

## 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

Pursuant to Rule 6(b) of the Rules of the United States Court of Federal Claims, defendant respectfully requests an enlargement of time of 30 days, to and including November 12, 2005, within which to complete discovery in this case. This is the third request for an enlargement of time for this purpose, the Court having previously granted enlargements of the discovery period by 45 days in its Order dated September 1, 2005, and by 90 days in its Order dated September 1, 2005. Defendant's counsel has discussed the requested motion for an enlargement of time with counsel for plaintiffs Massachusetts Institute of Technology ("MIT") and Massachusetts General Hospital ("MGH"), each of whom have stated that they do not oppose the requested motion for an enlargement of time. Counsel for plaintiffs Elizabeth Dutton Sweet

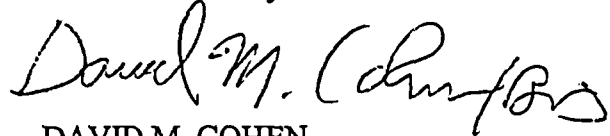
and Frederick H. Grein, Jr., in their capacities as Executors under the will of William H. Sweet, M.D., has also indicated that the Sweet plaintiffs do not oppose the requested motion for an enlargement of time, and would prefer to go forward with the telephonic status conference scheduled for October 24, 2005.

Additional time is needed to complete discovery for a number of reasons. For example, we have been unable to resolve in a timely fashion perceived deficiencies in MGH's responses to certain discovery requests related to MGH's costs of defending the Heinrich suit. On July 21, 2005, defendant filed a motion to compel sufficient responses to these discovery requests. On August 4, 2005, we withdrew our motion to compel based upon MGH counsel's representation that MGH would produce documentation by August 22, 2005, that might resolve the issues raised in our motion. To date, however, the requested documentation has not been produced. Thus, we have been required to renew our motion to compel, which is presently pending and, given time constraints, may not be ruled upon by the Court prior to the current discovery deadline of October 13, 2005. Additionally, defendant is continuing to seek production of materials from MIT related to our initial March 2005 document production requests. Many of the documents involved, however, are more than 40 years old, and require retrieval from archived storage in order to be produced in discovery. Therefore, the discovery of these materials and any necessary follow up discovery related to these materials has taken more time than previously anticipated.

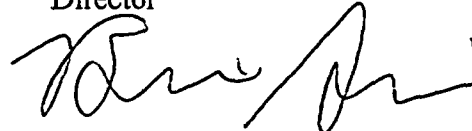
For the foregoing reasons, defendant respectfully requests the Court to grant its motion for an enlargement of time of 30 days, to and including November 12, 2005, within which to complete discovery in this case.

Respectfully submitted,

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October 11, 2005

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on this 11 th day of October, 2005, I caused to be placed in the United States Mail (first class mail, postage prepaid) copies of "Defendant's Motion for an Enlargement of Time" addressed as follows:

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