

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse at Foley Square 40 Centre Street, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 07-1107-CV

Caption [use short title]

Motion for: Extension of time to file Appellant's Brief and the Appendix

In re Zyprexa Litigation

Set forth below precise, complete statement of relief sought:

Appellant James Gottstein seeks an extension of time to file the brief and the appendix from July 13, 2009 to and including July 22, 2009.

MOVING PARTY: Appellant James Gottstein
Plaintiff x Defendant
Appellant/Petitioner Appellee/Respondent

OPPOSING PARTY: Appellee Eli Lilly & Co.

MOVING ATTORNEY: Steven Brock, Esq.
[name of attorney, with firm, address, phone number and e-mail]
Berkman, Henoch Peterson & Peddy, P.C.
100 Garden City Plaza
Garden City, NY 11530
516.780.0325
s.brock@bhpp.com

OPPOSING ATTORNEY [Name]: Sean P. Fahey, Esq.
[name of attorney, with firm, address, phone number and e-mail]
Pepper Hamilton, LLP
3000 Two Logan Square
Philadelphia, Pa 19103
215.981.4296
Faheys@pepperlaw.com

Court-Judge/Agency appealed from: United States District Court, EDNY, Honorable Jack B. Weinstein

Please check appropriate boxes:

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL
Has request for relief been made below? Yes No

Has consent of opposing counsel:

A. been sought? x Yes No
B. been obtained? x Yes No

Has this relief been previously sought in this Court?
Yes No

Has service been effected? x Yes No
[Attach proof of service]

Is oral argument requested? Yes x No
(requests for oral argument will not necessarily be granted)

Requested return date and explanation of emergency:

Has argument date of appeal been set? Yes x No
If yes, enter date:

Signature of Moving Attorney: Date: July 13, 2009

ORDER

IT IS HEREBY ORDERED that the motion is GRANTED DENIED.

FOR THE COURT:
CATHERINE O'HAGAN WOLFE, Clerk of Court

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X

In re: Zyprexa Litigation

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**AFFIDAVIT IN SUPPORT
OF MOTION FOR
EXTENSION OF TIME
TO FILE BRIEF AND
APPENDIX**

Dkt. No. 07-1107-CV

STATE OF NEW YORK)
 :ss.:
COUNTY OF NASSAU)

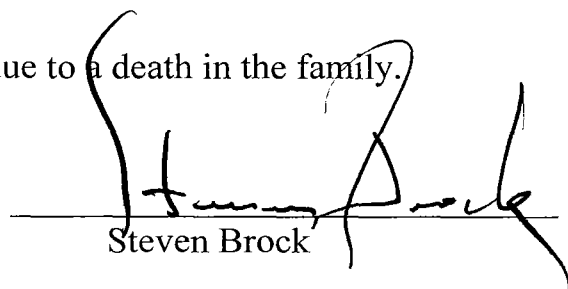
STEVEN BROCK, being duly sworn, deposes and says:

1. I am an attorney duly admitted to practice law in this State and before this Court, and a partner in the firm of Berkman, Henoch, Peterson & Peddy, P.C. I represent the Respondent-Appellant, James Gottstein on this appeal. I make this motion to permit adequate time for our client and co-counsel to review and provide input to the draft appellate brief and appendices and newly declassified confidential documents at issue in this appeal. The participation of one of us has unfortunately been limited recently due to a death in the family. Accordingly, I am requesting an extension to Wednesday, July 22, 2009, or such other time as the Court may deem just and proper.

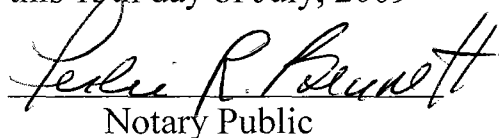
2. I have contacted opposing counsel and have their consent to this request for an extension.

3. This appeal was reactivated on or about February 13, 2009. Staff

Counsel granted one prior request to extend the time for filing of the brief and appendix on appeal, which was extended *sua sponte* to May 27, 2009. The court recently granted an extension until June 17, 2009, due to illness of counsel, and further extensions until July 2, 2009, and July 13, 2009 after a collection of confidential documents which overlaps with the nominally confidential documents at the center of the present appeal was declassified in related litigation and posted on the internet. As indicated above, additional time is required to permit our client and co-counsel adequate time to assimilate the new material that was recently declassified and to review and comment upon the revised brief and appendices, and the participation of one of us has been limited due to a death in the family.


Steven Brock

Sworn to before me
this 13th day of July, 2009


Notary Public

LESLIE R. BENNETT
Notary Public, State of New York
No. 02BE5052100
Qualified in Nassau County
Commission Expires 11/20/09

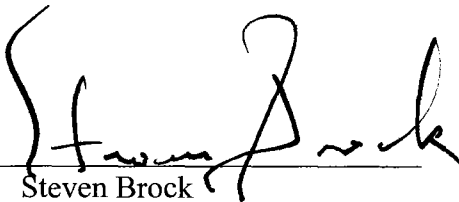
CERTIFICATE OF SERVICE

I hereby certify that:

(1) a true and correct copy of the Form T-1080 and Affidavit in Support of Motion for Extension of Time to File Brief and Appendix was served this 13th day of July, 2009 upon Sean P. Fahey, Esq., Pepper Hamilton, LLP, 3000 Two Logan Square, Philadelphia, PA 19103, by depositing a copy of same, enclosed in a postpaid properly addressed wrapper, in a depository box under the exclusive custody and care of the United States Postal Service, within the State of New York, for mailing to the foregoing address, and

(2) an additional copy of the foregoing form and affidavit were emailed to Mr. Fahey on this 13th day of July, 2009, at the following email address provided by him:
Faheys@pepperlaw.com.

Dated: July 13, 2009

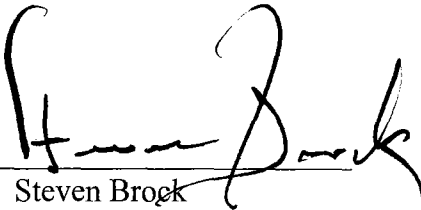


Steven Brock

VIRUS PROTECTION CERTIFICATE

Steven Brock certifies that the PDF version of the attached document that has been submitted via email to the Court of Appeals at civilcases@ca2.uscourts.gov has been scanned for viruses and no virus has been detected.

Dated: July 13, 2009



Steven Brock