

CONFIDENTIAL

Attorney's Docket No. 16604.01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

|                            |   |                        |
|----------------------------|---|------------------------|
| RE/MAX INTERNATIONAL, INC. | ) |                        |
|                            | ) |                        |
| Opposer                    | ) |                        |
|                            | ) |                        |
| v.                         | ) | Opposition No. 118,430 |
|                            | ) |                        |
| STEPHEN H. CAREY           | ) |                        |
|                            | ) |                        |
| Applicant                  | ) |                        |

**CONSENT MOTION FOR EXTENSION OF DISCOVERY AND TESTIMONY PERIODS**

COMES NOW Applicant STEPHEN H. CAREY, by counsel, and with the consent of Opposer's attorney, hereby moves that all proceedings in the above captioned opposition proceeding be extended for a period of two (2) months, as follows:

|  |                    |
|--|--------------------|
| THE PERIOD FOR DISCOVERY TO CLOSE  | April 27, 2003     |
| Testimony period for party in position of plaintiff to close (opening thirty days prior thereto) | July 27, 2003      |
| Testimony period for party in position of defendant to close (opening thirty days prior thereto) | September 27, 2003 |
| Rebuttal testimony period to close (opening fifteen days prior thereto)                          | November 10, 2003. |

This present request is made in order to allow both counsel time to complete discovery, is made in good faith, and is not made for purposes of delay. Specifically, this present request results most directly from the following chain of events:

1. On November 27, 2002 the TTAB issued an order approving February 27, 2003 as the discovery close date (noting that it would look with disfavor on future extension motions).

2. Last evening, February 10, Applicant STEPHEN H. CAREY slipped and fell on a patch of ice and injured his back, as noted in the two pages copies herewith. He was scheduled to give a deposition in this opposition proceeding on Thursday, February 13, but will be unable to do so without great difficulty as his back injuries make it painful for him to sit up or move about. He does not know how long such injuries will last. Counsel for both parties have agreed to reschedule his deposition for a date late in March.

3. Meanwhile, on January 14 and 15, 2003 Applicant's counsel was present in the offices of Opposer's counsel for a production of documents in this opposition proceeding, and was scheduled to take Opposer's deposition this coming February 21. This latter date is being rescheduled as well.

4. The parties' respective counsel anticipate that the extension presently being requested in this CONSENT MOTION FOR EXTENSION OF DISCOVERY AND TESTIMONY PERIODS will be the last one needed in this opposition proceeding.

IN VIEW OF all of the above, Applicant makes the request herein that all proceedings in the above captioned opposition proceeding be extended for a period of two (2) months, as above set forth.

Pursuant to Trademark Rule 2.121(d) this request is being submitted in triplicate.

Respectfully requested,

Date: February 11, 2003.

Walter Kubitz  
Walter Kubitz, Esq.  
LITMAN LAW OFFICES, LTD.  
P.O. Box 15035  
Crystal City Station  
Arlington, VA 22215-0035  
(703) 486-1000  
Counsel for Applicant  
STEPHEN H. CAREY

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February, 2003, this office mailed a true and accurate copy of the foregoing CONSENT MOTION FOR EXTENSION OF DISCOVERY AND TESTIMONY PERIODS to John R. Posthumus, Esq., Nancy Dempsey, Esq., LEBOEUF, LAMB, GREENE & MACRAE LLP, 633 17th Street, Suite 2000, Denver, Colorado 80202, counsel for Opposer RE/MAX INTERNATIONAL, INC.

Walter Kubitz  
Walter Kubitz, Esq.)

**REGUARD®**

P.O. Box 7188  
Arlington, VA 22207

**CONFIDENTIAL CLIENT COMMUNICATION**

February 11, 2003

**Walter Kubitz, Esq.**  
**Litman Law Offices, Ltd.**  
**P.O. Box 15035**  
**Crystal City Station**  
**Arlington, Va. 22215-0035**

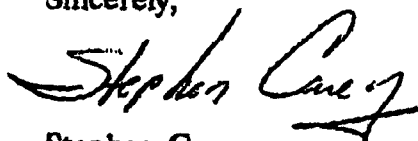
**Dear Mr. Kubitz:**

Please notify RE/MAX's attorney that they will have to reschedule the deposition dated February 13, 2003.

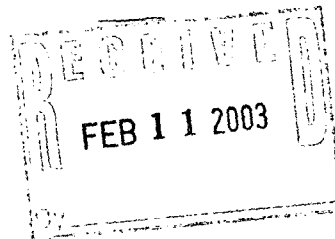
Last night at around 6 p.m., I slipped on ice and fell down a set of porch stairs. I hit my back hard several times as I bounced down the stairs.

As the attached document shows, I have suffered severe back trauma from this fall down the stairs last night. This has immobilized me for the near future with severe and constant pain. I am unable to move about without pain due to my lower back injuries. Unfortunately, the doctor was unable to let me know how long this will last.

Sincerely,



Stephen Carey



**VIRGINIA HOSPITAL CENTER--ARLINGTON  
EMERGENCY DEPARTMENT  
Arlington, VA 22205  
703-558-6167**

**Date:** Monday, February 10, 2003

**Patient:** Stephen Carey

**Doctor:** Kevin Campbell M.D.

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**The following instruction(s) should be read carefully:**

**BACK TRAUMA:**

Back pain is very common after accidents of different kinds. X-rays do not show any fractures in your back. Your back pain may be from stretched or torn muscles or ligaments, or from a contusion (bruise) to your back.

The first treatment of low back pain is rest to remove the strain on muscles and ligaments. Any comfortable position is all right. Use a pillow under your knees when you lie on your back. Sleep on a firm mattress.

Avoid any bending or lifting until your symptoms are completely better. When you are recovered be sure to lift properly by bending your knees (not your back) and using your leg muscles to help.

Anti-inflammatory and analgesic drugs are often prescribed. Skeletal muscle relaxants may be helpful also.

Use ice or heat to your back several times daily for 30-40 minutes each time. Ice is probably better for acute injuries, but use whichever gives you greater comfort.

**NOTIFY YOUR DOCTOR** or return to the Emergency Department in case of the following:

- Back pain is worsening or is not improved within 4-5 days.
- Abdominal pain or change in the location of pain.
- Any numbness, weakness, or increased pain in your legs.
- Difficulty with urination or bowel movements.

**The following prescription(s) have been given:**

**Name:** Percocet : Percocet 5.0/325

**Disp:** #25

**Sig:** 1-2 po q 4-6 hrs pm pain

**Refills:** 0 Voluntary Formulary Permitted

**The following note(s) should be read carefully:**