

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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BRYAN PURCELL and GEORGENE  
STERGALAS,

Plaintiffs,

v.

Case No. 10-13444

IMAD FADLALLAH, et al.,

Defendants.

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**ORDER DIRECTING PLAINTIFFS TO FILE A MOTION TO AMEND THEIR  
RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

On November 13, 2012, Plaintiffs filed a response to Defendants' motion for summary judgment. The response contained (1) a counter-statement of material facts, without any citations to the record or exhibits, (2) a signature page, and (3) a certificate of service. No courtesy copy of the response was provided to the court. Defendants replied on November 20. On November 27, Plaintiffs' counsel contacted the court claiming she had just realized that the complete response and brief had not been properly filed due to a technological error and that she was also unable to locate the brief on her personal computer.

The court held an off-the-record telephonic conference with the parties on December 4 to discuss with counsel how best to proceed. After considering the parties' concerns and the court's preference that such motions be resolved on their merits, Plaintiffs should file a motion to amend their response. Plaintiffs' counsel explained that the response is divided into three distinct parts: (1) the counter-statement of material

facts; (2) Plaintiffs' response in opposition to Defendants' motion for summary judgment; and (3) the brief in support of Plaintiffs' response in opposition to Defendants' motion for summary judgment. The court will likely grant leave to amend the pleading to include Plaintiffs' response to Defendants' summary judgment motion and the brief in support thereof. The court will also likely deny leave to amend the counter-statement of material facts already filed. Accordingly,

IT IS ORDERED that Plaintiffs are DIRECTED to file a motion to amend their response to Defendants' motion for summary judgment [Dkt. # 46] by **December 7, 2012**. The motion must include all briefs, exhibits, and other documents with which Plaintiffs seek to amend their response. On the assumption that the court permits the Response to be filed, Defendants may file their reply by **December 14, 2012**.

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: December 4, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 4, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522