

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

GREGORY GREENE and JOSEPH LACK,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

MTGOX INC., a Delaware corporation, MT.
GOX KK, a Japanese corporation, TIBANNE
KK, a Japanese corporation, MT. GOX
NORTH AMERICA, INC., a New York
corporation, MIZUHO BANK, LTD., a
Japanese financial institution, MARK
KARPELES, an individual, GONZAGUE
GAY-BOUCHERY, an individual, JED
MCCALEB, an individual, and JOHN DOE
DEFENDANTS,

Defendants.

Case No. 1:14-cv-01437

Hon. Gary Feinerman

Magistrate Judge Susan Cox

**PLAINTIFFS' MOTION FOR LEAVE TO FILE *INSTANTER* AN OVERSIZED
MOTION FOR PRELIMINARY SETTLEMENT APPROVAL**

Plaintiffs Gregory Greene and Joseph Lack (“Plaintiffs”) by and through their undersigned counsel, respectfully move this Court for leave to file *instanter* their Motion for Preliminary Settlement Approval in excess of the fifteen-page limit dictated by Local Rule 7.1. In support, Plaintiffs state as follows:

1. On February 27, 2014, Plaintiff Greene filed the instant lawsuit alleging claims against Defendants for consumer fraud, fraud in the inducement, negligence, breach of fiduciary duty, breach of contract, unjust enrichment/restitution, trespass to chattels, and conversion. (Dkt. 1.) Through his Complaint, Plaintiff Greene also sought a TRO, a preliminary injunction, a

permanent injunction, an accounting, and the imposition of a trust over Class members' property that remained in Mt. Gox's possession or control. (*Id.*)

2. The next day, Defendant Mt. Gox KK sought bankruptcy protection in Japan and filed a Civil Rehabilitation Proceeding Commencement Application in the Tokyo District Court. Seeking recognition of the Japanese proceedings in the United States, Mt. Gox KK filed an "emergency" Chapter 15 Petition in the Bankruptcy Court for the Northern District of Texas on March 9, 2014, seeking—and obtaining—a provisional stay of all litigation against it. *See In re MtGox Co., Ltd.*, No. 14-31229-sgj16 (Dkt. 13) (Bankr. N.D. Tex.). The Texas bankruptcy court refused to grant provisional relief to the other—non-debtor—Defendants. The next day in Japan, Mark Karpeles sought (and received) appointment as the Foreign Representative of the debtor, Mt. Gox KK.

3. On March 14, 2014, Plaintiff Greene filed a First Amended Complaint (dkt. 36) naming Mizuho Bank, Ltd., Jed McCaleb, Mt. Gox North America, Inc., Gonzague Gay-Bouchery, and John Doe Defendants as defendants in this matter, and adding Joseph Lack as a named Plaintiff. The complaint also included additional causes of action against the Defendants. Three days later, Plaintiffs filed their Corrected First Amended Complaint. (Dkt. 37.)

4. On April 16, 2014, the Tokyo District Court dismissed Mt. Gox KK's bid for Civil Rehabilitation and transferred control of Mt. Gox KK to a court-appointed Provisional Administrator. Mr. Karpeles was likewise removed as Mt. Gox KK's foreign representative in the Chapter 15 proceedings.

5. On April 24, 2014 the Tokyo District Court ordered the commencement of bankruptcy proceedings against Mt. Gox KK.

6. During this same time period—i.e., throughout March and April of 2014—Plaintiffs’ counsel began discussions with Defendants Jed McCaleb, Gonzague Gay-Bouchery (the “Settling Defendants”), and a group of potential investors interested in purchasing the Mt. Gox Exchange in an effort to potentially resolve this matter. Plaintiffs and Settling Defendants have since reached an agreement—for which they now seek preliminary approval—that will, notwithstanding the Japanese bankruptcy proceedings, provide Class members with an opportunity to realize a full recovery of their losses (or more).

7. That said, given the complex nature of the resulting agreement and the various factors that the Court must consider in certifying a class for settlement purposes, Plaintiffs request leave to file an oversized brief in support of their Motion for Preliminary Settlement Approval.

8. In addition to providing the requisite legal arguments pertaining to class certification and Court approval of the proposed settlement, an oversized brief will allow Plaintiffs to more fully apprise the Court of the nature of the Parties’ negotiations, the terms of the proposed settlement, and the Parties’ plan to reorganize the Mt. Gox Exchange.

9. Accordingly, Plaintiffs respectfully request that the Court grant them leave to file *instanter* an oversized Motion for Preliminary Settlement Approval totaling 31 pages in length.

10. Plaintiffs’ proposed 31-page Motion for Preliminary Settlement Approval is filed at Docket 79. In accordance with Local Rule 7.1, a Table of Contents and Table of Authorities are included in Plaintiffs’ Motion. Should the Court deny this Motion, Plaintiffs will withdraw their Motion for Preliminary Settlement Approval from the docket and attempt to re-file a truncated version.

WHEREFORE, Plaintiffs Gregory Greene and Joseph Lack respectfully request that the Court enter an Order granting them leave to file a Motion for Preliminary Settlement Approval totaling 31 pages in length.

Respectfully submitted,

GREGORY GREENE and JOSEPH LACK,
individually, and on behalf of a class of similarly
situated individuals,

Dated: April 28, 2014

By: /s/ Benjamin S. Thomassen
One of Plaintiffs' Attorneys

Steven L. Woodrow
swoodrow@edelson.com
Megan Lindsey
mlindsey@edelson.com
EDELSON PC
999 West 18th Street, Suite 3000
Denver, Colorado 80202
Tel: 303.357.4878
Fax: 303.446.9111

Jay Edelson
jedelson@edelson.com
Christopher L. Dore
cdore@edelson.com
David I. Mindell
dmindell@edelson.com
Alicia Hwang
ahwang@edelson.com
EDELSON PC
350 North LaSalle Street, Suite 1300
Chicago, Illinois 60654
Tel: 312.589.6370
Fax: 312.589.6378

*Counsel for Plaintiffs and the Putative
Classes*

CERTIFICATE OF SERVICE

I, Benjamin S. Thomassen, an attorney, hereby certify that I served the above and foregoing ***Motion for Leave to File Instanter Oversized Brief***, by causing true and accurate copies of such paper to be transmitted to all counsel of record via the Court's CM/ECF electronic filing system on April 28, 2014.

/s/ Benjamin S. Thomassen

Benjamin S. Thomassen