

**APPELLATE CASE NO. 11-55863;
CROSS-APPEAL CASE NO. 11-56034**

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

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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as personal representative of the Estate
of Joanne Siegel*

Cross-Appellants and Appellees Warner Bros. Entertainment Inc. and DC Comics’ (“Appellees”) Motion For Extension of Due Date For Principal and Response Brief (Docket No. 19-1), which seeks an extension from March 6, 2012 to March 23, 2012 for Appellees to file their Principal/Response Brief, should be denied. Appellees have failed to demonstrate good cause under Federal Rule of Appellate Procedure 26(b) and have failed to make the requisite showing of diligence and substantial need under Circuit Rule 31-2.2(b).

Rule 26(b) of the Federal Rules of Appellate Procedure states that the court may grant an extension of time for “good cause.” Circuit Rule 31-2.2(b) further mandates that a written motion for an extension of time be “supported by a showing of diligence and substantial need.” There is no “substantial need” for any extension.

Appellees argument that the case is “complex” and “involves both an appeal and a cross-appeal” misses the mark. While Appellant had 209 days to file her principal brief, Appellees had that same period, *plus* 75 days from the filing of Appellant’s opening brief, to prepare their cross-appeal brief. There is no need for additional time based on Appellees’ cross-appeal.

Appellees also aver to Mr. Petrocelli’s trial schedule. In sharp contrast to Appellant’s counsel, a boutique law firm, Appellees are represented by O’Melveny & Myers, LLP, one of the world’s largest firms, have another partner, Matthew

Klein, working extensively on all aspects of this litigation, along with numerous associates also working on the case. Indeed, Mr. Kline, not Mr. Petrocelli, recently represented Appellees at oral argument in the proceeding *In re Pacific Pictures Corporation, et al.*, 9th Cir. Case No. 11-71844, arising out of the closely-related case, *DC Comics v. Pacific Pictures Corp., et al.*, C.D. Cal. Case No. 10-CV-03633 ODW (RZx).

In addition, the new date for Appellant to file her Response/Reply brief under the requested extension would be April 23, 2012. That date would pose a problem. Appellant's counsel is the principal of a small boutique law firm, and has appellate briefs in two other important matters due on April 10 and April 30, 2012, respectively, which would materially conflict with the preparation of Appellant's Response/Reply Brief.

Notwithstanding Appellees' lack of sufficient cause for an extension, Appellant offered to agree not to oppose Appellees' motion, provided that Appellees agree not to oppose a reciprocal 17-day extension for Appellant to file her Response/Reply brief due to the above scheduling congestion. Declaration of Keith Adams, Ex. A. Appellees refused this simple exchange and demanded a *second* extension of 17 days for Appellees to file their final Reply Brief as a condition to their non-opposition. *Id.* Appellees insistence on *two* extensions as a condition to a simple parallel extension for Appellant's Response/Reply is

unreasonable and contradicts Appellees' purported concern for "the need for parity in the briefing." Docket No. 19-1 at 1.

In light of the above, Appellant asks that the Court deny Appellees' motion. In the alternative, if the Court is inclined to grant Appellees' requested extension, Appellant requests that it grant her a parallel extension, and set the following briefing schedule: Appellees' Principal/Response Brief – March 23, 2012; Appellant's Response/Reply Brief – May 10, 2012; and Appellees' Reply Brief – May 24, 2012.

Dated: February 24, 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: February 24, 2011

TOBEROFF & ASSOCIATES, P.C.

/s/ Marc Toberoff

Marc Toberoff

Attorneys for Appellant, Laura Siegel Larson

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served electronically by the Court's ECF system and by first class mail on those parties not registered for ECF pursuant to the rules of this court.

Dated: February 24, 2011

TOBEROFF & ASSOCIATES, P.C.

/s/ Keith G. Adams
Keith G. Adams

Attorneys for Appellant, Laura Siegel Larson