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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARY K. JONES, et al.,  
  
Plaintiffs,

v. 10 CV 3864(AKH)

PFIZER, INC., et al.,  
  
Defendants.

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New York, N.Y.  
April 12, 2013  
11:00 a.m.

Before:

HON. ALVIN K. HELLERSTEIN  
  
District Judge

APPEARANCES

ROBBINS GELLER RUDMAN & ROBBINS LLP  
Attorneys for Plaintiff Jones, Stichting Philips  
BY: HENRY ROSEN  
WILLOW E. RADCLIFFE  
WILLIAMS & CONNOLLY LLP  
Attorneys for Defendant Pfizer, Inc.  
BY: STEVEN M. FARINA  
AMANDA MacDONALD

ALSO PRESENT  
JAMES R. HARPER  
Attorney for Witness Alan Greensmith

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1 (Case called)

2 THE COURT: A dispute has arisen whether documents  
3 previously given to Mr. Greensmith and in the possession of a  
4 former lawyer paid for by Pfizer but serving Mr. Greensmith in  
5 relationship to a government investigation has to be produced.  
6 It is represented by Mr. Farina that these documents are a  
7 subset of a larger production previously made substantially but  
8 not completely to Mr. Rosen.

9 My first holding is that the entire production must be  
10 made including these documents for Mr. Rosen, but they need not  
11 be isolated, and a subset given to the government need not be  
12 isolated from the larger production.

13 My second holding is that since there is only 10 days,  
14 approximately, between now and the time of deposition, April  
15 23, that that is too short a time and the subpoena period is  
16 enlarged to encompass a reasonable adjournment for mutual  
17 convenience, so Mr. Rosen can study the entire grouping of  
18 documents and the witness can prepare however he wishes with  
19 the help of his attorney, Mr. Harper. The deposition will go  
20 forward in Atlanta on the day they select. That is the second  
21 holding.

22 The third holding has to do with whether or not it is  
23 relevant to the case of illegal marketing and improper  
24 disclosure that there be an identification for Mr. Rosen of the  
25 particular documents from the larger subset that were given to

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1 the government.

2 I hold that that issue is not relevant, that it is not  
3 relevant how good a job or how thorough a job the government  
4 did or how easy a job it had. The question is the two issues I  
5 mentioned and that will not be aided by having the  
6 identification of the documents. Accordingly, that aspect of  
7 the subpoena duces tecum is quashed.

8 Anything else I need to rule on, Mr. Farina?

9 MR. FARINA: Just to make sure that I understand, your  
10 Honor, Mr. Greensmith is not permitted to tell Mr. Rosen what  
11 documents we selected?

12 THE COURT: I am not encompassing the relationship.  
13 That is a matter of your protective order. It is not inside  
14 the case.

15 MR. FARINA: We have submitted the issue of the  
16 production to your Honor to make a ruling on --

17 THE COURT: I have made my ruling. That's it.  
18 Whatever happens outside the ruling is not my concern. If  
19 someone under a joint defense agreement wants to breach that  
20 agreement or takes the position that the agreement does not  
21 control what he does, I am not here to enforce it.

22 Anything else, folks?

23 MR. FARINA: Your Honor, Mr. Rosen already has the  
24 documents --

25 THE COURT: Except the 2 percent.

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1 MR. FARINA: And I will give him the 2 percent, but he  
2 is not entitled --

3 THE COURT: You are repeating. I made my ruling.  
4 Anything else?

5 Thank you very much.

6 What is the next stage in this case would be  
7 depositions and the like. Whatever disputes come up, come up  
8 in the form of letter. My intention is to rule by return mail  
9 so you get promptness and you don't get delay.

10 What is your estimate, Mr. Rosen, how long it will  
11 take to complete the discovery?

12 MR. ROSEN: The first 20 depositions, your Honor --

13 THE COURT: Just give me a date.

14 MR. ROSEN: We tentatively have mid July, and we are  
15 going to finish that first wave of depos.

16 THE COURT: What is your estimate, Mr. Farina?

17 MR. FARINA: I think that we should be able to finish  
18 fact discovery by the end of July.

19 THE COURT: So I should see you in August, August 23,  
20 10 o'clock.

21 MR. ROSEN: As long as it is clear, your Honor, not to  
22 squabble, but we are not finishing fact discovery by the end of  
23 July. We have not scheduled the defendants' depositions.

24 THE COURT: What will be finished by the end of July?

25 MR. ROSEN: The first 20, your Honor.

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1 THE COURT: That is a good point for me to see you.  
2 If you need me before, write me a letter and I will schedule  
3 it.

4 MR. FARINA: Your Honor, I apologize. I am going to  
5 be on vacation. I have already planned a vacation. Can we do  
6 the 30th instead?

7 THE COURT: Sure -- no.

8 THE DEPUTY CLERK: September 6, 10 o'clock.

9 MR. FARINA: That is actually better for me, your  
10 Honor.

11 THE COURT: September 6, 10 o'clock.

12 Thank you.

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