

**In the United States Court of Appeals
for the Third Circuit**

Nos. 08-2784, 08-2785, 08-2798, 08-2799, 08-2818, 08-2819, 08-2831 & 08-2881

SHAWN SULLIVAN; ARRIGOTTI FINE JEWELRY; JAMES
WALNUM, on behalf of themselves and all others similarly situated,

v.

DB INVESTMENTS, INC.; DE BEERS S.A., et al.

PLAINTIFFS-APPELLEES' MOTION FOR LEAVE TO FILE EXCERPTS
OF RECORD THAT ARGUING COUNSEL REFERRED TO AT THE *EN*
BANC ARGUMENT ON FEBRUARY 23, 2011

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On Behalf of all Plaintiffs-Appellees

(Additional counsel listed on signature page.)

**PLAINTIFFS-APPELLEES' MOTION FOR LEAVE TO FILE
EXCERPTS OF RECORD THAT ARGUING COUNSEL REFERRED
TO AT THE *EN BANC* ARGUMENT ON FEBRUARY 23, 2011**

Plaintiffs-Appellees hereby move for an order granting them leave to file the attached excerpts from the record on appeal that Plaintiffs-Appellees' arguing counsel referred to during the course of the *en banc* hearing on February 23, 2011.

In support of this motion, counsel avers:

1. The Court heard *en banc* argument in these appeals on February 23, 2011.

2. Plaintiffs-Appellees' arguing counsel, Samuel Issacharoff, prepared the attached "Handouts for Plaintiffs' En Banc Argument," consisting of four documents (or portions thereof) in the record, that he referred to during the course of the argument and which he intended to hand up to members of the *en banc* panel at the beginning of his presentation. He was advised by the Court however that it could not accept the handouts without consent from Appellants' counsel, Howard Bashman.

3. Mr. Bashman, however, refused to consent and the Court advised Plaintiffs-Appellees to make a motion for leave to file the attached "Handouts" document. At the Court's request, counsel for Plaintiffs-

Appellees provided to the clerk at the hearing sufficient hard copies of the “Handouts” document for distribution to members of the *en banc* panel.

WHEREFORE, Plaintiffs-Appellees respectfully request that the Court enter an order granting the Plaintiffs-Appellees leave to file the attached “Handouts for Plaintiffs’ En Banc Argument,” that consists of excerpts from the record on appeal that Mr. Issacharoff referred to during the course of the *en banc* hearing on February 23, 2011

Respectfully submitted,

/s/ John A. Maher

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CERTIFICATE OF SERVICE

I hereby certify that all counsel registered with the Third Circuit's CM/ECF system were served with this Motion electronically by the Court's electronic case filing system.

Dated: February 24, 2011

/s/ John A. Maher
John A. Maher