

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

ELIZABETH DUTTON SWEET and )  
 FREDERICK H. GREIN, JR., in their )  
 capacities as Executors under the will of )  
 William H. Sweet, M.D., )  
 )  
 and )  
 )  
 MASSACHUSETTS INSTITUTE )  
 OF TECHNOLOGY, )  
 )  
 and )  
 )  
 MASSACHUSETTS GENERAL )  
 HOSPITAL, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 THE UNITED STATES, )  
 )  
 Defendant. )

Nos. 00-274C, 00-292C, 01-434C  
 (Consolidated)  
 (Judge Firestone)

DEFENDANT'S MOTION FOR AN ENLARGEMENT OF TIME

Defendant respectfully requests an enlargement of time of 14 days, to and including March 12, 2004, within which to file defendant's reply brief to plaintiffs' response to defendant's argument regarding the availability of private insurance, as required by the Court's order dated February 4, 2004. Pursuant to the Court's February 4 order, defendant's reply brief is currently due to be filed on February 27, 2004. This is defendant's first request for an enlargement of time for this purpose. Defendant's counsel has discussed the requested motion for an enlargement of time with counsel for plaintiffs Massachusetts Institute of Technology ("MIT"), and Elizabeth Dutton Sweet and Frederick H. Grein, Jr., each of whom have stated that the plaintiffs do not oppose the requested motion for an

enlargement of time. Defendant's counsel has been unable to contact counsel for Massachusetts General Hospital ("MGH"), and thus cannot state whether MGH consents to the requested enlargement of time.


We have sought diligently to prepare our reply brief by the present due date, and in fact have completed a draft brief. Additional time is needed, however, for two reasons. First, although the Court's February 4 order required plaintiffs to file response briefs on or before February 13, 2004, only the Sweet plaintiffs filed a response on that date because, according to counsel for MIT, he and counsel for MGH did not receive a copy of the Court's February 4 order setting the briefing schedule. Counsel for MIT has since advised defendant's counsel that MIT intends to submit a filing regarding the insurance issue on or about February 26, 2004. If such filing is allowed by the Court, defendant's counsel believes it will be most efficient for defendant to wait to respond to all of plaintiffs' filings with a single brief, as has been the practice in these consolidated cases, and to avoid further piecemeal briefing.

Second, a 14-day enlargement of time to and including March 12, 2004, is necessary because defendant's counsel has been unexpectedly required to attend out-of-town funeral services between February 25 and February 27, 2004, and thereafter is scheduled to be on leave for the remainder of the following week. Defendant's counsel is not scheduled to return to the office until March 8, 2004. Consequently, defendant's counsel will not be able to review and prepare a reply to MIT's filing, as well as complete defendant's reply to the Sweet response, until the week of March 8, 2004. Defendant's counsel estimates that, given his leave schedule and obligations in other cases, he will be unable obtain final review and approval of defendant's reply brief before March 12, 2004.

For the foregoing reasons, defendant respectfully requests that the Court grant our unopposed motion for an enlargement of time of 14 days, to and including March 12, 2004, within which to file defendant's reply brief to plaintiffs' response to defendant's argument regarding the availability of private insurance.


Respectfully submitted,

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February 24, 2004

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on this 24th day of February, 2004, I caused to be sent by United States mail (postage prepaid) a copy of "DEFENDANT'S MOTION FOR AN ENLARGEMENT OF TIME" addressed as follows:

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