

MANDATE

SDNY/WPNY
08-cv-9078
KARAS

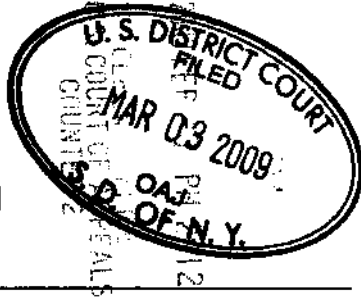
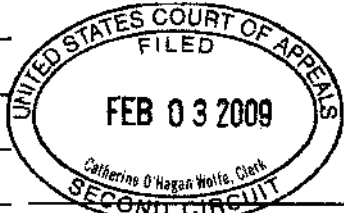
UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
Thurgood Marshall U.S. Courthouse at Foley Square 40 Centre Street, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 08-5618-cv International Business Machines Corporation
Caption [use short title]

Motion for: dismissal of the appeal pursuant to FRAP 42(b) v. Papermaster

Set forth below precise, complete statement of relief sought:
Appellant Mark D. Papermaster respectfully requests that this Court
dismiss the appeal, pursuant to FRAP 42(b), on terms agreed to by
the parties in the accompanying stipulation.



MOVING PARTY: Mark D. Papermaster OPPOSING PARTY: International Business Machines Corporation
 Plaintiff Defendant
 Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Caitlin J. Halligan OPPOSING ATTORNEY [Name]: Evan R. Chesler
[name of attorney, with firm, address, phone number and e-mail]
Weil, Gotshal & Manges LLP Cravath, Swaine & Moore LLP
767 Fifth Avenue Worldwide Plaza
New York, New York 10153 825 Eighth Avenue, New York, NY 10019
(212) 310-8535 (212) 474-1243
caitlin.halligan@weil.com echesler@cravath.com

Court-Judge/Agency appealed from: United States District Court for the Southern District of New York - Honorable Kenneth M. Karas

Please check appropriate boxes:
Has consent of opposing counsel:
A. been sought? Yes No
B. been obtained? Yes No
Is oral argument requested? Yes No
(requests for oral argument will not necessarily be granted)
Has argument date of appeal been set? Yes No
If yes, enter date _____
FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:
Has request for relief been made below? Yes No
Has this relief been previously sought in this Court? Yes No
Requested return date and explanation of emergency: _____

Signature of Moving Attorney: [Signature] Date: February 2, 2009 Has service been effected? Yes No
[Attach proof of service]

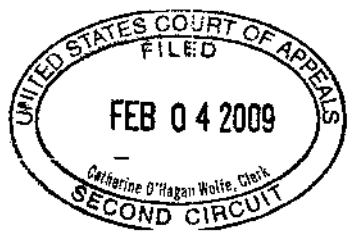
ORDER

IT IS HEREBY ORDERED that the appeal is dismissed with prejudice. Each party shall bear its own costs and attorney's fees associated with the appeal.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk
by Joy Fallick
Joy Fallick, Administrative Attorney

A TRUE COPY
Catherine O'Hagan Wolfe, Clerk
by Margaret Lavin
DEPUTY CLERK

02/04/09
Date



CERTIFIED:

MAR 2 2009

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
THURGOOD MARSHALL U.S. COURT HOUSE
40 FOLEY SQUARE, NEW YORK, N.Y. 10007

Dennis Jacobs
CHIEF JUDGE

Catherine O'Hagan Wolfe
CLERK OF COURT

Date: 3/2/09

DC Docket Number: 08-cv-9078

Docket Number: 08-5618-cv

DC: SDNY (WHITE PLAINS)

Short Title: International Business Machines
Corporation v. Papermaster

DC Judge: Honorable Kenneth Karas

ACKNOWLEDGMENT RECEIPT

To: Appeals Clerk

Kindly endorse the acknowledgment receipt in the line below and return to the Court of Appeals for the Second Circuit.

MANDATE ACKNOWLEDGMENT = Transfer of Jurisdiction

The mandate consists of the items indicated below:

- Clerk Order dated 02/03/2009
- Court Order dated <mm/dd/yy>
- Default Order <mm/dd/yy>
- So-Ordered Stipulation <mm/dd/yy>
- Summary Order dated <mm/dd/yy>
- Opinion and Judgment dated <mm/dd/yy>
- Statement of Costs dated <mm/dd/yy>

CERTIFIED ACKNOWLEDGMENT = For Informational Purposes

- Clerk Order dated <mm/dd/yy>
- Court Order dated <mm/dd/yy>
- So-Ordered Stipulation <mm/dd/yy>

Received by: _____
(Origination Court or Agency)

Date: _____