

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOSEPH CASIAS,

Plaintiff,

Case No.: 1:10-cv-781

v.

Hon. Robert J. Jonker

WAL-MART STORES, INC., and  
TROY ESTILL,

Defendants.

**STIPULATION AND ORDER REGARDING TWO-DAY EXTENSION OF TIME TO  
FILE REPLY IN SUPPORT OF MOTION TO DISMISS**

Defendants Wal-Mart Stores, Inc. and Troy Estill (“Defendants”) and Plaintiff Joseph Casias, by and through their respective attorneys, jointly move this Court to extend the deadline for Defendants to file their reply in support of Defendants’ Motion to Dismiss by two days. In support thereof, the parties state as follows:

1. Defendants filed their Motion to Dismiss on September 2, 2010. Plaintiff filed his Brief in Opposition to Defendants’ Motion to Dismiss on September 30, 2010.
2. Defendants’ reply brief is currently due on Monday, October 18, 2010.
3. Fed. R. Civ. P. Rule 6(b)(1)(2) provides that a Court may, for good cause shown, extend the time for an act to be done if a party makes such request before the original time expires.
4. Here, good cause exists. First, despite all due diligence, defense counsel’s work on the reply brief has been delayed by a city-wide evacuation, illness, and the demands of other cases. Specifically, the undersigned counsel was unable to work most of the day on Thursday, October 7, 2010, because his office along with most of downtown South Bend, Indiana was

evacuated a result of a gas leak. Counsel did not have access to his computer, work or car for much of the day. In addition, the undersigned defense counsel was sick with a severe sinus infection for most of the prior two weeks. And the undersigned defense counsel had pressing demands in other cases last week, including: a motion for summary disposition hearing in the Circuit Court for the County of Macomb in *Douglas v. Wal-Mart Stores, Inc.*, Case No. 10-1610-NO on Monday, October 4, 2010; preparation for a summary judgment hearing in *Fincher v. Housing Authority of South Bend*, Case No. 71D04-0705-PL-00150 (St. Joseph Superior Court, Indiana), which was scheduled for Thursday, October 7, 2010, but cancelled at the last minute because of the evacuation; and a fact finding conference at the South Bend Human Rights Commission on Friday, October 8, 2010, in *Wright v. Housing Authority of South Bend*, SBHRC No. 2010-63. Finally, defense counsel has two briefs—in addition to the reply brief in this case—due on Monday, October 18, 2010, in *Peters v. Wal-Mart Stores East, L.P.*, Case No. 3:07-cv-00631-JTM (N.D. Ind.). Therefore, despite all due diligence, defense counsel will not be able to sufficiently prepare Defendants’ reply brief by Monday, October 18, 2010 given the complexity of the legal issues involved and defense counsel’s current case load. Second, Plaintiff will not be prejudiced by this two-day extension of time and, in fact, by his counsel has consented to the extension. Third, this extension will not impact any other dates in this case.

JOSEPH CASIAS  <u>s/with consent of Daniel W. Grow</u> Daniel W. Grow (P48628) DANIEL W. GROW, PLLC 515 Ship St., Suite 208 St. Joseph, MI 49085 Telephone: (269) 519-8222 <a href="mailto:dgrow@lawssa.com">dgrow@lawssa.com</a>	WAL-MART STORES, INC. AND TROY ESTILL  <u>/s/ Michael P. Palmer</u> Michael P. Palmer (P71753) BARNES & THORNBURG LLP 600 1st Source Bank Center 100 North Michigan Street South Bend, IN 46601-1632 Telephone: (574) 233-1171 <a href="mailto:michael.palmer@btlaw.com">michael.palmer@btlaw.com</a>
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**ORDER**

Upon consideration of the parties Stipulation Regarding an Two-Day Extension of Time to File Reply in Support of Motion to Dismiss, the Court finds that good cause exists under Fed. R. Civ. P. Rule 6(b)(1)(2) for a two-day extension of time and hereby orders that Defendants shall have until October 20, 2010, to file their reply in support of Defendants' Motion to Dismiss.

Entered: October 15, 2010

/s/ Robert J. Jonker

Hon. Robert J. Jonker

U.S. District Court Judge