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7-6-1999

## Defendant's Motion to Compel Discovery

William D. Mason  
*Cuyahoga County Prosecutor*

Marilyn B. Cassidy  
*Cuyahoga County Assistant Prosecutor*

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7/6/99

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

ALAN DAVIS, EXECUTRIX,

Plaintiff,

vs.

STATE OF OHIO,

Defendant.

CASE NO. 312322

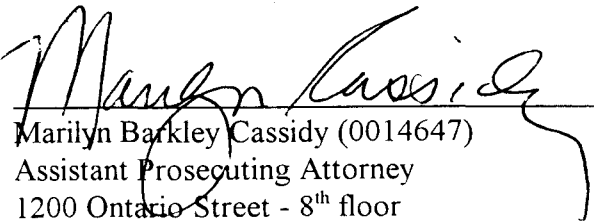
JUDGE RONALD SUSTER

**DEFENDANT'S MOTION TO COMPEL  
DISCOVERY**

Defendant, State of Ohio, by and through counsel, William D. Mason, prosecuting attorney for Cuyahoga County, and Assistant Prosecutor, Marilyn B. Cassidy, hereby move this honorable court for an order compelling plaintiff to produce discovery. Alternatively, defendant moves the court to prohibit plaintiff's use at trial of experts whose reports have not been produced. This motion is made on the grounds that plaintiff has failed to produce expert reports to defendant pursuant to Rule 34 requests for production, and according to the Court's order which required production of expert reports by May 1<sup>st</sup>, 1999, all as is set forth in the memorandum attached hereto and expressly incorporated herein by reference.

Respectfully Submitted,

WILLIAM D. MASON, PROSECUTING  
ATTORNEY, CUYAHOGA COUNTY

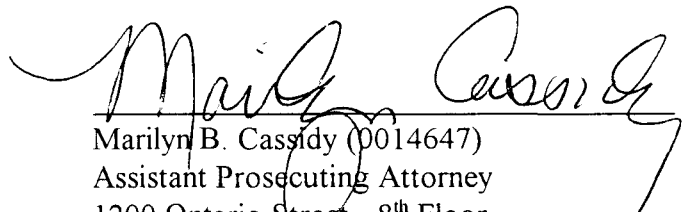
  
Marilyn Barkley Cassidy (0014647)  
Assistant Prosecuting Attorney  
1200 Ontario Street - 8<sup>th</sup> floor  
Cleveland, Ohio 44113  
(216) 443-7785

**MEMORANDUM IN SUPPORT**

At the last pretrial hearing, the court directed that plaintiff's expert reports be served upon defendant by May 1, 1999. To date, defendant has received only a partial report from Dr. Mohammed Tahir, and the report of Dr. Bart Epstein. No other expert reports have been received by defendant. Defendant is unable to adequately prepare for trial in a timely manner. Accordingly, defendant respectfully requests that the court compel plaintiff to produce the reports of any and all experts previously identified by plaintiff. In the alternative, the state of Ohio moves that plaintiff be prohibited from presenting expert testimony and reports not timely provided to the state.

Respectfully Submitted,

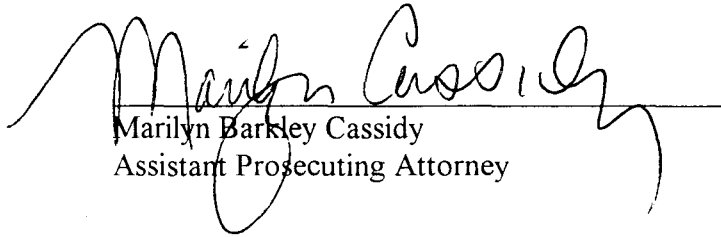
WILLIAM D. MASON, PROSECUTING  
ATTORNEY, CUYAHOGA COUNTY

  
Marilyn B. Cassidy (0014647)  
Assistant Prosecuting Attorney  
1200 Ontario Street - 8<sup>th</sup> Floor  
Cleveland, Ohio 44113  
(216) 443-7785

ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF SERVICE**

A copy of the foregoing was sent by ordinary U.S. mail, postage prepaid, this 6 day of July, 1999 to Terry Gilbert, at 1700 Standard Building, 1370 Ontario Street, Cleveland, Ohio 44113.

  
Marilyn Barkley Cassidy  
Assistant Prosecuting Attorney