

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): 13-3857 Caption [use short title]

Motion for: Emergency Motion To Stay Pending Appeal State of Texas, et al., v. Penguin Group (USA) Inc., et al.

Set forth below precise, complete statement of relief sought:

Apple moves for an emergency stay of class notification and the damages trial that the district court has scheduled for July 2014. Apple also requests that the Court grant an administrative stay while it considers Apple's motion.

MOVING PARTY: Apple Inc. OPPOSING PARTY: The State of Texas, et al.

Plaintiff Defendant Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Theodore J. Boutrous, Jr. OPPOSING ATTORNEY: Eric Lipman

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

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Court-Judge/Agency appealed from: United States District Court for the Southern District of New York-The Hon. Denise L. Cote

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 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: Apple requests an immediate administrative stay (before 6:00 p.m. on April 25, 2014). Plaintiffs have represented that they intend to begin mailing notices to class members on April 28, 2014, and Apple will suffer irreparable harm unless those notices are stayed pending Apple's appeal.

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:

Signature of Moving Attorney: /s/ Theodore J. Boutrous, Jr. Date: 4/23/14 Service by: CM/ECF Other [Attach proof of service]