

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

216 JAMAICA AVENUE, LLC,	)	
	)	
	)	Civil Action No. 06-1288
	)	
Plaintiff,	)	(Judge Boyko)
	)	
v.	)	
	)	
S & R PLAYHOUSE REALTY CO.,	)	
	)	
	)	
Defendant.	)	
	)	
	)	

**PLAINTIFF’S MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF  
IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND IN  
OPPOSITION TO DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

On behalf of plaintiff, 216 Jamaica Avenue LLC (“Jamaica”), we respectfully request leave to file a supplemental brief in support of its motion for summary judgment and in opposition to the motion of defendant, S&R Playhouse Realty (“S&R”), for summary judgment. Our supplemental brief is attached to this motion as Exhibit A. A transcript of the deposition of Patrick M. Lott is attached as Exhibit B (“Lott Dep.”).

On February 23, 2007, we deposed Mr. Lott in his capacity as S&R’s designated representative pursuant to Rule 30(b)(6). Mr. Lott is the senior vice president of Forest City Commercial Group. Lott Dep. at 7. As such, Mr. Lott has responsibility for the Halle Building. Lott Dep. at 7.

During his deposition, Mr. Lott made several admissions that vitiate defenses that S&R asserted in its motion for summary judgment and in opposition to Jamaica's motion for summary judgment. In the attached supplemental brief, we address these admissions in greater detail.

Because these admissions may assist the Court in ruling on Jamaica's and S&R's motions for summary judgment, the Court should grant our motion for leave to file a supplemental brief in support of Jamaica's motion for summary judgment and in opposition to S&R's motion for summary judgment.

April 23, 2007

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Respectfully Submitted,

/s/ Charles J. Cooper

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**CERTIFICATE OF SERVICE**

I hereby certify on April 23, 2007, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this through the Court's system.

/s/ Charles J. Cooper

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