

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division

CASE NO.: 06-21748-CIV-MARTINEZ-BANDSTRA

MARK J. GAINOR and ELYSE GAINOR,

Plaintiffs,

v.

SIDLEY AUSTIN LLP, a Delaware limited liability
Partnership, f/k/a SIDLEY AUSTIN
BROWN & WOOD, f/k/a BROWN & WOOD,
R. J. RUBLE, an individual, ARTHUR
ANDERSEN, LLP, an Illinois limited liability
partnership, MICHAEL S. MARX, an individual,
P. ANTHONY NISSLEY, an individual,
MERRILL LYNCH & CO., INC., a Delaware
corporation, and MARK C. KLOPFENSTEIN,
an individual,

Defendants.

**PLAINTIFFS' AGREED MOTION FOR EXTENSION
OF TIME TO RESPOND TO MOTION TO DISMISS FILED BY
DEFENDANT, ARTHUR ANDERSEN, LLP, AND FOR EXTENSION OF TIME
FOR DEFENDANTS ARTHUR ANDERSEN, LLP, MICHAEL S. MARX AND
P. ANTHONY NISSLEY TO FILE THEIR REPLY MEMORANDA
IN SUPPORT OF THEIR MOTIONS TO DISMISS AND
CERTIFICATE OF COMPLIANCE WITH THE CONFERENCE
OF COUNSEL REQUIRED BY LOCAL RULE 7.1**

Plaintiffs, Mark and Elyse Gainor, by and through their undersigned counsel, hereby move the Court for entry of an Order extending until July 11, 2007, the time within which Plaintiffs must file their response to Defendant Arthur Andersen, LLP's Motion to Dismiss, and for an extension until July 25, 2007 of the time within which Defendants Arthur Andersen, LLP, Michael S. Marx and P. Anthony Nissley may file

their reply memoranda in support of their motions to dismiss. As grounds for this Motion, Plaintiffs state:

1. Andersen filed its Motion to Dismiss on June 13, 2007. Under Local Rule 7.1, Plaintiffs' response is due July 2, 2007.

2. Andersen's motion presents a number of complex issues, including whether or not the Court should consider documents attached to Andersen's motion in determining whether dismissal is appropriate under Federal Rules of Civil Procedure 12(B)(6); whether or not consideration of such materials requires conversion of the motion into a motion for summary judgment under Rule 12(C); the need for discovery as a precondition to a proper presentation of Plaintiffs' position and an informed decision by the Court; and consideration of conflict of laws principles in determining whether Florida or Georgia law applies, in addition to the substantive matters raised in the motion.

3. Lead counsel for Plaintiffs, Richard Wilkes, has been in trial every day since June 18, 2007, and expects to be in trial for the remainder of this week, and has been unable to provide essential input to Plaintiffs' response to Andersen's motion.

4. In an effort to provide sufficient time to properly present the issues to the Court, counsel for Plaintiffs and Defendant Andersen have agreed that Plaintiffs may have until July 11, 2007 to respond to Andersen's motion to dismiss, and that Andersen may have until July 25, 2007 to file its reply memorandum. In addition, during the conference of counsel, counsel for Andersen, who are also counsel for Defendants Marx and Nissley, requested until July 25, 2007 to reply to Plaintiffs' response to Marx' and

Nissley's motions to dismiss (Plaintiffs' response is due on July 11, 2007), and counsel for Plaintiffs agreed to this extension.

WHEREFORE, Plaintiffs, Mark and Elyse Gainor, respectfully request the Court to enter an Order:


1. Allowing Plaintiffs until July 11, 2007 to file a memorandum in opposition to Defendant Arthur Andersen LLP's Motion to Dismiss;
2. Allowing Defendant Arthur Andersen L.L.P until July 25, 2007 to file its reply memorandum; and
3. Allowing Defendants Michael S. Marx and P. Anthony Nissley until July 25, 2007 to file their reply memoranda in support of their motions to dismiss.

**CERTIFICATE OF COMPLIANCE WITH THE CONFERENCE
OF COUNSEL REQUIRED BY LOCAL RULE 7.1**

Pursuant to Local Rule 7.1, the undersigned hereby certifies that he has conferred with Douglas Whitney and Jocelyn D. Francoeur, counsel for Defendants Arthur Andersen, L.L.P., Michael S. Marx and P. Anthony Nissley, and is authorized to make the following statement:

Counsel have conferred with respect to the mechanics of this matter and are in agreement that the following extensions are appropriate for purposes of briefing this motion and the other motions before the Court: (1) Plaintiffs may have until July 11, 2007 to respond to Andersen's motion to dismiss; (2) Andersen may have until July 25, 2007 to reply to Plaintiffs' response to Andersen's motion to dismiss; and (3)

defendants Marx and Nissley may have until July 25, 2007 to reply to Plaintiffs' response to their motions to dismiss.



RICHARD CANDELORA
Florida Bar No. 198056
RICHARD BENJAMIN WILKES
ATTORNEYS AT LAW
600 South Magnolia Avenue
Suite 200
Tampa, Florida 33606
Telephone: (813) 254-6060
Facsimile: (813) 254-6088
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of June, 2007, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ Richard Benjamin Wilkes
Richard Benjamin Wilkes

SERVICE LIST

Katherine W. Ezell, Esq.
KEzell@podhurst.com
Podhurst Orseck, P.A.
25 W. Flagler Street, Suite 800
Miami, FL 33130
Counsel for Sidley Austin

Jonathan E. Altman, Esq.
Jonathan.Altman@mto.com
Aaron May, Esq.
Aaron.May@mto.com
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Counsel for Sidley Austin

Coren Stern, Esq.
CStern@bressler.com
Bennett Falk, Esq.
BFalk@bressler.com
Bressler, Amery & Ross
2801 S.W. 149th Avenue
Miramar, FL 33027
Counsel for Merrill Lynch

Stuart E. Abrams, Esq.
SAbrams@frankelabrams.com
Frankel & Abrams
230 Park Avenue, Suite 3330
New York, NY 10169
Counsel for Ruble

R. J. Ruble
1517 Avalon Square
Glen Cove, NY 11542

Douglas E. Whitney, Esq.
DWhitney@mwe.com
McDermott Will & Emery
227 West Monroe Street
Chicago, IL 60606-5096
**Counsel for Arthur Andersen,
Nissley and Marx**

Michael G. Austin, Esq.
MAustin@mwe.com
McDermott Will & Emery
201 South Biscayne Boulevard
Suite 2200
Miami, FL 33131
**Counsel for Arthur Andersen,
Nissley and Marx**

Richard A. Morgan, Esq.
Richard.Morgan@bipc.com
Buchanan Ingersoll & Rooney, P.C.
Bank of America Tower
100 S.E. 2nd Street, 34th Floor
Miami, FL 33131
Counsel for Klopfenstein

Stephen J. Anderson, Esq.
Anderson@andersondailey.com
Anderson Dailey LLP
2002 Summit Boulevard, Suite 1250
Atlanta, GA 30319
Counsel for Klopfenstein

R.J. Ruble
65 Duck Pond Road
Glen Cove, NY 11542