

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): 08-4879-cv

Caption [use short title]

Esposito v. State of New York

Motion for: Enlargement of time to file Appellees' Brief to February 9, 2009

Set forth below precise, complete statement of relief sought:

MOVING PARTY: Patrick J. Walsh

Plaintiff  Defendant  
 Appellant/Petitioner  Appellee/Respondent

OPPOSING PARTY: Plaintiff-Appellant

MOVING ATTORNEY:  
[name of attorney, with firm, address, phone number, and e-mail]

Patrick J. Walsh  
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OPPOSING ATTORNEY:  
[name of attorney, with firm, address, phone number, and e-mail]

Luisa Esposito  
571 Roy Street  
West Hempstead, NY 11552  
(516) 741-0320


Court-Judge/Agency appealed from: United States District Court for the Southern District of New York (Scheidlin, J.)

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 \_\_\_\_\_

Signature of Moving Attorney:  
 Date: 1/8/09

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request relief been made below?  Yes  No

Has this relief been previously sought in this Court?  Yes  No

Requested return date and explanation of emergency:

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: \_\_\_\_\_



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

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BARBARA D. UNDERWOOD  
SOLICITOR GENERAL

January 8, 2009

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

Att'n: Deborah Holmes

Re: Esposito v. State of New York, 08-4879-cv

Dear Ms. Holmes:

I am an Assistant Solicitor General in the Office of Andrew M. Cuomo, Attorney General for the State of New York. I represent the State defendants-appellees in the above referenced appeal. The State defendants-appellees' brief is currently due on January 8, 2009. I respectfully request an enlargement until February 9, 2009, to file the State defendants-appellees' brief.

In addition, I make this motion on behalf defendants-appellees Arthur Pollack, Conrad Pollack, Pollack, Pollack, Isaac & DeCicco, LLP, and Brian J. Isaac, and request that they be granted the same enlargement of time to file their responsive brief, also due January 8, 2009. I have spoken with their counsel, Anthony Grande, and he has requested this enlargement so that he may file simultaneously with the State defendants-appellees.

This case is one of five separate appeals arising from the same August 8, 2009 order of the Southern District of New York (Scheidlin, J.). The plaintiff pro se, Luisa C. Esposito, brings this suit against the State of New York, the Office of Court Administration of the Unified Court System, and various State judicial officers and disciplinary committees, as well as a number of private attorneys. The gravamen of her complaint is that an attorney she retained to represent her after a car

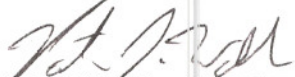
accident sexually assaulted her, and that various State defendants subsequently failed to act on her complaints, in violation of her constitutional rights under 42 U.S.C. § 1983. She alleges that the private attorneys committed breach of contract, breach of fiduciary duty, and other torts.

The district court dismissed this, and similar complaints brought by other parties, in a lengthy, joint order. Among other bases for dismissal, the court found that the Eleventh Amendment and the Rooker-Feldman doctrine bar the claims, that the defendants have judicial or quasi judicial immunity, and that the pleadings are substantively deficient.

Due to current briefing responsibilities, including several briefs which I am preparing for filing in this Court, all due this week, I have been unable to address significant attention to this appeal until now. Consequently, I respectfully request until February 9, 2009, for both the State defendants, and the defendants represented by Mr. Grande, to file these responsive briefs. This is a first request for enlargement. There will be no prejudice to any party should this motion be granted.

Thank you for your attention.

Very truly yours,

  
PATRICK J. WALSH  
Assistant Solicitor  
General

CC: Luisa C. Esposito  
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