

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 to: Extension of time to file Appellant's Reply Brief

In re Zyprexa Litigation

Set forth below precise, complete statement of relief sought:

Appellant James Gottstein seeks to obtain extension of three weeks to file Reply Brief

MOVING PARTY: Appellant James Gottstein
Plaintiff 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 consent of opposing counsel:

Has request for relief been made below? Yes No

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

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

Has service been effected? 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: [Signature] Date: November 9, 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

-----X

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

**Dkt. No. 07-1107-CV**

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

STEVEN BROCK, being duly sworn, deposes and says:

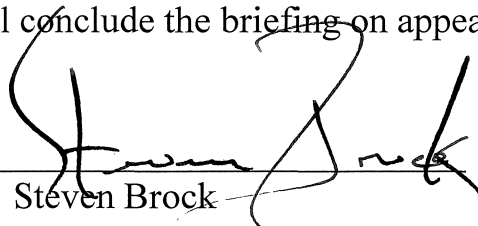
1. I am an attorney duly admitted to practice law in this State and before this Court, and a partner in the firm of Berkman, Henoch, Peterson & Peddy, P.C. I represent the Respondent-Appellant, James Gottstein on this appeal. I make this motion for an extension of time to file Respondent-Appellant’s Reply Brief from November 12 to and including December 3, 2009, or such other time as the Court may deem just and proper.

2. I have contacted opposing counsel, Sean P. Fahey, Esq., who has advised that he consents to the extension.

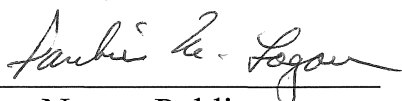
3. There has been no previous request for an extension for this reply brief. The Court has graciously extended the time for the filing of the Respondent-Appellant’s main brief on appeal and Movant-Appellee’s opposition brief. Respondent-Appellant requires more time to permit the client and co-counsel on

appeal and in the trial court, located in Alaska and in New York, to review and coordinate their revisions and comments on the current draft of the reply brief on the merits. Additionally, Respondent-Appellant has filed today his opposition to Movant-Appellee's motion to strike portions of Respondent-Appellant's brief on appeal. It is my understanding that Movant-Appellee's reply on its motion to strike will be due on November 19, 2009.

2. Accordingly, I anticipate that the filing of Respondent-Appellant's merits reply brief on December 3, 2009, will conclude the briefing on appeal.

  
\_\_\_\_\_  
Steven Brock

Sworn to before me  
this 9th day of November, 2009

  
\_\_\_\_\_  
Notary Public

PAULINE M. LOGORE  
Notary Public, State of New York  
No. 01LO4999532  
Qualified in Nassau County  
Commission Expires July 27, 2010