

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 12-4547

Caption [use short title]

Motion for: Extension of Time to File Reply & Appendix

THE AUTHORS GUILD, INC., ET AL. v.
HATHitrust, ET AL.

Set forth below precise, complete statement of relief sought:

Motion for extension of time to file Reply Brief and
Deferred Joint Appendix. The deadlines to file are
June 14 and June 21, respectively. This motion
requests a seven-day extension for each.

MOVING PARTY: THE AUTHORS GUILD, INC., ET AL.

OPPOSING PARTY: HATHitrust, ET AL. (See Attached)

Plaintiff Defendant
 Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Edward H. Rosenthal, Esq.

OPPOSING ATTORNEY: Joseph Petersen, Esq., et al.

[name of attorney, with firm, address, phone number and e-mail]

Frankfurt Kurnit Klein & Selz, P.C.
488 Madison Avenue, 10th Floor
New York, NY 10022
212.980.0120 erosenthal@fkks.com

See Attached.

Court-Judge/Agency appealed from: Honorable Harold Baer, U.S.D.J.

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

Yes No (explain): _____

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:

Yes No
 Yes No

Has request for relief been made below?

Has this relief been previously sought in this Court?

Requested return date and explanation of emergency: _____

Opposing counsel's position on motion:

Unopposed Opposed Don't Know

Does opposing counsel intend to file a response:

Yes No Don't Know

Is oral argument on motion requested?

Yes No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

Yes No If yes, enter date: _____

Signature of Moving Attorney:



Date: June 5, 2013

Service by: CM/ECF

Other [Attach proof of service]

ORDER

IT IS HEREBY ORDERED THAT the motion is **GRANTED DENIED**.

FOR THE COURT:

CATHERINE O'HAGAN WOLFE, Clerk of Court

Date: _____

By: _____

OPPOSING COUNSEL

Joseph Petersen
Robert Potter
Kilpatrick Townsend & Stockton LLP
1114 Avenue of the Americas
New York, NY 10036
(212) 775-8700
jpeterson@kilpatricktownsend.com

Joseph Beck
Andrew Pequignot
Allison Scott Roach
Kilpatrick Townsend & Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309
jbeck@kilpatricktownsend.com

Attorneys for Defendants-Appellees

Daniel F. Goldstein
Jessica P. Weber
Brown, Goldstein & Levy, LLP
120 E. Baltimore Street, Suite 1700
Baltimore, Maryland 21202
(410) 962-1030
dfg@brownngold.com

Robert J. Bernstein
The Law Office of Robert J. Bernstein
380 Lexington Avenue, 17th Floor
New York, New York 10168
(212) 551-1068
rjb@robert-bernsteinlaw.com

Peter Jaszi
5402 Surrey Street
Chevy Chase, Maryland 20815
(301) 656-1753
pjaszi@wcl.america.edu

Attorneys for Intervenor Defendants-Appellees

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X
THE AUTHORS GUILD, INC., et al., :
: :
Plaintiffs -Appellants, :
: :
- against - : Docket Number: 12-4547
: :
HATHitrust, et al., :
: :
Defendants-Appellees. :
: :
-----X

**DECLARATION OF EDWARD H. ROSENTHAL IN SUPPORT OF MOTION FOR
EXTENSION OF TIME TO FILE APPELLANTS' REPLY BRIEF AND THE
DEFERRED JOINT APPENDIX**

I, Edward H. Rosenthal, hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an attorney licensed to practice in the State of New York and before this Court. I am a member of the law firm Frankfurt Kurnit Klein & Selz, P.C., counsel for Appellants.

2. This declaration is based on personal knowledge and submitted in support of Appellants' motion for an extension of time to file their Reply Brief and the Deferred Joint Appendix in this action.

3. Appellants request an extension of seven (7) days to file their Reply Brief, currently due June 14, 2013, up to and including June 21, 2013.

4. In addition to the separate briefs filed by Appellees and Intervenor Defendants-Appellees, eleven amici curiae briefs were filed in support of the Appellees and Intervenor

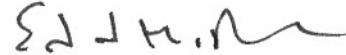
Defendants-Appellees. Appellants request additional time to review and respond to the arguments set forth by all interested parties.

5. Appellants further request an extension of seven (7) days to file the Deferred Joint Appendix, currently due June 21, 2013, up to and including June 28, 2013.

6. Accordingly, pursuant to Federal Rule of Appellate Procedure 30(c)(2)(B), the date on which Appellants, Appellees and Intervenor Defendants-Appellees must serve and file copies of their briefs containing references to the pages of the Deferred Joint Appendix is July 12, 2013.

7. This is the first request for an extension of time made by Appellants. Counsel for Appellees and Intervenor Defendants-Appellees have consented to the relief sought in this motion.

Dated: New York, New York
June 5, 2013



Edward H. Rosenthal