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March 31, 2016

VIA ECF AND FAX- 212-805-6737

Hon. George B. Daniels
United States District Judge
Southern District of New York
500 Pearl Street, Room 1310
New York, NY 10007

**Re: Cargian v. Breitling USA, Inc.
Civil Action No.: 15-cv-01084**

Your Honor:

We represent defendant Breitling USA, Inc. (“Defendant”) in the above-referenced matter. We write to respectfully request an extension of 7 days for Defendant to submit its reply brief and supporting documents in connection with its motion for summary judgment, filed and served on February 29, 2016. The current deadline for Defendant’s reply is April 11, 2016, and Defendant is respectfully requesting an extension to April 18, 2016. This is Defendant’s first request for an extension of time on this deadline, and we have been unable to reach Plaintiff’s counsel to obtain her consent for this request.

Pursuant to the Order of Magistrate Judge Pitman dated December 8, 2015 (Docket No. 30), dispositive motions were to be served and filed no later than February 29, 2016, opposition papers to any dispositive motions were to be served and filed no later than March 28, 2016, and reply papers in further support of any dispositive motion were to be served and filed no later than April 11, 2016. On February 29, 2016, Defendant timely filed its motion for summary judgment and all supporting papers. On March 28, 2016, Plaintiff filed papers in opposition to Defendant’s motion, however all of Plaintiff’s papers were filed all together as one docket entry (and without any identification of any exhibits on the docket) and the Court’s ECF system returned an error message, indicating a deficient docket entry (Docket No. 44). Later that evening on March 28th, I received an email from Plaintiff’s counsel that informed me that she believed Plaintiff’s Memorandum of Law and Plaintiff’s Affidavit with Exhibits had not been attached to her submission to the Court (although it had indeed been attached to her single submission), and counsel attached those documents in her email to me.

The next day, on March 29, 2016, a day after Plaintiff’s deadline to file his response to Defendant’s motion, Plaintiff filed a Second/Amended Memorandum of Law in Opposition to Defendant’s motion for summary judgment (Docket No. 45) **without seeking Court approval** (or

seeking the consent of Defendant) for the late filing and amendment. After the filing, Plaintiff's counsel email me with a "tracked changes" copy of the new memorandum of law, which showed that Plaintiff had made numerous (and some significant) changes to the memorandum of law that had been filed on the original deadline for the opposition. Specifically, Plaintiff changed language, exhibit numbers, added extensive new citations to the record to support his assertions in the brief, and even on one occasion changed some substantive information (percentage of sales goals increases, which is a major issue in the case). Later that day on the 29th, Plaintiff refiled his opposition papers but again, the exhibits attached were not specifically identified on the docket sheet.

At this point, Defendant has received three Memoranda of Law from Plaintiff, and has to (and continues to) waste time sorting through these documents, trying to find Plaintiff's exhibits (which were not marked whatsoever on the docket/filing) and comparing citations from the original brief and the second brief that was filed without permission. As such, we respectfully seek the brief extension of time to file and serve our reply papers.

We thank the Court for its consideration of this request.

Respectfully submitted,

FOX ROTHSCHILD LLP

A handwritten signature in black ink, appearing to read "Zev Singer", is centered on the page. The signature is written in a cursive, flowing style.

Zev Singer

CC: All Attorneys of Record (via ECF)
Janice Goodman, Esq., via email