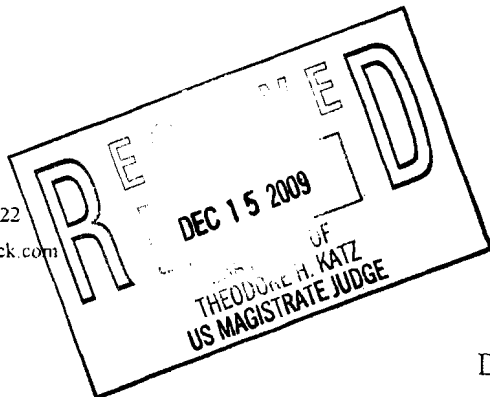


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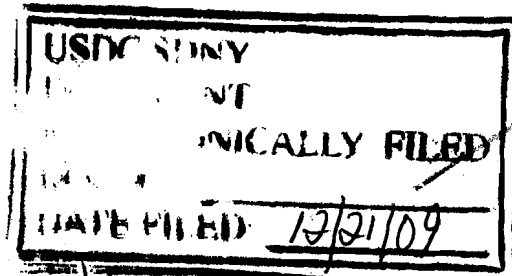


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December 15, 2009

VIA FACSIMILE

Honorable Theodore H. Katz
United States Magistrate Judge
United States District Court for the
Southern District of New York
500 Pearl Street
New York, NY 10007



RE: *Anwar v. Fairfield Greenwich Group*, Master File No. ¹¹⁸09 CV ~~0018~~ ←
Fairfield Sentry Limited v. Fairfield Greenwich Group, et al., No. 09 CV 5650

Dear Judge Katz:

This firm represents Kenneth M. Krysz and Christopher D. Stride in their roles as British Virgin Islands court-appointed liquidators (the "Liquidators") of and for Fairfield Sentry Limited ("Fairfield Sentry"). On behalf of the Liquidators, we write to request an extension, pursuant to Fed. R. Civ. P. 6(b)(1)(A), of the Liquidators' deadline to serve certain defendants in the above-captioned action. We address this letter to Your Honor in accordance with Judge Marrero's September 22, 2009 endorsement of our letter dated September 21, 2009, in which Judge Marrero referred to you, *inter alia*, pretrial proceedings. If, however, the request contained in the present letter is a matter that needs to be addressed to Judge Marrero's attention, we will do so.

As the Court may be aware, Fairfield Sentry commenced the above-captioned action on May 29, 2009 by filing a complaint in the Supreme Court for the State of New York, County of New York. The action was removed to this Court pursuant to a notice of removal filed on June 19, 2009. On November 13, 2009, Your Honor issued a Report and Recommendation recommending the remand of four actions pending as part of the above-referenced consolidated *Anwar* action (the "R&R"), including *Fairfield Sentry Limited v. Fairfield Greenwich Group, et al.*, No. 09 CV 5650 (the "Fairfield Sentry Action"). Objections to the R&R are currently pending, and the matter will be ripe for decision by Judge Marrero after responses are served and filed later this week.

On October 27, 2009, Your Honor granted a 60-day extension of the Liquidators' deadline to serve certain defendants. The current deadline for service is December 16, 2009.¹ Pursuant to Fed. R. Civ. P. 6(b)(1)(A), "[w]hen an act may or must be done within a specified time, the court may, for good cause, extend the time . . . with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires." "Absent

¹ As the deadline for service, December 16, 2009, has not yet passed, the Liquidators' request for an extension of the deadline for completion of service is made pursuant to Fed. R. Civ. P. 6(b)(1)(A).



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bad faith on the part of the movant or undue prejudice to the other parties to suit, discretionary extensions [pursuant to Fed. R. Civ. P. 6(b)(1)(A)] should be liberally granted." *See Nat'l Equipment Rental, Ltd. v. Whitecraft Unlimited, Inc.*, 75 F.R.D. 507, 510 (E.D.N.Y. 1977).

Here, there is good cause for the Court to extend the time for the Liquidators to serve those defendants who have not yet been served with process in the Fairfield Sentry Action, Philip Toub, Corina Noel Piedrahita, Andres Piedrahita, Brian Francouer and Fairfield Greenwich Group.

In the time since the Liquidators' prior request for an extension of the deadline for service, the Liquidators have continued to transition into this pending litigation and have undertaken analysis in connection with the requirements for service of these defendants. However, the requirements for valid service are dependant upon whether the Fairfield Sentry Action is remanded to state court or remains before this Court. The Court has entered an order providing that the consolidated complaint is the operative complaint for all actions within the consolidated *Anwar* action. *See Civil Case Management Plan and Scheduling Order, Anwar, et al. v. Fairfield Greenwich Limited, et al.*, No. 09 CV 0118, March 11, 2009. It is the Liquidators' understanding that certain defendants have been served with the Second Consolidated Amended Complaint and, should the Fairfield Sentry Action remain with this Court, it is the Liquidators' further understanding that valid service has been completed as to these defendants. However, the Liquidators must prepare for the possibility that the Fairfield Sentry Action will be remanded to state court in accordance with Your Honor's R&R, which will require completion of service in the Fairfield Sentry Action.

As such, the Liquidators request that the Court exercise its discretion to grant the Liquidators a 60-day extension of the deadline to serve Philip Toub, Corina Noel Piedrahita, Andres Piedrahita, Brian Francouer and Fairfield Greenwich Group to the extent that these defendants are located in the United States and subject to the time limit for service as stated in Fed. R. Civ. P. 4(m).

We are available to answer any questions that the Court may have.

Respectfully,

David J. Molton
David J. Molton

Granted.

cc: All Counsel (via electronic mail)

12/21/09

SO ORDERED

Theodore H. Katz

**THEODORE H. KATZ
UNITED STATES MAGISTRATE JUDGE**