

**LEMIRE JOHNSON, LLC**

Attorneys at Law

---

2534 Route 9, P.O. Box 2485, Malta, NY 12020  
518.899.5700 ~ 518.793.9005  
Fax 518.899.5487  
www.lemirejohnsonlaw.com

January 23, 2012

**VIA ELECTRONIC FILING**

Hon. George H. Lowe, U.S.M.J.  
U.S.D.C. Northern District of New York  
Northern District of New York  
Syracuse, New York 13261

**Re: *Yoder, et al. v. Town of Morristown, et al.***  
**Civil Case No.: 09-cv-0007 (NPM/GHL)**

Dear Magistrate Lowe:


Pursuant to Your Honor's directive during a telephone conference with the Court on January 20, 2012, I have spoken with Alka Srivastava, M.D., who is the treating oncologist of our client, Lanetta Kay Davis.

I inquired of Dr. Srivastava regarding her opinion as to whether Ms. Davis was presently able to sit for deposition in this action; perhaps in smaller blocks of 2-3 hours at a time over one or more days. Dr. Srivastava indicated to me that since her patient is still being treated and taking medication, she would prefer to examine Ms. Davis before making any assumptions about how she feels and what she might be able to do. Dr. Srivastava told me that Ms. Davis has an appointment with her during the week of Monday, February 6, 2012, and that after assessing the patient, the physician will provide Ms. Davis with another letter report reflecting her opinions.

We have previously provided plaintiffs' counsel with a copy of Dr. Srivastava's January 5, 2012, letter in which she indicated that Ms. Davis was able to work a maximum of 4 hours per day and that she was "physically and mentally unable to participate in depositions or trials until further notice." We will provide plaintiffs' counsel with a copy of the physician's next letter as well.

Respectfully submitted,

LEMIRE JOHNSON, LLC

  
Timothy J. Higgins  
tjh@lemirejohnsonlaw.com

TJH/ek

cc: Proskauer Rose LLP