



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

RICHARD L. BRODSKY  
Assemblyman 92<sup>ND</sup> District  
Westchester County

CHAIRMAN  
Committee on  
Corporations, Authorities  
and Commissions

May 7, 2008

Clerk's Office  
United States Court of Appeals  
for the Second Circuit  
United States Court House  
500 Pearl Street  
New York, New York 10007

Dear Clerks:

Enclosed please the unbound original and four copies for each of Petitioners' Motion for an Extension and Motion for a Stay. Also enclosed is an additional copy of the above stated. Kindly time-stamp the additional copy of each motion and return in the enclosed self-addressed envelope.

Thank you for your assistance in this matter.

Respectfully submitted,

RICHARD L. BRODSKY

CC: Robert Rader, Esq.  
Ellen Durkee Esq.  
Michael Wallace, Esq.

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): 08-1454-AG

Caption [use short title] Brodsky et. al. v. U.S. NRC

Motion for: an Extension

Set forth below precise, complete statement of relief sought: Petitioners seek an extension to respond to

Respondents motion to dismiss.

MOVING PARTY: Brodsky et al. Plaintiff Defendant Appellant/Petitioner Appellee/Respondent

OPPOSING PARTY: U.S. NRC

MOVING ATTORNEY: Richard L. Brodsky, Esq. New York state Assemblyman L.O.B. Room 422 Albany, New York 12248 518-455-5753 richardbrodsky@msn.com

OPPOSING ATTORNEY [Name]: Robert Rader, Esq. Office of General Counsel US Nuclear Regulatory Commission 11555 Rockville Pike Rockville, MD 20852 301-415-1955 robert.rader@nrc.gov

Court-Judge/Agency appealed from: Nuclear Regulatory Commission

Please check appropriate boxes: Has consent of opposing counsel: A. been sought? B. been obtained? oral argument requested? requests for oral argument will not necessarily be granted? Has argument date of appeal been set? Yes, enter date

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL: Has request for relief been made below? Has this relief been previously sought in this Court? Requested return date and explanation of emergency:

Signature of Moving Attorney: [Handwritten Signature] Date: 5/7/08

Has service been effected? Yes No [Attach proof of service]

ORDER

IS HEREBY ORDERED THAT the motion is GRANTED DENIED.

FOR THE COURT: CATHERINE O'HAGAN WOLFE, Clerk of Court

By: [Signature]

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

-----  
RICHARD L. BRODSKY, NEW YORK STATE  
ASSEMBLYMAN, FROM THE 92ND ASSEMBLY  
DISTRICT IN HIS OFFICIAL AND  
INDIVIDUAL CAPACITIES, WESTCHESTER  
CITIZEN'S AWARENESS NETWORK (WESTCAN),  
ROCKLAND COUNTY CONSERVATION  
ASSOCIATION, INC. (RCCA), PUBLIC  
HEALTH AND SUSTAINABLE ENERGY (PHASE),  
AND SIERRA CLUB - ATLANTIC CHAPTER  
(SIERRA CLUB),

NOTICE OF PETITIONERS  
MOTION FOR AN EXTENSION

Docket No. 08-1454-AG

Petitioners,

-against-

U.S. NUCLEAR REGULATORY COMMISSION,

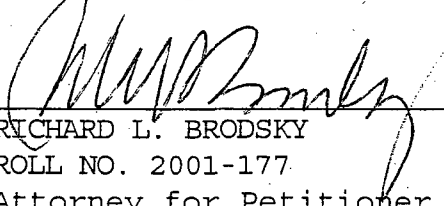
Respondent.

-----  
PLEASE TAKE NOTICE THAT upon the accompanying affidavit of  
Richard L. Brodsky, Esq., sworn to on May 7, 2008, Petitioners  
New York State Assemblyman Richard L. Brodsky, for the 92<sup>nd</sup> District,  
Westchester County of the State of New York, Westchester Citizens  
Awareness Network, Sierra Club Atlantic Chapter, the Rockland County  
Conservation Association, and Public Health and Sustainable Energy  
("Petitioners") will move this Court, at the United States Court  
of Appeals for the Second Circuit, United States Court House,  
500 Pearl St., New York, New York on the 15th day of May, 2008  
at 10 a.m., or as soon thereafter as counsel can be heard for an

order pursuant to Local Rule 27 for a nine (9) day extension to answer Respondent's Motion to Dismiss.

Dated: May 7, 2008  
Albany, New York

Respectfully Submitted,

  
\_\_\_\_\_  
RICHARD L. BRODSKY  
ROLL NO. 2001-177  
Attorney for Petitioner  
Assemblyman, 92<sup>nd</sup> District,  
Westchester County,  
State of New York  
Legislative Office Building  
Room 422  
Albany, New York 12248  
Tel. (518) 455-5753  
Fax (518) 455-5920  
e-mail: [richardbrodsky@msn.com](mailto:richardbrodsky@msn.com)  
[brodskyr@assembly.state.ny.us](mailto:brodskyr@assembly.state.ny.us)

cc: Robert Rader, Esq.  
U.S. Nuclear Regulatory Commission  
Office of General Counsel  
11555 Rockville Pike  
MAIL STOP 0-15D21  
Rockville, Maryland 20852-2738

Ellen Durkee Esq.  
Appellate Section, Environmental  
& Natural Resource Division  
U.S. Department of Justice  
P.O. Box 23795  
Washington, D.C. 20026-3795

Michael Wallace, Esq.  
Paul Barnes, Esq.  
Wise Carter Child & Caraway, P.C.  
P.O. Box 651  
600 Heritage Building  
401 East Capital Street  
Jackson, Mississippi 39201

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

-----  
RICHARD L. BRODSKY, NEW YORK STATE  
ASSEMBLYMAN, FROM THE 92ND ASSEMBLY  
DISTRICT IN HIS OFFICIAL AND  
INDIVIDUAL CAPACITIES, WESTCHESTER  
CITIZEN'S AWARENESS NETWORK (WESTCAN),  
ROCKLAND COUNTY CONSERVATION  
ASSOCIATION, INC. (RCCA), PUBLIC  
HEALTH AND SUSTAINABLE ENERGY (PHASE),  
AND SIERRA CLUB - ATLANTIC CHAPTER  
(SIERRA CLUB),

AFFIDAVIT IN SUPPORT OF  
PETITIONERS MOTION  
FOR AN EXTENSION

Docket No. 08-1454-AG

Petitioners,

-against-

U.S. NUCLEAR REGULATORY COMMISSION,

Respondent.

-----  
1. Petitioners New York State Assemblyman Richard Brodsky,  
Westchester Citizen's Awareness Network (WestCAN), Rockland County  
Conservation Association (RCCA), Promoting Public Health and  
Sustainable Energy (PHASE), Sierra Club - Atlantic Chapter,  
(herein after "Petitioners") respectfully request an additional  
nine (9) days to file its' Response to the Respondents Motion to  
Dismiss.

2. On March 27, 2008 Petitioners filed a Petition for Review  
challenging the decision of the United States Nuclear Regulatory  
Commission ("NRC") dated January 30, 2008 denying Petitioners' request  
for relief with respect to an exemption granted by the NRC to Entergy.

Petitioners maintain the exemption was granted in violation of applicable law and regulations.

3. Respondents filed a Motion to Dismiss dated May 2, 2008. Petitioners have not received a paper copy of the motion to dismiss. Respondents motion to dismiss was incorrectly addressed and contained the wrong zip code. However, Petitioners received an electronic copy of the motion filed from the Second Circuit Court on Tuesday, May 6, 2008.

4. Pursuant to Local Rule 27(3(a), Petitioners' timely response must be served no later than eight days after service of the motion, or by May 19, 2008.

5. Petitioners request in addition to the eight (8) days under Rule 27, an additional nine (9) days to respond to the motion to dismiss. Accordingly, Petitioners' response would be served no later than May 29, 2008.

6. Petitioners request an extension due to the Petitioners' attorney legislative schedule and responsibilities.

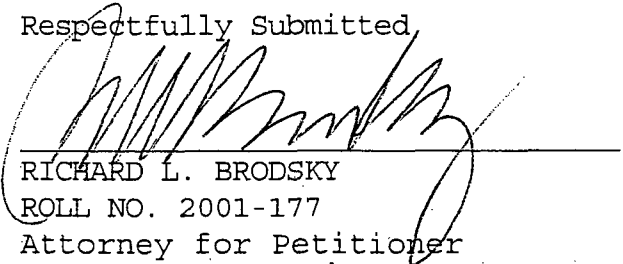
7. Respondents have consented to Petitioners request for an extension.

8. No oral argument is requested.

WHEREFORE, Petitioners for the reasons above stated respectfully request that the Court permit Petitioners an additional nine (9) days to respond to Respondents Motion to Dismiss in this matter.

Dated: May 7, 2008  
Albany, New York

Respectfully Submitted,



---

RICHARD L. BRODSKY  
ROLL NO. 2001-177  
Attorney for Petitioner  
Assemblyman, 92<sup>nd</sup> District,  
Westchester County,  
State of New York  
Legislative Office Building  
Room 422  
Albany, New York 12248  
Tel. (518) 455-5753  
Fax (518) 455-5920  
e-mail: [richardbrodsky@msn.com](mailto:richardbrodsky@msn.com)  
[brodskyr@assembly.state.ny.us](mailto:brodskyr@assembly.state.ny.us)

cc: Robert Rader, Esq.  
U.S. Nuclear Regulatory Commission  
Office of General Counsel  
11555 Rockville Pike  
MAIL STOP 0-15D21  
Rockville, Maryland 20852-2738

Ellen Durkee Esq.  
Appellate Section, Environmental  
& Natural Resource Division  
U.S. Department of Justice  
P.O. Box 23795  
Washington, D.C. 20026-3795

Michael Wallace, Esq.  
Paul Barnes, Esq.  
Wise Carter Child & Caraway, P.C.  
P.O. Box 651  
600 Heritage Building  
401 East Capital Street  
Jackson, Mississippi 39201

STATE OF NEW YORK )  
 )  
COUNTY OF ALBANY )

ss.: **AFFIDAVIT OF SERVICE  
BY FIRST CLASS MAIL**

I, RICHARD PALADINO, being duly sworn, depose and say that deponent is not a party to the action, is over 19 years of age and resides in Albany, New York, County of Albany.

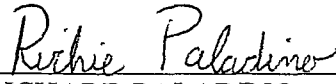
On May 7, 2008, deponent served the within Motion for an Extension and Motion for a Stay upon the following:

Robert Rader, Esq.  
U.S. Nuclear Regulatory Commission  
Office of General Counsel  
11555 Rockville Pike  
Mail Stop O-15D21  
Rockville, Maryland 20555


Ellen Durkee Esq.  
Appellate Section, Environmental  
& Natural Resource Division  
U.S. Department of Justice  
P.O. Box 23795  
Washington, D.C. 20026-3795

Michael Wallace, Esq.  
Paul Barnes, Esq.  
Wise Carter Child & Caraway, P.C.  
P.O. Box 651  
600 Heritage Building  
401 East Capital Street  
Jackson, Mississippi 39201

The address(es) designated below by said attorney(s) for that purpose by depositing a true copy(ies) of Petitioner's Motion for an Extension and Motion for a Stay, enclosed in a postpaid properly addressed wrapper in a Post Office Official Mail Depository, under the exclusive custody and care of the United States Postal Service, within the State of New York.

  
\_\_\_\_\_  
RICHARD PALADINO

Sworn to before me this 7th day of  
May, 2008.

  
\_\_\_\_\_  
Notary Public

SARAH L. WAGNER  
Notary Public, State of New York  
No. 02WA6133401  
Qualified in Albany County  
Commission Expires Sept. 19, 20 09



MOTION INFORMATION STATEMENT

Docket Number(s): 08-1454-AG

Caption [use short title]  
Brodsky et. al. v. U.S. NRC

Motion for: Stay

Set forth below precise, complete statement of relief sought:  
Stay of the scheduling order pending a  
decision of the motion to dismiss

MOVING PARTY: Brodsky et al.  
 Plaintiff  Defendant  
 Appellant/Petitioner  Appellee/Respondent

OPPOSING PARTY: U.S. NRC

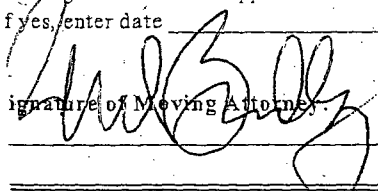
MOVING ATTORNEY: Richard L. Brodsky, Esq.  
[name of attorney, with firm, address, phone number and e-mail]  
New York state Assemblyman  
L.O.B. Room 422  
Albany, New York 12248  
518-455-5753  
richardbrodsky@msn.com

OPPOSING ATTORNEY [Name]: Robert Rader, Esq.  
[name of attorney, with firm, address, phone number and e-mail]  
Office of General Counsel  
US Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852  
301-415-1955  
robert.rader@nrc.gov

Court-Judge/Agency appealed from: Nuclear Regulatory Commission

Please check appropriate boxes:  
Has consent of opposing counsel:  
A. been sought?  Yes  No  
B. been obtained?  Yes  No  
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:   
Date: 5/7/08

Has service been effected?  Yes  No  
[Attach proof of service]

ORDER

IT IS HEREBY ORDERED THAT the motion is GRANTED DENIED.

FOR THE COURT:  
CATHERINE O'HAGAN WOLFE, Clerk of Court

Date: \_\_\_\_\_ By: \_\_\_\_\_

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

---

RICHARD L. BRODSKY, NEW YORK STATE  
ASSEMBLYMAN, FROM THE 92ND ASSEMBLY  
DISTRICT IN HIS OFFICIAL AND  
INDIVIDUAL CAPACITIES, WESTCHESTER  
CITIZEN'S AWARENESS NETWORK (WESTCAN),  
ROCKLAND COUNTY CONSERVATION  
ASSOCIATION, INC. (RCCA), PUBLIC  
HEALTH AND SUSTAINABLE ENERGY (PHASE),  
AND SIERRA CLUB - ATLANTIC CHAPTER  
(SIERRA CLUB),

NOTICE OF PETITIONERS  
MOTION FOR A STAY OF THE  
SCHEDULING ORDER

Docket No. 08-1454-AG

Petitioners,

-against-

U.S. NUCLEAR REGULATORY COMMISSION,

Respondent.

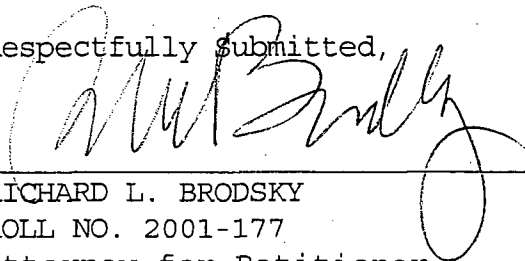
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PLEASE TAKE NOTICE THAT upon the accompanying affidavit of  
Richard L. Brodsky, Esq., sworn to on May 7, 2008, Petitioners  
New York State Assemblyman Richard L. Brodsky, for the 92<sup>nd</sup> District,  
Westchester County of the State of New York, Westchester Citizens  
Awareness Network, Sierra Club Atlantic Chapter, the Rockland County  
Conservation Association, and Public Health and Sustainable Energy  
("Petitioners") will move this Court, at the United States Court  
of Appeals for the Second Circuit, United States Court House,  
500 Pearl St., New York, New York on the 15th day of May, 2008  
at 10 a.m., or as soon thereafter as counsel can be heard for an

order pursuant to stay the April 28, 2008 scheduling order with respect to the submission of briefs until the pending motion to dismiss is decided by this Court.

Dated: May 7, 2008  
Albany, New York

Respectfully submitted,



RICHARD L. BRODSKY  
ROLL NO. 2001-177  
Attorney for Petitioner  
Assemblyman, 92<sup>nd</sup> District,  
Westchester County,  
State of New York  
Legislative Office Building  
Room 422  
Albany, New York 12248  
Tel. (518) 455-5753  
Fax (518) 455-5920  
e-mail: [richardbrodsky@msn.com](mailto:richardbrodsky@msn.com)  
[brodskyr@assembly.state.ny.us](mailto:brodskyr@assembly.state.ny.us)

cc: Robert Rader, Esq.  
U.S. Nuclear Regulatory Commission  
Office of General Counsel  
11555 Rockville Pike  
MAIL STOP 0-15D21  
Rockville, Maryland 20852-2738

Ellen Durkee Esq.  
Appellate Section, Environmental  
& Natural Resource Division  
U.S. Department of Justice  
P.O. Box 23795  
Washington, D.C. 20026-3795

Michael Wallace, Esq.  
Paul Barnes, Esq.  
Wise Carter Child & Caraway, P.C.  
P.O. Box 651  
600 Heritage Building  
401 East Capital Street  
Jackson, Mississippi 39201

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

-----  
RICHARD L. BRODSKY, NEW YORK STATE  
ASSEMBLYMAN, FROM THE 92ND ASSEMBLY  
DISTRICT IN HIS OFFICIAL AND  
INDIVIDUAL CAPACITIES, WESTCHESTER  
CITIZEN'S AWARENESS NETWORK (WESTCAN),  
ROCKLAND COUNTY CONSERVATION  
ASSOCIATION, INC. (RCCA), PUBLIC  
HEALTH AND SUSTAINABLE ENERGY (PHASE),  
AND SIERRA CLUB - ATLANTIC CHAPTER  
(SIERRA CLUB),

AFFIDAVIT IN SUPPORT OF  
PETITIONERS MOTION  
FOR A STAY OF THE  
SCHEDULING ORDER

Petitioners,

Docket No. 08-1454-AG

-against-

U.S. NUCLEAR REGULATORY COMMISSION,

Respondent.

-----  
1. Petitioners New York State Assemblyman Richard Brodsky,  
Westchester Citizen's Awareness Network (WestCAN), Rockland County  
Conservation Association (RCCA), Promoting Public Health and  
Sustainable Energy (PHASE), Sierra Club - Atlantic Chapter,  
(herein after "Petitioners") respectfully request a stay of the  
April 28, 2008 scheduling order pursuant to a Court decision on the  
pending motion to dismiss.

2. On March 27, 2008 Petitioners filed a Petition for Review  
challenging the decision of the United States Nuclear Regulatory  
Commission ("NRC") dated January 30, 2008 denying Petitioners' request  
for relief with respect to an exemption granted by the NRC to Entergy.

Petitioners maintain the exemption was granted in violation of applicable law and regulations.

3. A motion to intervene was submitted by Entergy Nuclear Operations, Inc. on or about April 23, 2008. Petitioners responded on or about April 28, 2008. No decision has been issued on the motion to intervene as of today, May 7, 2008.

4. Respondents filed a Motion to Dismiss dated May 2, 2008. Petitioners have not received a paper copy of the motion to dismiss. Respondents motion to dismiss was incorrectly addressed and contained the wrong zip code. However, Petitioners received an electronic copy of the motion filed from the Second Circuit Court on Tuesday, May 6, 2008.

5. Pursuant to Local Rule 27(3)(a), Petitioners' timely response must be served no later than eight days after service of the motion, or by May 19, 2008.

6. Petitioners are moving for an extension in order to respond to the motion to dismiss, requesting that Petitioners response is due May 29, 2008. Respondents have consented to Petitioners request.

7. Pursuant to the scheduling order issued April 28, 2008, Petitioners brief shall be filed on or before June 16, 2008 and Respondents brief shall be filed on or before July 31, 2008.

8. Petitioners request that the scheduling order with respect to submission of the briefs be stayed pursuant to a Court order on the pending motion to dismiss.

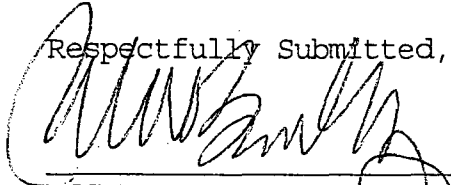
9. Respondents have consented to the stay.

10. No oral argument is requested.

WHEREFORE, Petitioners for the reasons above stated respectfully request a Court Order staying the scheduling order with respect to submission of the briefs until the pending motion to dismiss is decided by the Court, and for any such further relief the Court deems appropriate.

Dated: May 7, 2008  
Albany, New York

Respectfully Submitted,



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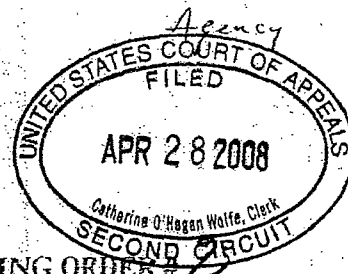
RICHARD L. BRODSKY  
ROLL NO. 2001-177  
Attorney for Petitioner  
Assemblyman, 92<sup>nd</sup> District,  
Westchester County,  
State of New York  
Legislative Office Building  
Room 422  
Albany, New York 12248  
Tel. (518) 455-5753  
Fax (518) 455-5920  
e-mail: [richardbrodsky@msn.com](mailto:richardbrodsky@msn.com)  
[brodskyr@assembly.state.ny.us](mailto:brodskyr@assembly.state.ny.us)

cc: Robert Rader, Esq.  
U.S. Nuclear Regulatory Commission  
Office of General Counsel  
11555 Rockville Pike  
MAIL STOP 0-15D21  
Rockville, Maryland 20852-2738

Ellen Durkee Esq.  
Appellate Section, Environmental  
& Natural Resource Division  
U.S. Department of Justice  
P.O. Box 23795  
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Michael Wallace, Esq.  
Paul Barnes, Esq.  
Wise Carter Child & Caraway, P.C.  
P.O. Box 651  
600 Heritage Building  
401 East Capital Street  
Jackson, Mississippi 39201

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT



BRODSKY v. US NRE

AMENDED SCHEDULING ORDER # 2

Docket No. 08-1454-ag

IT IS HEREBY ORDERED that Petitioner's application for a 30 day extension of time, is GRANTED. Accordingly, the scheduling is modified to the following extent: *The administrative record shall be filed by June 9, 2008, unless this Court orders otherwise.*

IT ORDERED that petitioner's brief and the joint appendix shall be filed on or before June 16, 2008;

IT IS FURTHER ORDERED that the brief of the respondent *and intervenor, if allowed,* shall be filed on or before July 31, 2008;

IT IS FURTHER ORDERED that the ten (10) copies of each brief shall be filed with the Clerk;

IT IS FURTHER ORDERED that the argument of the appeal shall be heard no earlier than the week of Sept. 15, 2008. All counsel should immediately advise the Clerk by letter of the dates thereafter that they are unavailable for oral argument. The time and place of oral argument shall be separately noticed by the Clerk to counsel.

IT IS FURTHER ORDERED that in the event of default by the petitioner in filing the petitioner's brief and joint appendix, at the times directed, or upon default of the petitioner regarding any other provision of this order, the petition for review may be dismissed.

IT IS FURTHER ORDERED that if the respondent fails to file a brief within the time directed by this order, such respondent shall be subject to such sanctions as the court may deem appropriate.

**NO FURTHER EXTENSION OF TIME WILL BE GRANTED TO THE MOVING PARTY ABSENT A SHOWING OF EXTRAORDINARY CIRCUMSTANCES.** Extraordinary circumstances must be established by an affidavit stating with particularity facts that on their face would make it exceedingly difficult for any reasonable attorney to meet the due date, not including time constraints imposed by other legal work.

The date of which a brief is due is NOT altered or tolled by the filing of a motion for an extension of time.

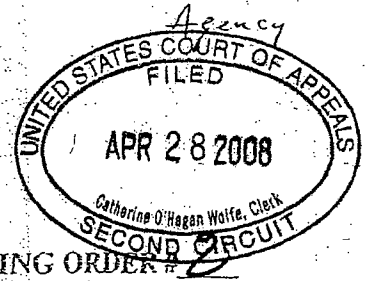
Dated: Apr. 28, 2008

FOR THE COURT  
Catherine O'Hagan Wolfe, Clerk of Court

By Stanley A. Bass  
Stanley A. Bass, Staff Counsel



UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT



BRODSKY v-US N R E

AMENDED SCHEDULING ORDER # 2

Docket No. 08-1454-ag

IT IS HEREBY ORDERED that Petitioner's application for a 30 day extension of time, is GRANTED. Accordingly, the scheduling is modified to the following extent: *The Administrative record shall be filed by June 9, 2008, unless this Court orders otherwise.*

IT ORDERED that petitioner's brief and the joint appendix shall be filed on or before June 16, 2008;

IT IS FURTHER ORDERED that the brief of the respondent *and intervenor, if allowed,* shall be filed on or before

July 31, 2008;

IT IS FURTHER ORDERED that the ten (10) copies of each brief shall be filed with the Clerk;

IT IS FURTHER ORDERED that the argument of the appeal shall be heard no earlier than the week of Sept. 15, 2008. All counsel should immediately advise the Clerk by letter of the dates thereafter that they are unavailable for oral argument. The time and place of oral argument shall be separately noticed by the Clerk to counsel.

IT IS FURTHER ORDERED that in the event of default by the petitioner in filing the petitioner's brief and joint appendix, at the times directed, or upon default of the petitioner regarding any other provision of this order, the petition for review may be dismissed.

IT IS FURTHER ORDERED that if the respondent fails to file a brief within the time directed by this order, such respondent shall be subject to such sanctions as the court may deem appropriate.

**NO FURTHER EXTENSION OF TIME WILL BE GRANTED TO THE MOVING PARTY ABSENT A SHOWING OF EXTRAORDINARY CIRCUMSTANCES.** Extraordinary circumstances must be established by an affidavit stating with particularity facts that on their face would make it exceedingly difficult for any reasonable attorney to meet the due date, not including time constraints imposed by other legal work.

The date of which a brief is due is NOT altered or tolled by the filing of a motion for an extension of time.

Dated: April 28, 2008

FOR THE COURT  
Catherine O'Hagan Wolfe, Clerk of Court  
By Stanley A. Bass  
Stanley A. Bass, Staff Counsel

STATE OF NEW YORK )  
 )  
COUNTY OF ALBANY )

ss.:

**AFFIDAVIT OF SERVICE  
BY FIRST CLASS MAIL**

I, RICHARD PALADINO, being duly sworn, depose and say that deponent is not a party to the action, is over 19 years of age and resides in Albany, New York, County of Albany.

On May 7, 2008, deponent served the within Motion for an Extension and Motion for a Stay upon the following:

Robert Rader, Esq.  
U.S. Nuclear Regulatory Commission  
Office of General Counsel  
11555 Rockville Pike  
Mail Stop O-15D21  
Rockville, Maryland 20555

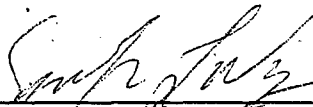
Ellen Durkee Esq.  
Appellate Section, Environmental  
& Natural Resource Division  
U.S. Department of Justice  
P.O. Box 23795  
Washington, D.C. 20026-3795

Michael Wallace, Esq.  
Paul Barnes, Esq.  
Wise Carter Child & Caraway, P.C.  
P.O. Box 651  
600 Heritage Building  
401 East Capital Street  
Jackson, Mississippi 39201

The address(es) designated below by said attorney(s) for that purpose by depositing a true copy(ies) of Petitioners Motion for an Extension and Motion for a Stay, enclosed in a postpaid properly addressed wrapper in a Post Office Official Mail Depository, under the exclusive custody and care of the United States Postal Service, within the State of New York.

  
\_\_\_\_\_  
RICHARD PALADINO

Sworn to before me this 7th day of  
May, 2008.

  
\_\_\_\_\_  
Notary Public

SARAH L. WAGNER  
Notary Public, State of New York  
No. 02WA6133401  
Qualified in Albany County  
Commission Expires Sept. 19, 20 09