{%p set answer\_title = “Mothon for Leave to File Responsive Pleadings” %}

{%p set include\_legal\_support = True %}

{%p set include\_legal\_argument = True %}

{%p set include\_other\_relief = True %}

{%p if opposing\_party\_consent %}

{%p set answer\_title\_full = "Consent " +answer\_title %}

{%p else %}

{%p set answer\_title\_full = answer\_title %}

{%p endif %}

{{p include\_docx\_template('include\_caption.docx',caption\_title = answer\_title\_full) }}

{{ tenant\_doc\_name }} requests the Court grant {{ tenant\_doc\_name }} permission to file the exhibit attached to this Motion as {{ tenant\_doc\_name }}'s responsive pleading in this case{% if include\_legal\_support %}, as allowed by §517.031 RSMo{% endif %}.{% if opposing\_party\_consent %} {{ landlord\_doc\_name }} consented to this motion.{% endif %} In support of this request, {{ tenant\_doc\_name }} states as follows:

{%p if include\_legal\_argument %}

Background

{%p endif %}

1. {{ landlord\_doc\_name }} filed its Petition on {{ filing\_date }}.
2. The first hearing of this case was on {{ original\_hearing\_date }} {{ original\_hearing\_time }} in {{ trial\_court.division }}.
3. {%p if was\_discovery\_requested and was\_discovery\_produced %}
4. {{ landlord\_doc\_name }}'s initial written discovery answers relevant to these claims were provided on {{ discovery\_provided\_date }}.
5. {%p endif %}
6. {%p if (was\_discovery\_requested and (was\_discovery\_produced == False or discovery\_objections\_planned)) or discovery\_planned %}
7. {% if was\_discovery\_requested %}{% if was\_discovery\_produced and discovery\_objections\_planned %}{{ tenant\_doc\_name }} plans to move to overturn certain objections to discovery made by {{ landlord\_doc\_name }}.{% elif not was\_discovery\_produced %}{{ tenant\_doc\_name }} plans to move to enforce certain discovery requests.{% endif %}{% elif discovery\_planned %}{{ tenant\_doc\_name }} plans to conduct discovery.{% endif %}
8. {%p endif %}
9. {%p if reasons\_unable\_to\_prepare\_exists %}
10. {{ tenant\_doc\_name }} was unable to prepare and file the attached responsive pleading{% if motion\_list | length > 2 %}s{% endif %} before that date, because:
    1. {%p for reason in reasons\_unable\_to\_prepare %}
    2. {{ reason }}
    3. {%p endfor %}
11. {%p endif %}
12. {%p if opposing\_party\_consent %}
13. {{ landlord\_doc\_name }} consented to and does not oppose this motion.
14. {%p endif %}
15. Permission to amend pleadings Defendant’s motion for leave (permission) to file Exhibit \_\_\_ should be granted because:
    1. {%p if trial\_date\_set == False or trial\_date.minus(weeks=2) > today() %}
    2. There is no trial date set for this case, or the trial date is far enough away that Plaintiff has time to prepare to refute Defendant’s answer and/or defenses.
    3. {%p elif (trial\_setting == False or trial\_setting\_notice.minus(days=15) > trial\_date) and (trial\_date.minus(days=5) > today()) %}
    4. There is no trial setting yet in this case, or the parties received notice of the trial setting fifteen or more days before the trial date; and
    5. This motion is being filed and served more than five “court business” days before the trial (five day’s notice, excluding court holidays and weekends).
    6. {%p endif %}
16. {%p if wishes\_to\_assert\_affirmative\_defenses %}
17. {{ tenant\_doc\_name }} wishes to assert certain affirmative defenses in trial, and would be prejudiced if denied the right to do so.
18. {%p endif %}
19. {%p if include\_legal\_argument %}

Authority and Argument

1. Associate circuit court procedure allows, but does not require, a defendant to file an answer or counterclaim by the return date of the case. See RSMo. § 517.031.2 (“Affirmative defenses, counterclaims and cross claims shall be filed in writing not later than the return date and time of the summons unless leave to file the same at a later date is granted by the court” (emphasis added)).
2. So long as good cause exists, this court may extend the filing time for any pleading. See §517.031.3 RSMo. (“For good cause shown, the court may extend the time for filing any pleading.”)
3. “To determine whether to grant leave” courts consider “whether there is any prejudice to the non-moving party; and whether there will be hardship to the party requesting [amendment] if the request is denied.” Dibrill v. Normandy Assocs., Inc., 383 S.W.3d 77 (Mo. App., 2012) (quoting Trans World Airlines, Inc. v. Associated Aviation Underwriters, 58 S.W.3d 609, 624 (Mo. App. E.D. 2001).
4. Furthermore, “Leave [to amend] shall be freely given when justice so requires.” State ex rel. Church & Dwight Co. v. Collins, (Mo., 2018).
5. {%p endif %}
6. Accordingly, the Court should grant leave for {{ tenant\_doc\_name }} to file the proposed {{ motion\_list }} (attached hereto as an exhibit and incorporated herein). Such relief should be “freely given” as justice requires.

For the reasons stated herein, {{ tenant\_doc\_name }} requests the Court grant Defendant's {{ answer\_title }}{% if include\_legal\_support %}, as allowed by §517.031 RSMo, {% endif %}{% if include\_other\_relief %} and for such other and further relief as the Court deems just and proper{% endif %}.

{{p include\_docx\_template('include\_signature.docx', certificate\_of\_service\_type =”short”) }}