

## UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

## MOTION INFORMATION STATEMENT

Docket Number(s): 21-2726

Caption [use short title]

Motion for: Extension of time to file responses

Set forth below precise, complete statement of relief sought:

Extension of time until July 27, 2023, to file responses  
to the Securities and Exchange Commission's court-  
solicited submission.

Kirschner v. JPMorgan Chase Bank, N.A.

MOVING PARTY: Appellant and appellees (joint motion) OPPOSING PARTY: N/A (joint motion)

☐ Plaintiff☐ Defendant☒ Appellant/Petitioner☒ Appellee/Respondent

MOVING ATTORNEY: Jeffrey B. Wall

OPPOSING ATTORNEY:

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

Sullivan &amp; Cromwell LLP

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(202) 956-7500, wallj@sullcrom.com

Court- Judge/ Agency appealed from: Southern District of New York (Gardephe, J.)

## Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☒ Yes☐ No (explain):

Opposing counsel's position on motion:

☒ Unopposed☐ Opposed☐ Don't Know

Does opposing counsel intend to file a response:

☐ Yes☒ No☐ Don't Know

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

Has this 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:

Is oral argument on motion 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:

Oral argument occurred on March 9, 2023

Signature of Moving Attorney:

/s/ Jeffrey B. Wall

Date: 03/30/2023

Service by:

☒ CM/ECF☐ Other [Attach proof of service]

# 21-2726

(Docket Number in District Court: 1:17-cv-06334-PGG-SLC)

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

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MARC S. KIRSCHNER, solely in his capacity as Trustee  
of the Millennium Lender Claim Trust,  
*Plaintiff-Appellant,*

—v.—

JP MORGAN CHASE BANK, N.A., JP MORGAN SECURITIES LLC, CITIBANK, N.A.,  
BANK OF MONTREAL, BMO CAPITAL MARKETS CORP., SUNTRUST ROBINSON  
HUMPHREY, INC., SUNTRUST BANK, CITIGROUP GLOBAL MARKETS INC.,  
*Defendants-Appellees,*  
CITIBANK GLOBAL MARKETS INC.,  
*Defendant.*

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK, HON. PAUL G. GARDEPHE

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**JOINT MOTION FOR AN EXTENSION OF TIME**

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The parties jointly move for an extension of time until July 27, 2023,  
to file their responses to the Securities and Exchange Commission's  
court-solicited submission in this case.

On March 16, 2023, the Court issued an order requesting the  
Commission's views on an issue in this case. ECF No. 170. The Court's  
order directed the Commission to file its brief by April 13, 2023, and

directed the parties to submit their responses within seven days of the Commission's filing. *Id.* On March 27, 2023, the Commission moved for an extension of time until June 27, 2023, to file a response to the Court's order requesting the Commission's views. ECF No. 179. The Court granted the Commission's motion that same day. ECF No. 183.

When the parties consented to the Commission's requested relief, they requested a corresponding extension of thirty days to respond to the Commission's submission, rather than the seven days directed in this Court's original order. The Commission agreed that it would not oppose such a request. The parties respectfully submit that a corresponding extension will allow the parties to prepare and file responses to the Commission's brief that will appropriately assist the Court, and allow Defendants-Appellees to coordinate and file one joint response.

The parties therefore request that the Court extend the parties' response deadline to July 27, 2023. The parties also request that the Court limit the responsive briefs submitted by each side to the number of words in the SEC's brief.

Dated: March 30, 2023

Respectfully submitted,

/s/ Jeffrey B. Wall

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*Counsel to Plaintiff-Appellant Marc S.  
Kirschner, as Trustee of the Millennium  
Lender Claim Trust*

## CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 245 words.

I further certify that this motion complies with the requirements of Rules 27(d) and 32(a) because it has been prepared in 14-point font in a proportionally spaced typeface using Microsoft Word 2016.

Dated: March 30, 2023

/s/ Jeffrey B. Wall

Jeffrey B. Wall

*Counsel to Defendants-Appellees  
JPMorgan Chase Bank, N.A. and J.P.  
Morgan Securities LLC*

## CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2023, I caused the foregoing motion to be filed with the Clerk of the Court for the U.S. Court of Appeals for the Second Circuit by using the appellate CM/ECF system.

I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: March 30, 2023

/s/ Jeffrey B. Wall  
Jeffrey B. Wall

*Counsel to Defendants-Appellees  
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Morgan Securities LLC*