

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MICHAEL SCOTT PHLLIPS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.: 06-CV-00864-GPM-DGW
	)	
SPARTAN LIGHT METAL PRODUCTS, INC.,	)	
	)	
Defendant.	)	

**DEFENDANT’S MOTION FOR LEAVE TO FILE OVERLENGTH BRIEF**

Defendant Spartan Light Metal Products, Inc. (“Spartan”) respectfully moves for leave to file an additional 24 pages in its memorandum in support of its motion for summary judgment. While defendant recognizes that overlength briefs are not favored, and does not take this motion lightly, defendant believes that, given the information set forth below, allowing defendant’s motion is in the interest of justice and fairness, and will cause no prejudice to plaintiff. In support of its motion, Spartan states:

1. Plaintiff has filed a three-count First Amended Complaint alleging Spartan violated the Americans with Disabilities Act, 42 U.S.C. §12101, *et seq.* (“ADA”), by: (1) failing to accommodate his alleged disability; (2) discriminating against him based on his alleged disability; and (3) retaliating against him for requesting an accommodation for his alleged disability.

2. Discovery has been protracted, with the parties taking a total of 11 lengthy depositions, including those of three medical experts.

3. While the size of plaintiff’s First Amended Complaint itself is not inordinate, both the facts and the legal issues presented are complex. The undisputed facts

presented, with citations, alone make up almost half of defendant's brief, including medical evidence. The legal issues presented are more numerous than the three counts pled as, in an ill-fated effort to support his claims, plaintiff has raised a number of individual arguments, each of which, while fatally flawed, must be addressed.

4. In order to fully brief the Court of the facts in this case and address all of plaintiff's arguments, it is necessary to submit a brief beyond the 20 page limit.

5. Accordingly, Spartan respectfully requests an additional 24 pages for its memorandum in support of its motion for summary judgment.

WHEREFORE, defendant Spartan Light Metals, Inc. respectfully requests leave to file its memorandum in support of its motion for summary judgment beyond the 20 page limit.

Respectfully submitted,

s/ Heidi K. Durr

Gregg M. Lemley, #6231521

Heidi K. Durr, #6272573

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

Two CityPlace Drive

Suite 200

St. Louis, Missouri 63141

Phone: 866.956.3677

Fax: 866.581.3433

E-mail: gregg.lemley@ogletreedeakins.com

E-mail: heidi.durr@ogletreedeakins.com

Attorneys for Defendant

Spartan Light Metal Products, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on September 21, 2007, I electronically filed Defendant's Motion for Leave to File Overlength Brief with the Clerk of Court using the CM/ECF system which will send notification of such filings(s) to the following: Kristen L. Glasford and Shari R. Rhode.

s/ Heidi K. Durr

\_\_\_\_\_  
Heidi K. Durr, #6272573

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

Two CityPlace Drive

Suite 200

St. Louis, Missouri 63141

Phone: 866.956.3677

Fax: 866.581.3433

E-mail: heidi.durr@ogletreedeakins.com

5187991.3 (OGLETREE)