

LAW OFFICE OF

*Frederick R. Dettmer*340 CORLIES AVENUE
PELHAM, NEW YORK 10803

TELEPHONE: (914) 738-8782

EMAIL: FDettmer@aol.com

FACSIMILE: (914) 738-8784

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VIA FACSIMILE

The Honorable Harold Baer, Jr.
 United States District Judge
 United States Courthouse
 500 Pearl Street, Room 2230
 New York, New York 10007



Re: ISDA v. Socratek, LLC, Docket No. 09 CIV 8033(HB)

Dear Judge Baer:

I write to request permission to file a short additional supplemental memorandum in further support of plaintiff's pending motion for a preliminary injunction and in opposition to defendant's counter motion to dismiss solely in order to address new issues raised by defendant's supplemental memorandum filed on January 4, 2010. A copy of the proposed memorandum is attached.

International Swaps and Derivatives Association, Inc. v. Socratek, L.L.C.

Doc. 25

On December 15, 2009, we requested permission to file a short supplemental memorandum limited to one issue raised at argument of plaintiff's pending preliminary injunction motion; namely, whether the fact that the motion (and the case) raises an issue of first impression has any bearing on determining the element of "likelihood of success on the merits". By endorsement dated December 21, 2009, the Court granted this request for permission to submit a supplemental memorandum limited to this one question, and further directed that defendant may submit a response by January 4, 2010.

Plaintiff's three-page memorandum was filed on December 22, 2009. On January 4, 2010, defendant submitted a five-page post-hearing memorandum which addresses the issue upon which the Court permitted supplemental briefing in one sentence: "Plaintiff's argument is beside the point." Rather than addressing the single issue discussed in plaintiff's supplemental memorandum, defendant's memorandum reargues defendant's contentions and purports to offer new argument and new "facts", none of which defendant has had any opportunity to address. This is inconsistent with the Court's direction permitting very limited additional briefing and is unfair.

For this reason, plaintiff requests permission to file the attached additional supplemental memorandum limited to the new matter raised by defendant's post-hearing memorandum.

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If you have any questions regarding this matter or require any further information,
please do not hesitate to have your Chambers contact me.

Respectfully submitted,

Frederick R. Dettmer
Frederick R. Dettmer

FRD:ab
Enclosure

cc (with enclosure) (via email):
Alan S. Schwartz, Esq.
Stephen C. Leckar, Esq.

This is a handwritten note:
no good deal open...
no more letters + no more briefs w/o permission
my phone from me - I will have separate
subject from chieft
SO ORDERED
Dated: Jan 8 11/10
USDS

Endorsement:

This is a typical no good deed goes unpunished response and Im old enough to not have allowed - no more letters and no more briefs without permission by phone from me- I will separate what from chaff.