

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

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MICHAEL J. QUILLING, as Receiver for Sardaukar Holdings, IBC and Bradley C. Stark,	§	
	§	
	§	
Plaintiff,	§	NO. 3:05-CV-1976-BD
	§	
vs.	§	ECF
	§	
JOHN W. STARK, JR. and BARBARA STARK,	§	Referred to U.S. Magistrate Judge
	§	
Defendants.	§	

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**UNOPPOSED MOTION FOR EXTENSION OF TIME TO APPEAL  
MEMORANDUM OPINION AND ORDER GRANTING PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT, DATED FEBRUARY 7, 2007**

TO THE HONORABLE JEFF A. KAPLAN,  
UNITED STATES MAGISTRATE JUDGE:

COME NOW, John W. Stark Jr. and Barbara Stark, the Defendants in the above-entitled civil action, and file this Unopposed Motion for Extension of Time to Appeal Memorandum Opinion and Order Granting Plaintiff's Motion for Summary Judgment, dated February 7, 2007. In support hereof, the Defendants respectfully show the Court as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 754, 1692, and has power to grant the relief requested herein under Fed. R. App. P. 4(a)(5). Venue is proper before this Court because, among other things, the relief requested herein arises from actions occurring before this Court in the underlying action.

### **PROCEDURAL BACKGROUND**

2. On February 7, 2007, this Court entered its Memorandum Opinion and Order (a) granting Plaintiff's Motion for Summary Judgment against the Defendants and partial relief requested therein, and (b) requiring further hearings on additional relief and trial on counterclaims brought by Defendants (the "February 7, 2007 Order").

3. On February 21, 2007, the parties in the above-captioned litigation filed their Joint Status Report [**Docket No. 49**] (the "Report") to report to the Court that the parties have reached an agreement in principal:

Last week the Receiver and Defendants reached an agreement in principle that would settle all of the claims, counterclaims, and defenses at issue between them. The parties are currently working towards a Settlement Agreement and Agreed Judgment to be entered. Given these developments, it appears that trial or mediation will not be necessary in this case.

Report at p.1.

### **REQUEST FOR EXTENSION**

4. Although the receiver in this case (the "Receiver") is working on definitive settlement documentation, the Defendants' appeal deadline for the February 7, 2007 Order ends March 9, 2007.<sup>1</sup> Once the settlement documents are prepared, the parties will need time to review, finalize, and execute same, and then to seek this Court's approval of same. Meanwhile, the Defendants' appeal deadlines are fast approaching and loss of jurisdiction over these matters or other delays from an appeal will delay approval of the parties' resolution. This would (a) delay the receivership estate's ability to collect on the parties' settlement, and (b) needlessly increase the parties' litigation costs.

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<sup>1</sup> The Defendants do not believe the Receiver is an "officer" or "agent" of the United States; however, to the extent he is, the Defendants would have an additional thirty (30) days with which to appeal. See Fed. R. App. P. 4(a)(1)(B) ("When the United States or its officer or agency is a party, the notice of appeal may be filed by any party within 60 days after the judgment or order appealed from is entered.").

5. This Court has authority under Federal Appellate Rule 4(a)(5)(A)(i) to “extend the time to file a notice of appeal if: (i) a party so moves no later than 30 days after the time prescribed by [Federal Appellate Rule] 4(a) expires.” Fed. R. App. P. 4(a)(5)(A)(i). Federal Appellate Rule 4(a) provides generally that parties have thirty (30) days from entry of an order with which to file a notice of appeal. Fed. R. App. P. 4(a)(1)(A).

6. To allow the parties time to finalize their settlement documentation and seek this Court’s approval, the Defendants respectfully request additional time with which to file a notice of appeal on the above-referenced order.

WHEREFORE, PREMISES CONSIDERED, the Defendants respectfully request that this Court (a) grant them an additional thirty (30) days to their deadline to appeal the February 7, 2007 Order, and (b) grant them all other relief to which they be entitled in the interest of justice or equity or otherwise issue and enter the Order attached hereto.

Dated: March 8, 2007.

Respectfully Submitted,

Mark A. Castillo

Stephanie D. Curtis

Texas State Bar No. 05286800

Mark A. Castillo

Texas State Bar No. 24027795

Jason T. Rodriguez

Texas State Bar No. 24042827

THE CURTIS LAW FIRM, PC

901 Main Street, Suite 6515

Dallas, Texas 75202

Telephone: (214) 752-2222

Facsimile: (214) 752-0709

*COUNSEL FOR DEFENDANTS*

*JOHN STARK AND BARBARA STARK*

**CERTIFICATE OF CONFERENCE**

The undersigned certifies that, on March 8, 2007, I discussed the foregoing Motion and relief requested therein with Mr. Brent Rodine, counsel for the Plaintiff, and Mr. Rodine and the Receiver had no objection to the relief requested herein.

Jason T. Rodriguez  
Jason T. Rodriguez

**CERTIFICATE OF SERVICE**

The undersigned certifies that on March 8, 2007 a true and correct copy of the foregoing was served *via* the Court's ECF system and first class mail, postage pre-paid, to counsel for the Receiver at the address below.

Michael J. Quilling  
Brent Rodine  
QUILLING SELANDER CUMMISKEY & LOWNDS, P.C.  
2001 Bryan Street, Suite 1800  
Dallas, TX 75201-4240  
*COUNSEL FOR THE RECEIVER*

Jason T. Rodriguez  
Jason T. Rodriguez