

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

AARON CLARK,	:	
	:	
<i>Plaintiff,</i>	:	
v.	:	Case No. 2:08CV982
	:	
THE WALT DISNEY COMPANY, et	:	Judge Holschuh
al.	:	
	:	Magistrate Judge Abel
<i>Defendants.</i>	:	
	:	
	:	
	:	

**PLAINTIFF AARON CLARK’S MOTION FOR LEAVE
TO FILE THIRD AMENDED COMPLAINT, *INSTANTER***

Pursuant to Rules 15 and 19 of the Federal Rule of Civil Procedure, Plaintiff Aaron Clark (“Plaintiff”) by and through his attorneys, respectfully move this Honorable Court for leave to file a Third Amended Complaint, *Instanter* by joining John Peirano as a party Plaintiff. A copy of the proposed Third Amended Complaint is attached hereto as Exhibit 1, with accompanying Exhibits A-M, and incorporated herein by reference. This motion is based on the grounds that such an amendment is necessary in the interest of justice.

Federal Rules of Civil Procedure 15(a) provides that “leave shall be freely given when justice so requires.” Federal policy strongly favors determination of cases on their merits. As such, the role of pleadings is limited, and leave to amend the pleadings is freely given unless the opposing party makes a showing of prejudice. *Foman v. Davis*, 371 U.S.178, 182 (1962) (“this mandate is to be heeded”).

Allowing amendments is liberal. *See*, Fed.R.Civ.P. 15. Granting Plaintiff’s Motion for Leave will conform to and cure Defendants’ Motion to Dismiss (Doc. 46), will aid in facilitating Plaintiff’s claims and is in the interest of justice. This Motion does not prejudice Defendants, is

not sought in bad faith, does not produce an undue delay in litigation and is not futile. There is no undue prejudice to Defendants as this case is still in the early stages, discovery is ongoing, which Defendants seek to stay, pending dispositive motions have not been heard and no trial date has been set. This proposed Third Amended Complaint does not depart in any substantial way from the Second Amended Pleading. It maintains the same counts and allegations of the Second Amended Complaint. This amendment will not place on additional burden on Defendants if leave to amend is granted.

WHEREFORE, Plaintiff respectfully requests leave of this Honorable Court to file a Third Amended Complaint, *Instantly*.

Dated: May 27, 2009

Respectfully submitted,

/s/ Brian E. Dickerson

Brian E. Dickerson (0069227)

Sharlene I. Chance (0070999)

Kevin R. Conners (0042012)

THE DICKERSON LAW GROUP, P.A.

5003 Horizons Drive, Suite 101

Columbus, OH 43220

Telephone: (614) 339-5370

Facsimile: (614) 442-5942

bdickerson@dickerson-law.com

schance@dickerson-law.com

kconners@dickerson-law.com

Attorneys for Plaintiff Aaron Clark

CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2009, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system upon counsels of record.

/s/ Sharlene I. Chance

Sharlene I. Chance (0070999)

Attorney for Plaintiff Aaron Clark