

# 11-1197-cv

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**United States Court of Appeals**

*for the*

**Second Circuit**

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PATRICK CARIOU,

*Plaintiff-Appellee,*

-V.-

RICHARD PRINCE,

*Defendant-Appellant,*

GAGOSIAN GALLERY, INC., LAWRENCE GAGOSIAN,

*Defendants-Appellants.*

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**DECLARATION OF DALE CENDALI**

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*Attorneys for Amici Curiae American  
Society of Media Photographers, Inc.  
and Picture Archive Council of  
America, Inc.*

**DECLARATION OF DALE CENDALI IN SUPPORT OF AMICI  
CURIAE’S MOTION FOR EXTENSION OF DEADLINE TO FILE  
AMICUS BRIEF**

I, **DALE CENDALI**, declare:

I am an attorney from the law firm of Kirkland & Ellis LLP, and I make this Declaration in support of Amici Curiae’s Motion for Extension of Deadline to File Amicus Brief in Support of Plaintiff-Appellee Patrick Cariou.

1. Amicus American Society of Media Photographers, Inc. (“ASMP”) has approximately 7,000 members, and represents the interests of professional photographers whose photographs and film footage are created for publication. It is the oldest and largest organization of its kind in the world.

2. Amicus Picture Archive Council of America, Inc. (“PACA”) is a not-for-profit trade association that represents the interests of entities who license images (still and motion) to editorial and commercial users. Founded in 1951, its membership currently includes over 100 content libraries globally that are engaged in licensing millions of images, illustrations, film clips and other content on behalf of thousands of individual creators.

3. The American Society of Media Photographers and the Picture Archive Council of America intend to file an amicus brief in support of Plaintiff-Appellee Patrick Cariou, who filed his response brief on January 25, 2012.

Pursuant to Federal Rule of Appellate Procedure 29(e), Amici’s Brief would be

due seven (7) days after Appellee's brief, which (excluding January 25th) would be February 1, 2012.

4. Because this appeal presents important issues of copyright law, ASMP and PACA request an extension of seven (7) days to the deadline for filing their Amicus Brief, which would extend the filing date to February 8, 2012.

5. This afternoon, my partner, Claudia Ray, who works with me on this, spoke with Mr. Cariou's attorney, Daniel Brooks, to alert him that Amici were seeking an extension of seven (7) days to the deadline for submitting their amicus brief. Mr. Brooks stated that he does not oppose the extension.

6. Earlier today, one of my associates spoke with counsel for Richard Prince, Jonathan D. Schiller, to alert him that Amici intended to file a brief in support of Mr. Cariou, and to inquire as to whether he would oppose an enlargement of Amici's time to file such a brief. He has stated that he does not object to the filing of an amicus brief, but also stated that he could not determine whether or not he would object to an extension of seven (7) days at this time. More specifically, Mr. Schiller noted that he has filed a motion on behalf of his client to extend the time for filing Appellant Prince's Reply Brief (proposed alternate deadline: February 22, 2012), but had not yet received a response from this Court. Mr. Schiller indicated that he would not oppose an extension of time for Amici's Brief if his motion for an enlargement of time were granted. As of the

time this motion was filed, Amici had received no further communication from Mr. Schiller and a review of the docket in this case indicates that no decision has been reached on his motion.

7. Also earlier today, one of my associates spoke with counsel for Gagosian Gallery, Dara G. Hammerman, to alert her that Amici intended to file a brief in support of Mr. Cariou, and to inquire as to whether she would object to the filing of an amicus brief or oppose an enlargement of Amici's time to file such a brief. Ms. Hammerman indicated that she would call back with a response. As of the time this motion was filed, no response had yet been received.

8. Given the time sensitive nature of the request, Amici thought it best to put this motion before the Court as soon as possible. Accordingly, rather than delay in waiting for further communications from Appellants, Amici respectfully submit this request to enlarge the time for filing their Amicus Brief by seven (7) days, extending the deadline to February 8, 2012.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on this 31th day of January, in the year 2012.

/s/ Dale Cendali

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