

LAW OFFICE OF  
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February 10, 2006

*Via Federal Express*

Roseann B. MacKechnie  
Clerk of the Court  
Court of Appeals, Second Circuit  
Thurgood Marshall U.S. Court House  
40 Foley Square Room 1803  
New York, NY 10007

Re: Civ. No 05-0609-cv, LoPresti v. Citigroup, Inc.; from the United States District Court for the Eastern District of New York

Dear Ms. MacKechnie:

Enclosed for filing in the above referenced matter is the original and four copies of my affidavit in support of Appellant's motion for leave to serve a five page supplemental appendix in this appeal.

Yesterday the Court brought to my attention the fact that my affidavit was required on this motion.

Please attach this affidavit to each copy of the motions that you received on February 8, 2006.

Please file-mark the extra copy and return it to me in the enclosed self-addressed Fed Ex envelope. Two copies of the enclosed affidavit are being provided to all counsel of record by Federal Express Priority Overnight Delivery.

Thank you for your assistance in this matter.

Sincerely,



Henry M. Grubel  
Attorney for Appellant

I, Henry M. Grubel attorney for the appellant herein, respectfully submits this affidavit in support of appellant's motion for leave to serve the five page supplemental appendix that was annexed to appellant's reply brief as to the Citigroup and Lutheran Medical Center appellees.

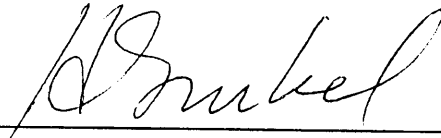
I first received the Lutheran Medical Center § 403(b) Summary Plan Description on or about October 25, 2004. The Summary Plan Description was received by LoPresti under cover of a letter dated October 20, 2004 from Lutheran Medical Center pursuant to their agreement with the United States Department of Labor to supply LoPresti with a copy of said Summary Plan Description.

The complete Summary Plan Description has a three page table of contents and seventeen pages of materials. Appellant has requested the court to consider the subject § 403(b) retirement plan that became effective on October 1, 2001. As seen from the submitted papers only certain employees of Lutheran Medical Center are eligible to participate in said plan.

It is respectfully requested that the court grant appellant leave to serve this five page supplemental appendix in support of appellant's argument in his reply brief to the Citigroup, Inc. and Lutheran Medical Center's briefs in opposition

I, Henry M. Grubel, certify under penalty of perjury that I am the attorney for the appellant in this action, that I have read this affidavit in support of appellant's motion for leave to serve the five page supplemental appendix, and that, to the best of my knowledge, information, and belief the allegations are true and correct, and that this affidavit is not interposed for delay or other improper purposes.

Dated: February 10, 2006  
Freeport, New York



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UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

-----X  
CARMINE A. LoPRESTI,

Appellant,

**05-0609-cv**

-against-

CERTIFICATE OF SERVICE

CITIGROUP, INC., et. al.

Appellees.  
-----X

On February 10, 2006, counsel for the appellant, served the affidavit in support of the motion to serve a supplemental appendix, upon counsel for the appellees who have appeared in this action as follows. All were served two copies by Fed Ex priority overnight service:

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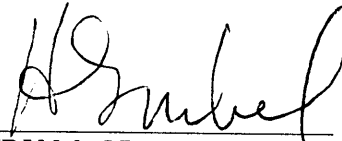
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Dated: February 10, 2003  
Freeport, New York



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