

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**DR. MARK GEIER and DAVID GEIER,**

**Plaintiffs,**

**vs.**

**DEPARTMENT OF HEALTH AND  
HUMAN SERVICES, DR. SARAH K.  
PARKER, DR. JAMES TODD, DR.  
BENJAMIN SCHWARTZ, DR. LARRY  
PICKERING, and THE AMERICAN  
ACADEMY OF PEDIATRICS,**

**Defendants.**

**Case No. 1:05-CV-01749(RWR)**

**MOTION FOR EXTENSION OF TIME  
TO FILE RESPONSIVE PLEADING**

Defendant American Academy of Pediatrics (“AAP”) moves to extend the time in which it is required to answer, move or otherwise respond to the Complaint to and including December 1, 2005.

1. The Complaint in this matter was filed in this Court on September 1, 2005. Plaintiffs allege among other things that they were defamed in an article in Volume 114, No. 3 of *Pediatrics*, a medical journal published more than a year ago by AAP.
2. On September 2, 2005, Plaintiffs sought a waiver of service from AAP pursuant to Federal Rule of Civil Procedure 4(d). AAP executed the waiver on September 19, 2005. As a result, AAP presently is required to answer, move, or otherwise respond to the Complaint 60 days after the request was sent, *i.e.*, on or before November 1, 2005. *See* F.R.C.P. 4(d)(3).
3. AAP requests that this deadline be extended by 30 days, until December 1, 2005, because additional time is needed to adequately investigate plaintiffs’ allegations and determine

what response is appropriate. This case involves six defendants scattered across the country. One of the defendants is an agency of the federal government, two are federal government employees, and two others are employees of the state of Colorado. AAP is a non-profit organization based in Illinois. Furthermore, this action, which arises out of a scientific controversy, includes claims for defamation, tortious interference with contract, tortious interference with prospective business relations, review of adverse agency action, and deprivation of constitutional rights.

4. Undersigned counsel has moved promptly since engagement to investigate the claims at issue, but has not yet been able to complete that investigation despite diligent effort. When the need for an extension of the pleading deadline became apparent, undersigned counsel for AAP left voice-mail messages for both of plaintiffs' counsel on the morning of October 26, 2005. After neither message was returned, counsel for AAP faxed a letter to both of plaintiffs' counsel on October 27, 2005 explaining the situation and seeking their consent to the present motion. As plaintiffs' counsel have not responded to any of these communications, AAP is constrained to file this motion.

For these reasons, AAP believes in good faith that the requested extension is reasonable and warranted under the circumstances, and does not prejudice plaintiffs.

WHEREFORE, AAP respectfully requests that the Court enter an order extending its time to answer, move or otherwise respond to the Complaint to and including December 1, 2005.

Dated: October 31, 2005

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.

By: /s/ Jay Ward Brown

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Adam J. Rappaport (D.C. Bar No. 479866)  
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*Counsel for Defendant  
American Academy of Pediatrics*

**STATEMENT OF DUTY TO CONFER**

Pursuant to Local Civil Rule 7.1(m), undersigned counsel hereby states that he made a good-faith effort to determine whether there was any opposition to the relief sought by leaving voice-mail messages for both of plaintiffs' counsel on October 26, 2005 and by faxing them a letter seeking their consent on October 27, 2005. As plaintiffs' counsel has not responded to these communications, undersigned counsel is unable to ascertain whether there is any opposition to the motion.

/s/ Jay Ward Brown

Jay Ward Brown

**CERTIFICATE OF SERVICE**

I hereby certify that on October 31, 2005, I caused a copy of the foregoing Motion for Extension of Time to File Responsive Pleading to be served by the Court's Electronic Case Filing System upon all parties scheduled for electronic notice, and by facsimile and first-class mail at the following address:

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*Counsel for Plaintiffs*

/s/ Adam J. Rappaport  
Adam J. Rappaport