

No. 07-1999

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UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

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THE STATE OF WISCONSIN,

*Plaintiff-Appellee,*

v.

AMGEN INC., et al.,

*Defendants,*

DEY, INC.,

*Defendant-Appellant.*

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**DEFENDANT-APPELLANT DEY, INC.'S MOTION TO EXTEND  
TIME TO FILE OPPOSITION TO PLAINTIFF-APPELLEE'S  
MOTION FOR SANCTIONS AND MOTION TO STRIKE**

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Pursuant to Federal Rule of Appellate Procedure 26 and Seventh Circuit Rule 26, Defendant-Appellant Dey, Inc. ("Dey") requests that the Court extend its time to respond to Plaintiff-Appellee's Motion For Sanctions and Plaintiff-Appellee's Motion To Strike Substantive Jurisdiction Portions Of Dey's Brief Regarding Which The District Court Made No Ruling (collectively, the "Motions") to October 9, 2007.

On September 17, 2007, Plaintiff-Appellee State of Wisconsin ("Plaintiff") filed a brief in opposition to Dey's Appeal ("Opposition Brief"), along with a motion to strike a portion of Dey's Appeal Brief and a motion for sanctions against Dey for filing this appeal. Dey's deadline to respond to Plaintiff's Motions is October 1, 2007, but, pursuant to the Court's July 26, 2007 Order, Dey's reply brief in further support of its appeal ("Reply Brief") is due October 9, 2007.

Plaintiff's Motions arise from and concern Dey's Appeal. Indeed, Plaintiff repeats and refers to the arguments in the Motions in its Opposition Brief. Dey intends to respond to the arguments raised in the Motions and Opposition Brief in its Reply Brief. In the interests of efficiency and economy, Dey requests that the Court extend Dey's time to respond to Plaintiff's Motions to the same due date as the Reply Brief, which would allow Dey to respond to the same arguments at the same time.

Pursuant to Circuit Rule 26(3), Plaintiff was provided with a copy of this motion and does not object to the extension.

### **CONCLUSION**

For the foregoing reasons, Dey respectfully requests that the Court extend Dey's time to respond to Plaintiff's Motion For Sanctions and Motion To Strike to October 9, 2007.

Dated: September 24, 2007

Respectfully Submitted,

KELLEY DRYE & WARREN LLP

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THE STATE OF WISCONSIN,

*Plaintiff-Appellee,*

v.

AMGEN INC., et al.,

*Defendants,*

DEY, INC.,

*Defendant-Appellant.*

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**AFFIDAVIT OF JAMES M. REILAND IN SUPPORT OF  
DEFENDANT-APPELLANT DEY, INC.'S MOTION TO EXTEND  
TIME TO FILE OPPOSITION TO PLAINTIFF-APPELLEE'S  
MOTION FOR SANCTIONS AND MOTION TO STRIKE**

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STATE OF ILLINOIS        )  
                                  ) ss.:  
COUNTY OF COOK        )

**JAMES M. REILAND**, being duly sworn, deposes and states:

1. I am associated with the law firm of Kelley Drye & Warren LLP, national counsel for Defendant Dey, Inc. ("Dey").

2. I submit this Affidavit on behalf of Dey and in support of Dey's Motion To Extend Time To File Opposition To Plaintiff-Appellee's Motion For Sanctions And Motion To Strike.

3. I make this Affidavit based upon my personal knowledge of the facts and circumstances set forth herein. The source of my knowledge is my representation of Dey in this action, along with my review of the files of this firm regarding this matter.

4. On September 17, 2007, Plaintiff-Appellee State of Wisconsin (“Plaintiff”) filed a brief in opposition to Dey’s Appeal (“Opposition Brief”), along with a motion to strike a portion of Dey’s Appeal Brief and a motion for sanctions against Dey for filing this appeal (collectively, the “Motions”).

5. Plaintiff’s Motions were served electronically on September 17, 2007, via LexisNexis File & Serve, and therefore, pursuant to Rules 27(a)(3)(A), 26(a), and 26(c) of the Federal Rules of Appellate Procedure, Dey’s opposition brief to the Motions is due on October 1, 2007.

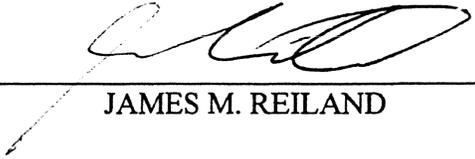
6. Pursuant to the Court’s July 26, 2007 Order, Dey’s reply brief in further support of its appeal (“Reply Brief”) is due October 9, 2007.

7. The issues and arguments raised in the Motions overlap with the Opposition Brief and are referred to in the Opposition Brief.

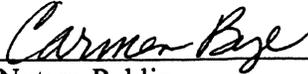
8. Dey intends to respond to the arguments raised in the Motions and Opposition Brief in its Reply Brief. In the interests of efficiency and economy, Dey requests that the Court extend Dey’s time to respond to Plaintiff’s Motions to the same due date as the Reply Brief, which would allow Dey to respond to the same arguments at the same time.

9. Plaintiff was provided with a copy of this motion and does not object to the extension.

10. Dey has not previously made a motion for an extension in this litigation in connection with this appeal.

  
\_\_\_\_\_  
JAMES M. REILAND

Sworn to and subscribed before me  
this 24th day of September, 2007.

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



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CERTIFICATE OF SERVICE

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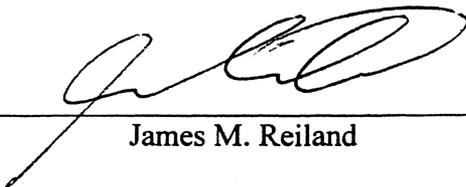
I hereby certify that I caused a true and correct copy of the DEFENDANT-APPELLANT DEY, INC.'S MOTION TO EXTEND TIME TO FILE OPPOSITION TO PLAINTIFF-APPELLEE'S MOTION FOR SANCTIONS AND MOTION TO STRIKE and AFFIDAVIT OF JAMES M. REILAND IN SUPPORT OF DEFENDANT-APPELLANT DEY, INC.'S MOTION TO EXTEND TIME TO FILE OPPOSITION TO PLAINTIFF-APPELLEE'S MOTION FOR SANCTIONS AND MOTION TO STRIKE to be served as follows:

(a) by Federal Express – Overnight Delivery upon:

Betty J. Eberle, Esq.  
Miner, Barnhill & Galland, P.C.  
44 East Mifflin Street, Suite 803  
Madison, Wisconsin 53703  
*Counsel for Plaintiff-Appellee; and*

(b) on all counsel of record in the underlying action, by transmission to LexisNexis File & Serve, pursuant to the Order of the Circuit Court of Dane County, Branch 7, Case Number 04-CV-1709, dated December 20, 2005.

Dated: New York, New York  
September 24, 2007



James M. Reiland