

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

KEVIN R. RYAN,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:06-cv-1770-JDT-TAB
)	Judge John D. Tinder
)	Magistrate Judge Tim A. Baker
)	
UNDERWRITERS LABORATORIES, INC.))	
)	
Defendant.)	

**PLAINTIFF KEVIN RYAN’S MOTION TO EXTEND THE TIME FOR THE
ELECTRONIC FILING OF PLAINTIFF'S MOTION FOR LEAVE TO FILE
SECOND AMENDED COMPLAINT**

Plaintiff Kevin Ryan, by the undersigned counsel, hereby respectfully requests a one day (five minute) extension of time in which to electronically file his Motion for Leave to File Second Amended Complaint with attached proposed Second Amended Complaint. In support of this motion, Plaintiff states as follows:

1. Plaintiff's counsel and Plaintiff diligently and thoroughly reviewed this Court's Order entered August 9, 2007 and made a good faith effort to prepare and timely file Plaintiff's Motion for Leave to File Second Amended Complaint and the accompanying proposed Second Amended Complaint by the Court's designated deadline of 15 days after this Order was entered, or August 24, 2007. Completion of this task by the undersigned was complicated by Plaintiff's counsel's other litigation demands.

2. The undersigned counsel is the only counsel among Plaintiff's three counsel

with litigation experience with the federal False Claims Act, and familiarity with the Federal Acquisition Regulations (FAR). Following a meeting with Plaintiff Ryan and all Plaintiff's counsel to analyze the facts and applicable law in light of the Court's order entered August 9, 2007, the undersigned agreed to draft the Second Amended Complaint in light of the fact that the viable claims appeared to be based on the False Claims Act (FCA) and required an understanding of the FAR. The undersigned conducted further legal research to verify the viability of the claims to be asserted in the Second Amended Complaint and circulated the results of this research to co-counsel and Plaintiff.

3. The undersigned drafted the proposed Second Amended Complaint with care in light of the Court's clearly stated Rule 11 caution in the Order entered August 9, 2007. This process resulted in the undersigned being able to circulate the draft proposed Second Amended complaint to co-counsel for the first time on the due date, August 24, 2007. The undersigned's timing in this regard proved to not provide sufficient time for Plaintiff's other counsel to complete the review of the facts and law that they believed was needed in light of the Court's clear Rule 11 caution stated in the order entered on August 9, 2007, and in light of their comparative inexperience with the federal FCA and FAR, although this fact did not become clear until close to the midnight filing deadline on August 24, 2007.

4. This process of attempting to complete the thorough review required in light of the Court's stated Rule 11 caution regarding claims that involve two complex aspects of federal law, the FAR and the FCA, prevented the undersigned from attempting the electronic filing of Plaintiff's Motion for Leave to File Second Amended Complaint until

near the midnight deadline on August 24, 2007.

5. Plaintiff's other counsel informed the undersigned on the evening of August 24, 2007 that they were unable to sign on to this filing at the time because additional time was needed for analysis, research and review of the proposed Second Amended Complaint given their unfamiliarity with the FCA and FAR. Consequently, the undersigned engaged Plaintiff in another discussion to ensure that, under the circumstances of the Court's caution, the complex legal issues involved, and the decision of co-counsel to not sign on at this time, that Plaintiff still wished to proceed with the filing. This conversation took longer than expected and caused the undersigned to have just enough time to accomplish the electronic filing if there were no complications with the filing.

6. Unfortunately, upon attempting the electronic filing, counsel realized he had inadvertently forgot to attach the proposed order to the motion for leave to file. After a brief but unsuccessful effort to navigate through the electronic filing system to attach the omitted order, it became clear that this effort was going to add enough time so as to put the electronic filing past midnight. Counsel aborted the attempt to add the omitted order and filed the motion for leave to file and the accompanying proposed Second Amended Complaint without the Order attached (five minutes late).

7. Counsel then promptly prepared and filed this motion for leave to file out of time.

CONCLUSION AND RELIEF REQUESTED

For the foregoing reasons, Plaintiff Ryan respectfully requests that this Court grant him leave to file his Motion for Leave to File Second Amended Complaint with accompanying proposed Second Amended complaint one day (five minutes) beyond the Court's previously designated 15 day deadline of midnight on August 24, 2007.

Respectfully submitted,

/s Mick G. Harrison
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Dated: August 25, 2007

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Plaintiff's Motion to Extend the Time to File Plaintiff's Motion for Leave to File Second Amended Complaint with accompanying proposed Second Amended Complaint, and the attached proposed order, were electronically filed and thereby automatically served on the parties indicated below. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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All done August 25, 2007

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