

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

JOHN VALENTE,

Plaintiff,

:

Case No. 3:08-cv-225

-vs-

:

Magistrate Judge Michael R. Merz

UNIVERSITY OF DAYTON,

Defendant.

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**ORDER VACATING TRIAL DATE**

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This case remains pending before the Sixth Circuit on Plaintiff's Petition for Writ of Mandamus to compel the recusal of the undersigned. Even if that Petition were denied at the present time, there would likely be insufficient time to prepare this case for trial by the presently set trial date in that proceedings have been stayed pending a decision on the mandamus petition. The Court has concluded it would be inappropriate to keep the trial date set with little likelihood of being able to try the case on that date. Of course, if the Petition is granted, a new judge would likely have to set a new trial date in any event.

Accordingly, the trial date of August 17, 2009, and associated dates for filing the joint proposed final pretrial order and conducting the final pretrial conference are VACATED and will be re-set after decision by the Circuit Court.

April 30, 2009.

s/ **Michael R. Merz**  
United States Magistrate Judge