

APPELLATE CASE No. 11-55863

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

LAURA SIEGEL LARSON

Plaintiff, Counterclaim-Defendant, and Appellant.

v.

WARNER BROS. ENTERTAINMENT INC., DC COMICS

Defendants, Counterclaimants, and Appellees.

**APPELLANT LAURA SIEGEL LARSON'S UNOPPOSED MOTION
FOR AN EXTENSION OF TIME TO FILE OPENING BRIEF**

Appeal From The United States District Court for the Central District
of California,
Case No. CV-04-8400 ODW (RZx), Hon. Otis D. Wright II

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**APPELLANT LAURA SIEGEL LARSON'S UNOPPOSED MOTION
FOR EXTENSION OF TIME WITHIN WHICH
TO FILE HER OPENING BRIEF**

Pursuant to Fed. R. App. P. 26(b) and Ninth Cir. Rule 31-2.2(b), Plaintiff-Appellant Laura Siegel Larson (“Appellant”) respectfully moves for a 45-day extension of time, from November 7, 2011 to December 22, 2011 to file her opening brief and excerpts of record. Appellant has not previously requested an extension of time as to this appeal, and Defendants-Appellees DC Comics and Warner Bros. Entertainment, Inc. (“Appellees”) do not oppose this motion. *See* Declaration of Marc Toberoff (“Toberoff Decl.”), ¶¶ 1-2, 12.

The Court in this case and the cross-appeal *Laura Siegel Larson v. Warner Bros. Entertainment Inc., et al.*, Case 11-56034, set the following briefing schedule on June 20, 2011 for the appeals: Appellant’s first cross-appeal brief is due on November 7, 2011; Appellees’ second cross-appeal brief is due on December 7, 2011; Appellant’s third cross-appeal brief is due on January 6, 2012; and Appellees’ optional reply cross-appeal brief is due fourteen (14) days after service of the third cross-appeal brief.

Good cause exists for the requested extension for several reasons. The issues in this appeal are complex and require time to prepare an opening brief that will most effectively assist the Court in resolving the issues raised. *Id.*, ¶ 3.

Additional time is also appropriate because Appellees on June 28, 2011 filed

a motion to dismiss, which was fully briefed. *Id.*, ¶ 4. This court denied Appellees' motion in an order filed September 22, 2011. *Id.* While under Circuit Rule 27-11, motions to dismiss "shall stay the schedule for record preparation and briefing pending the court's disposition of the motion," the Court's briefing schedule has not been changed.

Appellant's counsel is the principal of a small boutique law firm, comprised of three attorneys, that focuses on copyright litigation. *Id.*, ¶ 6. Appellant's counsel has competing commitments that further justify the brief extension of time requested herein. Appellant's counsel represents the plaintiff in the case *The First National Bank in Sioux Falls v. Warner Bros. Entertainment Inc., et al.*, C.D. Cal. Case No. 09-CV-08887 (GAF), and have a settlement mediation, summary judgment briefing, motions, and numerous depositions due over the next month. *Id.*, ¶ 7. Appellant's counsel also represents the children and heirs of comic book creator Jack Kirby as appellants in *Marvel Characters, Inc., et al. v. Kirby, et al.*, C.A. No. 11-03333 (CM) (2d Cir.), wherein counsel must prepare and file an opening brief and an appendix by December 9, 2011. *Id.*, ¶ 8.

Furthermore, in this case, and the related cases, *Siegel, et al. v. Time Warner Inc., et al.*, C.D. Cal. Case No. 04-CV-08776 (ODW) and *DC Comics v. Pacific Pictures Corp., et al.*, C.D. Cal. Case No. 10-CV-03633 (ODW), the parties have a JAMS settlement mediation scheduled with the Hon. Daniel Weinstein on

December 1, 2011. *Id.*, ¶ 5.

Finally, Appellees will not be prejudiced. Appellees' counsel initially brought up the subject of extending the briefing schedule, and has informed Appellant's counsel that Appellees do not oppose this motion. *Id.*, ¶ 9.

CONCLUSION

For the foregoing reasons, Appellant's motion for an extension of the due date for her opening brief and excerpts of record, until December 22, 2011, should be granted.

Dated: October 26, 2011

TOBEROFF & ASSOCIATES, P.C.

/s/ Marc Toberoff

Marc Toberoff

Attorneys for Appellant, Laura Siegel Larson

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rules of Appellate Procedure 27(d) and 32(a), I certify that the Appellant Laura Siegel Larson's brief is proportionately spaced, has a typeface of 14 points or more, and does not exceed 20 pages.

Dated: October 26, 2011

TOBEROFF & ASSOCIATES, P.C.

By: /s/ Marc Toberoff

Marc Toberoff

Attorneys for Laura Siegel Larson