff, David Grochocinski, in his capacity as the Chapter 7 trustee for the bankruptcy estate of CMGT, Inc. (“Plaintiff”), moves for an extension of time to respond to defendants’ Mayer Brown Rowe & Maw LLP’s and Ronald B. Given’s (“Defendants”) motion for summary judgment. In support of this motion, Plaintiff states as follows:

1. On March 31, 2009, this Court entered an order extending fact discovery on Defendants’ unclean hands defense to May 1, 2009. At that point, fact discovery was essentially complete. The parties had just a few minor issues to resolve, which they subsequently did. In addition to extending the discovery deadline, this Court ordered dispositive motions to be filed by June 1, 2009, responses to dispositive motions by June 29, 2009 and replies by July 20, 2009.

2. Plaintiff is respectfully requesting an additional 14 days, to and including July 13, 2009, to file his response. Plaintiff is making this request due to (a) his attorney’s work schedule, (b) a discovery issue that arose after Defendants filed their motion for summary

judgment, and (c) a family medical issue that has arisen with respect to one of Plaintiff's attorneys.

a. Plaintiff's attorney's work schedule:

i. On April 16, 2009, Plaintiff's attorneys finished a two month jury trial before the Honorable Susan Zwick in the Circuit Court of Cook County. (*Janusz v. Keystone Illinois, Inc., et al*, case number 03 L 8543.) Post-trial motions were due May 22, 2009, responses to post-trial motions were due June 12, 2009 and replies are due June 22, 2009. Plaintiff's attorneys' opponent filed a forty page post-trial motion requesting a judgment *n.o.v.*, new trial, reduction of award and/or remittitur. Responding to the post-trial motion was very time consuming given the number of arguments that had been made and the considerable size of the record. Plaintiff's attorneys filed their response on June 12, 2009. Immediately after responding to their opposition's post-trial motion, Plaintiff's attorneys' began drafting a reply in support of their own post-trial motion. That reply is due on June 22, 2009.

ii. In addition to their work on post-trial motions in the *Janusz* case, Plaintiff's attorneys were required to prepare and file a response to a motion to dismiss in *Pielet v. Hiffman, et al*, no. 01 CH 21984, by June 9, 2009. The issues raised in that motion to dismiss were novel. Thus, Plaintiff's attorney's response required careful legal research and drafting.

iii. In addition to the foregoing work, Plaintiff's attorneys have been attending to many other work related issues since June 1, 2009.

b. Recent Discovery Issue: After Plaintiff reviewed Defendants' summary judgment papers, he saw that Defendants had submitted affidavits by Louis Franco, Wayne Baliga, James Wong and Kimberly Quarles. During discovery, Plaintiff requested all documents that Defendants contend support their unclean hands defense. In response, Defendants produced

privilege logs identifying Franco's, Baliga's, Wong's, and Quarles' affidavits and asserting work produce protection as to those documents. Because Defendants used the affidavits in support of their motion for summary judgment, Plaintiff sent Defendants a letter requesting the production of all documents relating to the preparation of the affidavits, including drafts of the affidavits. On June 12, 2009, Defendants notified Plaintiff that they are not going to produce the documents. Plaintiff immediately responded with an explanation as to why he believes he is entitled to the documents. On June 19, 2009, Defendants sent Plaintiff a letter in which they made it clear that they are not going to produce the requested documents. Accordingly, at the same time this motion is being filed, Plaintiff is also filing a motion to compel.

c. **Family Medical Issue:** This is a personal issue that Plaintiff is reluctant to raise, but because it is one of the reasons why more time is needed it must be addressed. One of Plaintiff's attorneys who is assisting in the preparation of the Response, Robert Carroll, learned last week that his grandfather had been rushed to the ICU. He is in very poor health and is not expected to last much longer. Instead of filing a last minute motion in the event Mr. Carroll's grandfather does not survive the next week, Plaintiff is filing a motion for additional time. Moreover, depending on the condition that his grandfather is in, Mr. Carroll is planning on leaving town in the next few days to visit his grandfather.

3. Plaintiff's request for an additional 14 days to file his Response is due to the foregoing issues and is not intended to unduly delay this matter.

4. Defendants do not object to Plaintiff's request for an extension of time to the extent such request is related to: (a) Plaintiff's attorney's work schedule, and (b) Plaintiff's attorney's family medical issue. (See Novack letter to Carroll dated June 19, 2009, attached hereto as Exhibit 1 at p. 2.)

Wherefore, Plaintiff respectfully requests that this Court enter an Order extending the deadline for Plaintiff to file his Response to Defendants' motion for summary judgment by 14 days, to and including July 13, 2009.

Dated: June 19, 2009

Respectfully submitted,
DAVID GROCHOCINSKI, not individually, but
solely as the trustee in bankruptcy, for THE
ESTATE OF CMGT, INC.,

By: _____/s/ Edward T. Joyce_____
Plaintiff's attorneys

Edward T. Joyce
Arthur W. Aufmann
Robert D. Carroll
EDWARD T. JOYCE & ASSOC., P.C.
11 South LaSalle Street, Ste., 1600
Chicago, Illinois 60603
Telephone – (312) 641-2600
Atty No. 32513