

Appeal Nos. 11-55863, 11-56034

United States Court of Appeals

FOR THE

Ninth Circuit

Laura Siegel Larson,
Plaintiff, Counterclaim-Defendant, Appellant, and Cross-Appellee

v.

Warner Bros. Entertainment Inc. and DC Comics,
Defendants, Counterclaimants, Appellees, and Cross-Appellants

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA
THE HONORABLE OTIS D. WRIGHT, II
CASE NO. CV-04-8400 ODW (RZX)

MOTION FOR EXTENSION OF DUE DATE FOR PRINCIPAL AND RESPONSE BRIEF OF CROSS-APPELLANTS AND APPELLEES WARNER BROS. ENTERTAINMENT INC. AND DC COMICS

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Pursuant to Ninth Circuit Rule 31-2.2(b), cross-appellants and appellees Warner Bros. Entertainment Inc. and DC Comics (collectively, “DC”) request a final, brief, and roughly two-week extension of the due date for their Principal and Response Brief from March 6, 2012 to March 23, 2012. This Court previously granted Ms. Larson’s motion to extend the due date for her Principal Brief by 45 days and DC’s parallel motion to extend the due date for its Principal and Response Brief by 43 days, both of which were unopposed. Appeal No. 11-55863, Docket Nos. 11, 17.

Cross-appellee and appellant Laura Siegel Larson did not respond to our request that she inform us whether or not she opposes DC’s current motion. *See* Decl. of Daniel M. Petrocelli (“Petrocelli Decl.”) Ex. A (filed herewith).

There is good cause for granting this motion given the complexity of the issues in this case, the need for parity in briefing, and the trial schedule of DC’s counsel:

- This case, which involves both an appeal and a cross-appeal, is complicated, presents a number of questions on appeal, and arises from litigation that lasted some seven years in the district court.
- Ms. Larson had 209 days from the time she noticed her appeal on May 27, 2011, to the date she filed her Principal Brief on December 22, 2011.

Under the current schedule, DC has 75 days to file its Principal and

Response Brief, and under the proposed schedule it now seeks in this motion would have 92 days.

- DC's lead counsel, Daniel Petrocelli, is involved in three back-to-back federal trials. He completed a three-week bench trial in the Central District of California on February 10, 2012, *Hollywood Foreign Press Ass'n v. Red Zone Capital Partners II, L.P.*, Case No. CV10-8833 AHM (FMOx); he began a second bench trial in the Central District of California on February 14, 2012, that is expected to end in early March, *Allergan, Inc. v. Merz Pharmaceuticals, LLC*, SACV11-00446 AG (Ex); and he has a third bench trial set to commence on March 26, 2012, in the Southern District of New York, *Gucci Am. Inc. v. Guess? Inc.*, Case No. 09CV4373 (SAS).
Petrocelli Decl. ¶ 3.

DC has exercised diligence, and upon the granting of this motion, will file its initial brief on or before March 23, 2012.

No transcript has been designated, and thus no court reporter is in default with regard to any designated transcript.

Dated: February 17, 2012

O'MELVENY & MYERS LLP

By: /s/ Matthew T. Kline

Matthew T. Kline
Attorneys for Cross-Appellants and
Appellees Warner Bros.
Entertainment Inc. and DC Comics

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rules of Appellate Procedure 27(d)(2) and 32(a), I hereby certify that this Motion For Extension Of Due Date For Principal And Response Brief Of Cross-Appellants And Appellees Warner Bros. Entertainment Inc. And DC Comics is proportionately spaced, has a typeface of 14 points or more, and does not exceed 20 pages.

Dated: February 17, 2012

O'MELVENY & MYERS LLP

By: /s/ Matthew T. Kline

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