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October 26, 2005

**VIA ELECTRONIC FILING**  
Magistrate Judge Joan M. Azrack  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**FILED**  
IN CLERKS OFFICE  
U.S. DISTRICT COURT ED. N.Y.  
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P.M. \_\_\_\_\_  
TIME A.M. \_\_\_\_\_

DVF  
SM

Re: Yanouskiy, as Administrator for Stanitsky v. Eldorado Logistics, et al.  
Docket No.: 05-CV-2202 (SJ) (JMA)  
Our File No.: 810-3012

Dear Judge Azrack:

This firm represents defendants in the above wrongful death action. On consent of plaintiff's counsel it is respectfully requested that the briefing schedule<sup>1</sup> for defendants' motion to dismiss for lack of jurisdiction, improper venue, and forum non conveniens, be extended for an additional two (2) week period as follows:

- Defendants' motion papers served by November 11, 2005;
- Plaintiff's opposition papers served by December 16, 2005; and
- Defendants' reply papers served by December 28, 2005.

It is also understood that plaintiff reserves the right to request discovery on the various issues depending on the contents of defendants' moving papers.

This request is made in order for defendants to be able to make a single motion on all three grounds rather than burden the court with multiple motions. Significant progress has been made by Defendants' investigator in Nebraska, but additional time is needed to secure the affidavits from important witnesses regarding our forum non conveniens motion. Specifically, progress has been made with the Nebraska State Patrol legal division to obtain the necessary affidavit from lead investigator Frank Bohac as well as with the Kearney Police Department to obtain investigator Dan Engles' affidavit. Additionally, the investigator is working on gathering the necessary affidavits from the responding fire department chief and related personnel,

<sup>1</sup> Currently, defendants' motion is to be served by October 28, 2005; plaintiff's opposition to be served by December 2, 2005; and defendants reply to be served by December 14, 2005 as per the Endorsed Order, dated October 12, 2005.

October 26, 2005

Page 2 of 2

responding EMS personnel, and the medical examiner who conducted an autopsy on decedent Vitaliy Stanitskyy.

Unfortunately, these efforts are taking longer than anticipated. Accordingly, it is respectfully requested that the Court grant this extension regarding the briefing schedule for defendants' motion to dismiss. One prior two week extension was requested and granted by Your Honor. Thank you for your consideration of this matter. If you have any questions, please contact me at your convenience.

Respectfully submitted,

*s/David Abrams*

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DA/sl

cc:

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ON ALL PARTIES TO THIS ORDER

*App. granted*  
*James M. A. ...*  
*"L. Long"*  
*10/27/05*

ON ALL PARTIES TO THIS ORDER