

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

JOHN D. FRESHWATER, et al. : Case No. 2:09cv464
Plaintiffs, : JUDGE FROST
v. : MAGISTRATE KING
MOUNT VERNON CITY SCHOOL :
DISTRICT BOARD OF EDUCATION, et al. :
Defendants. :

MOTION FOR EXTENSION OF TIME OF DEFENDANT DAVID MILLSTONE

Now comes Defendant David Millstone and pursuant to Local R. 7.3(a) and requests an extension of time to answer or plead in response to Plaintiffs' Complaint. A Memorandum in Support and Proposed Order are attached hereto. Plaintiffs' counsel does not oppose this extension.

Respectfully submitted,

/s/ Gregory B. Scott

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MEMORANDUM IN SUPPORT

Defendant Millstone served a Motion for Sanctions and Fees pursuant to Civ. Rule 11 on Plaintiffs' counsel on August 10, 2009. The requested relief in Defendant Millstone's Rule 11 motion includes dismissal of all claims against him. According to Civ. R. 11(c)(2), Defendant Millstone will not file the Rule 11 motion until 21 days after service, which is August 31, 2009. Defendant Millstone's answer or responsive pleading is currently due August 31, 2009.

At this time, it is unclear whether Plaintiffs intend to amend their complaint to dismiss some or all claims against Defendant Millstone. To avoid inefficiency and undue expense, Defendant Millstone should not have to answer or move until he knows whether Plaintiffs amend their complaint or, if they do not, before the Court rules on the Motion for Sanctions and Fees. Consequently, Defendant Millstone asks for an extension to move or plead until the earlier of the following two alternatives. First, within fourteen (14) days after the Court has ruled on Defendant Millstone's Motion for Sanctions and Fees pursuant to FRCP 11, or second, September 20, 2009 if Defendant Millstone does not file a Motion for Sanctions and Fees on or before September 1, 2009.

A proposed order is attached hereto.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2009 a copy of foregoing **MOTION FOR EXTENSION OF TIME OF DEFENDANT DAVID MILLSTONE** was filed electronically. Notice of this filing will be sent to all parties identified below by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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DISTRICT BOARD OF EDUCATION, et al.	:	
Defendants.	:	

**ORDER GRANTING DEFENDANT MILLSTONE’S MOTION FOR EXTENSION OF
TIME**

Defendant David Millstone has filed a motion, Doc. No. ___, for an extension of time in which to file his answer or responsive pleading to Plaintiffs’ complaint. Document No. ___ is hereby **GRANTED**. Defendant David Millstone will file his answer or responsive pleading to Plaintiffs’ amended complaint by the earlier of: (a) fourteen (14) days after the Court has ruled on Defendant Millstone’s Motion for Sanctions and Fees pursuant to FRCP 11; or (b) September 20, 2009 if Defendant Millstone does not file a Motion for Sanctions and Fees on or before September 1, 2009.

Date

Norah McCann King
UNITED STATES MAGISTRATE JUDGE