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NO ORAL ARGUMENT  
REQUESTED

Anthony J. Pasquariello, Esq. (AP 0191)  
Counsel to Plaintiff Merrill Lynch, Pierce, Fenner & Smith Inc. and  
Counterclaim Defendant Merrill Lynch Bank USA

MERRILL LYNCH, PIERCE, FENNER & SMITH INC.,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: MONMOUTH COUNTY
	:	
Plaintiff,	:	Docket No. MON-L-2530-03
	:	
-vs-	:	<i>Civil Action</i>
	:	
JOSEPH CONTE, PATRICIA ANN CONTE, ANN MARIE CONTE, and MONMOUTH CONSUMER INDUSTRIES, INC.,	:	CERTIFICATION OF ANTHONY J. PASQUARIELLO, ESQ. IN SUPPORT OF MOTION: (1) TO AMEND THE AMENDED COMPLAINT TO INCLUDE ADDITIONAL DEFENDANT TO ALLEGE SUCCESSOR LIABILITY; AND (2) TO EXTEND DISCOVERY DEADLINE
Defendants.	:	(Return Date: April 16, 2004, at 9:00 a.m.)
PATRICIA ANN CONTE,	:	
Defendant/Counterclaim Plaintiff,	:	
	:	
-vs-	:	
	:	
MERRILL LYNCH BANK, USA,	:	
	:	
Plaintiff/Counterclaim Defendant.	:	

I, Anthony J. Pasquariello, of full age, hereby certify and state as follows:

1. I am an attorney-at-law licensed to practice in the State of New Jersey and am the principal member of Anthony J. Pasquariello Associates, P.C., counsel to Plaintiff Merrill Lynch, Pierce, Fenner & Smith Inc. ("MLPFS") and Counterclaim Defendant Merrill Lynch Bank, USA ("ML Bank") (MLPFS and ML Bank shall be collectively referred to herein as "Merrill Lynch"). As such, I am fully familiar with the facts set forth herein and am authorized to make this Certification in support of

Merrill Lynch's Motion: (1) to Amend the Amended Complaint to include an additional Defendant to allege successor liability; and (2) to extend the discovery deadline as to the additional Defendant.

Request To Amend The Amended Complaint To Include An Additional  
Defendant To Allege Successor Liability

2. Merrill Lynch seeks to amend the Amended Complaint to include an additional Defendant, as to which Merrill Lynch will assert successor liability, for the following reasons which were only recently discovered:

- a. At the deposition taken of Defendant Ann Marie Conte (Menges) by Merrill Lynch on March 1, 2004, Ms. Conte, as President of Defendant Monmouth Consumer Industries, Inc. ("MCI"), testified that MCI sold substantially all of its assets to either Abe Greenberg (sic?) or Gempack (sic?), without definitively identifying the buyer;
- b. At the deposition taken of Defendant Joseph Conte by Merrill Lynch on March 1, 2004, Mr. Conte testified that Abe Greenberg (sic?) was President of MCI at some point.

3. Here, the claim asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth in the original pleading. Therefore, the within requested amendment relates back to the date of the original pleading. A true and correct copy of the Amended Complaint to be filed in this matter is annexed hereto as Exhibit "A."

4. The caption will be amended to read as follows:

MERRILL LYNCH, PIERCE, FENNER & SMITH INC.

v.

JOSEPH CONTE, PATRICIA ANN CONTE, ANN MARIE  
CONTE, and MONMOUTH CONSUMER INDUSTRIES, INC.  
and \_\_\_\_\_

-----  
PATRICIA ANN CONTE

v.

MERRILL LYNCH BANK, USA

5. No Motion seeking this or similar relief was previously filed with this Court, except that the original Defendant was changed from Merrill Lynch Bank, USA to Merrill Lynch, Pierce, Fenner & Smith Inc.

Request To Extend Discovery Deadline As To The Additional Defendant

6. Prior to filing the within Motion seeking extension of the discovery deadline per the Best Practices Rules, the undersigned counsel to Merrill Lynch requested the consent of my adversary, George W.C. McCarter, Esq., counsel to Defendants Joseph Conte, Ann Marie Conte and Monmouth Consumer Industries, Inc. and Defendant/Counterclaim Plaintiff Patricia Ann Conte (the "Defendants")<sup>1</sup>.

7. The discovery deadline for the above-referenced matter expires on April 8, 2004.

<sup>1</sup> It is either necessary or practical to require the adversary's consent to extension of a discovery deadline under the facts presented because discovery is being requested solely to obtain information from newly added Defendant(s), not other Defendant(s) unless otherwise requested.