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December 20, 2004

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ONLY ADMITTED
°CA, †IL, °VA, †NJ & PA. °CTBy Hand DeliveryThe Honorable Thomas P. Griesa
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007-1312Re: *In re Elevator Antitrust Litigation (04-CV-01178-TPG) -*
In re Elevator & Escalator Antitrust Litigation (MDL Docket No. 1644)

Dear Judge Griesa:

This morning I was able to access through my office computer the letter addressed to Your Honor dated December 16, 2004 from Thelan Reed & Priest. Let me crystallize the issues since our adversary has somewhat obscured them.

First, the parties negotiated an agreement embodying a Stipulation and Proposed Order submitted to Your Honor on December 14, 2004, seeking an extension for defendants until January 17, 2005 of the Court's prior Order providing that defendants' respond to the consolidated complaint not later than December 14, 2004. Defendants immediately turned around and now seek an indefinite extension. By Order of September 16, 2004, Your Honor had set deadlines. At defendants' request plaintiffs agreed to an extension. No further extension is necessary.

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Defendants apparently have buyers' regret and hope to secure an indefinite time to respond. They refer to the consolidation by the Panel on Multidistrict Litigation. Your Honor has previously ruled on this issue. Your Honor's Order of August 27, 2004, provided that all related actions transferred to this District are automatically consolidated in the litigation pending in the Southern District of New York and are included within the consolidated complaint. Since the Panel ruled on the question of consolidation of the related cases pending in other Districts, there is nothing left to litigate or for this Court to decide. All counsel in the actions transferred by the Panel have been notified of Your Honor's prior Orders.

Your Honor had scheduled a Hearing for December 13, 2004. It is unnecessary to sign any Order that hamstrings any decision Your Honor may wish to make at that conference.

It should be noted that defendants' time to respond to the complaint has already expired. Absent extension, as agreed, the defendants would be in default.

Second, plaintiffs note that only some of the defendants have appeared by counsel in this Court. All others take the position, apparently, that they may have issues regarding jurisdiction. Defendants have never, however, clarified which of them disputes jurisdiction. No defendant, until it has appeared before this Court, and, has taken a position with respect to jurisdiction, need be concerned about responding to a complaint. If a defendant contends that it has not been served or that this Court lack jurisdiction, then it need not respond to the complaint until that issue is determined.

Respectfully submitted,



Fred Taylor Isquith

FTI/fb/387534

All counsel on the attached service list