

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

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

JOINT MOTION TO AMEND THE SCHEDULE

The parties jointly move the Court to amend the schedule that currently governs discovery, dispositive motions, and trial.

216 Jamaica Avenue LLC (“Jamaica”) and S&R Playhouse Realty Co. (“S&R”) have begun serious settlement discussions and have already made meaningful progress toward an agreement. The parties recently retained Harold Himmelman to mediate their negotiations. Mr. Himmelman is an experienced and well-respected mediator affiliated with JAMS, a leading national alternative dispute resolution agency. The parties have scheduled a formal mediation session with Mr. Himmelman on June 22-23.

By order of April 6, 2009, the Court set a schedule to govern discovery, further dispositive motions, and trial. That order also scheduled a telephone conference for July 28, 2009. The parties are in accord, however, that, other than some very limited discovery necessary for purposes of the settlement negotiations and upcoming mediation, there is no reason to continue to take discovery unless and until their settlement discussions prove unsuccessful.

Accordingly, the parties respectfully ask the Court to amend the current schedule so that they may suspend their discovery efforts pending the resolution of their settlement negotiation.

The parties' proposed schedule, however, would not alter the trial date. Specifically, the parties propose the following schedule:

- (1) Non-expert discovery due by 10/19/2009
- (2) Expert reports due by 11/13/2009
- (3) Rebuttal expert reports due by 12/4/2009
- (4) Expert discovery due by 12/29/2009
- (5) Dispositive Motions due by 1/11/2010
- (6) Briefs in opposition due by 2/1/2010
- (7) Reply briefs due by 2/10/2010
- (8) Jury Trial set for 3/8/2010

In addition, the parties propose that the July 28 conference be rescheduled for a date to be determined promptly after they conclude their settlement discussions, whether successfully or not.

May 21, 2009

/s/ Stephen D. Williger

Stephen D. Williger (0014342)
Stephen.Williger@ThompsonHine.com
Gary L. Walters (0071572)
Gary.Walters@ThompsonHine.com
Holly H. Armstrong (0084054)
Holly.Armstrong@ThompsonHine.com
3900 Key Center
127 Public Square
Cleveland, Ohio 44114-1291
(216) 566-5500
(216) 566-5800 (fax)

Attorneys for Defendant

Respectfully Submitted,

/s/ Charles J. Cooper

Charles J. Cooper
ccooper@cooperkirk.com
David H. Thompson
dthompson@cooperkirk.com
David Lehn
dlehn@cooperkirk.com
COOPER & KIRK, PLLC
1523 New Hampshire Ave. NW
Washington, DC 20036
(202) 220-9600
(202) 220-9601 (fax)

James B. Niehaus (0020128)
jniehaus@frantzward.com
Christopher G. Keim (0067117)
ckeim@frantzward.com

FRANTZ WARD LLP
2500 Key Center
127 Public Square
Cleveland, Ohio 44114-1230
216-515-1660
216-515-1650 (fax)

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify on May 21, 2009, 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.

Stephen D. Williger (0014342)
Stephen.Williger@ThompsonHine.com
Gary L. Walters (0071572)
Gary.Walters@ThompsonHine.com
Holly H. Armstrong (0084054)
Holly.Armstrong@ThompsonHine.com
3900 Key Center
127 Public Square
Cleveland, Ohio 44114-1291
(216) 566-5500
(216) 566-5800 (fax)

/s/ David Lehn

David Lehn
COOPER & KIRK, PLLC
1523 New Hampshire Ave. NW
Washington, DC 20036
(202) 220-9600
(202) 220-9601 (fax)
dlehn@cooperkirk.com