

**SUMMARY STATEMENT ON APPLICATION FOR
EXPEDITED SERVICE AND/OR INTERIM RELIEF
(SUBMITTED BY MOVING PARTY)**

Date April 16, 2013

Index/Indict # 650197/2012 (Consolidated with 652861/2012)

Title of Matter Application of Macy's, Inc. and Macy's Merchandising Group, Inc. (collectively "Macy's") For a Temporary Restraining Order and Preliminary Injunction

Appeal by Petitioners from ORDER judgment decree of SUPREME Surrogate's Family County New York Court entered on April 15, 2013

Name of Judge Jeffrey K. Oing Notice of Appeal filed on April 15, 2013

If from administrative determination, state agency _____

Nature of Action or proceeding Application for Temporary Restraining Order and Preliminary Injunction

Provisions of ORDER judgment decree appealed from Supreme Court's order denying Plaintiffs' motion for preliminary injunction against Defendant J.C. Penney Corporation, Inc. ("JCP") and for an expansion of the Supreme Court's July 30, 2012 preliminary injunction against Martha Stewart Living Omnimedia, Inc. ("MSLO").

This application by APPELLANT respondent is for Macy's respectfully requests that this Court, based upon its inherent powers and/or CPLR 5518, preserve the status quo by today entering a temporary restraining order restraining and enjoining MSLO and JCP and their officers, agents, servants and employees, and all other individual and financial or other institutions acting under them, with them, pursuant to their direction, or on their behalf, from (1) selling, or allowing anyone but Macy's to sell, products designed by MSLO in the "Exclusive Product Categories" under the April 3, 2006 License and Promotion Agreement between MSLO and Macy's, and (2) advertising those products.

If applying for a stay, state reason why requested _____

Has any undertaking been posted No If "yes", state amount and type _____

Has application been made to court below for this relief No If yes, state Disposition _____

Has there been any prior application herein in this court No If "yes", state dates and nature _____

Has adversary been advised of this application Yes Does he/she consent No

Attorney for Movant

Attorney for Opposition

Name Jones Day

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Appearing by Theodore M. Grossman

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Louis A. Chaiten (pro hac vice)
Michael A. Platt
Kristin S.M. Morrison (pro hac vice)

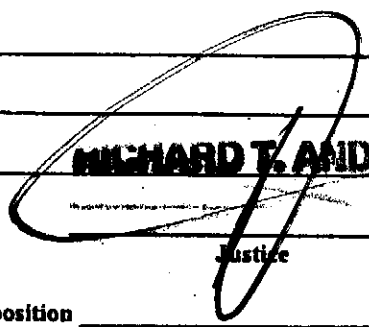
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The Honorable E. Leo Milonas
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(Do not write below this line)

DISPOSITION

Application Denied, except insofar as the following clarifies the April 12, 2013 order of Justice Oing. Pending an expedited determination of the motion by a full bench of this Court, J.C. Penney may continue to sell the "unbranded goods" in the Exclusive Product Categories, provided they do not promote, advertise, display or associate, directly or indirectly, said goods with the name Martha Stewart in any way or fashion.


RICHARD T. ANDRIAS
J.S.C.
Justice

4/18/13
Date

Motion Date _____ Opposition _____ Reply _____

EXPEDITE _____ PHONE ATTORNEYS _____ DECISION BY _____

ALL PAPERS TO BE SERVED PERSONALLY.
EUA
Court Attorney