

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

BILLY P. GREER,

Plaintiff,

v.

BOARD OF TRUSTEES OF THE
UNIVERSITY OF THE DISTRICT OF
COLUMBIA,

Defendant.

Civil Action No. 09-2234 (CKK)

MEMORANDUM OPINION

(September 2, 2010)

On June 3, 2010, Defendant Board of Trustees of the University of the District of Columbia (“Board of Trustees”) filed a [15] Motion to Dismiss Plaintiff’s Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). By Minute Order dated June 17, 2010, the Court granted Plaintiff’s unopposed request for an extension of time to file a response to the Board of Trustees’ Motion to Dismiss, providing Plaintiff until and including June 28, 2010, in which to file an opposition to Defendant’s Motion. Plaintiff, however, failed to file a response to the Motion by that date. On June 30, 2010, the Court issued an Order directing Plaintiff to show cause by no later than July 6, 2010, why this case should not be dismissed as conceded in light of Plaintiff’s failure to timely respond to the pending Motion to Dismiss. In response, Plaintiff filed a [19] Motion for Extension of Time, Nunc Pro Tunc, requesting that he be permitted until and including September 1, 2010, in which to file a response to the Motion to Dismiss. The Board of Trustees indicated that it did not oppose the request for an extension, and the Court granted Plaintiff’s unopposed request by Minute Order dated July 12, 2010. In so doing, the Court “advise[d] Plaintiff’s counsel that, given this generous extension of time, it is not inclined to permit further extension of this deadline.

In the event Plaintiff's counsel is unable to file a timely response and/or continue to represent Plaintiff in this action because of health concerns or other reasons, the Court encourages counsel to discuss alternative means of ensuring that Plaintiff's lawsuit is prosecuted in a timely and expedient manner." 7/12/10 Min. Order.

Plaintiff's response to Defendant's [15] Motion to Dismiss Plaintiff's Amended Complaint was therefore due on or before September 1, 2010. As of the date of this Order, however, no response has been filed. Nor has Plaintiff otherwise filed an appropriate motion for an extension of time, *pro nunc tunc*, or indicated to the Court that he is pursuing alternative means of ensuring that this lawsuit is prosecuted in a timely and expedient manner, as directed by the Court's prior Minute Order. While the Court understands that Plaintiff's counsel has certain health concerns at present, Plaintiff has been given multiple opportunities during the nearly three months since the Defendant's Motion to Dismiss was filed in which to respond to the pending Motion. Plaintiff has also previously been advised that failure to timely respond to the pending Motion to Dismiss Plaintiff's Amended Complaint shall result in dismissal of this case without prejudice. Accordingly, pursuant to LCvR 7(b), the Court shall GRANT Defendant Board of Trustees' [15] Motion to Dismiss Plaintiff's Amended Complaint as conceded. *See* LCvR 7(b) ("If . . . a memorandum [in opposition] is not filed within the prescribed time, the Court may treat the motion as conceded."). *See also Twelve John Does v. District of Columbia*, 117 F.3d 571, 577 (D.C. Cir. 1997) (a district court may in its discretion "rel[y] on the absence of a response as a basis for treating [a] motion as conceded"). An appropriate Order accompanies this Memorandum Opinion.

Date: September 2, 2010

/s/
COLLEEN KOLLAR-KOTELLY
United States District Judge