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May 9, 2012

VIA HAND DELIVERY

I will meet with counsel June 1, 2012, 10:00 a.m. to review progress, and to assure better cooperation among counsel than is suggested by this letter. 5-11-12

The Honorable Alvin K. Hellerstein
United States District Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *Jones v. Pfizer Inc., et al.*,
Civil Action No. 1:10-cv-03864-AKH (S.D.N.Y.)

Dear Judge Hellerstein:

Pursuant to the Court's March 26, 2012 Order, counsel for the parties in the above-referenced action write to set forth their respective positions regarding a discovery plan to complete written discovery.

I. PLAINTIFFS' POSITION

Set forth below is a brief description of the written discovery to date, the documents produced and plaintiffs' plan to complete written discovery. Plaintiffs believe that pursuant to this Court's March 26 directive, this letter should primarily focus on scheduling and is not a substitute for this Court's Individual Rules to resolve discovery disputes.[1] Rules that specifically provide that "[t]he Court will not resolve disputes not brought to attention in conformity with this Rule [2.E.]." Defendants disagree and would have this Court rule on the parties' discovery disputes without proper briefing or, in several instances, without properly meeting and conferring as required by Fed. R. Civ. P. 37 and this Court's Individual Rule 2.E.

[1] For example, since it appears that the parties cannot agree on whether documents redacted for responsiveness should be produced in their entirety, plaintiffs propose to submit a separate joint letter which complies with this Court's Individual Rule 2.E. In this manner, the Court can have full briefing on these issues. Likewise, defendants have largely refused to meet and confer on plaintiffs' Second and Third Requests for Production of Documents indicating that resolving that dispute now is premature.

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Not wanting to further delay, plaintiffs propose a schedule and, as set forth below, indicate which subjects will require separate joint letters to fully address the issues in dispute.

A. Brief Description of the Case

This is a securities class action brought against Pfizer Inc. ("Pfizer" of the "Company") and certain of its officers for false and misleading statements issued to investors between January 19, 2006 and January 23, 2009 in violation of the Securities Exchange Act of 1934. This case was certified as a class action on March 29, 2012.

The claims at issue in this case, as pled in the Complaint, involve six general categories of false and misleading statements: (i) false and misleading statements that Pfizer was in compliance with laws and regulations regarding off-label marketing (*e.g.*, ¶59[2] – "Compliance with all relevant statutes and rules is both the legacy of our 150-year history and one of our most important advantages"); (ii) false assurances that Pfizer had the internal controls to "fairly present in all material respects" its financial condition (¶65) and that Pfizer's internal controls "guard[ed] against" "improper activities" such as off-label marketing (¶¶66-67); (iii) false disclosures related to the material risks Pfizer faced as a result of off-label marketing, including defendants' disclosures related to government investigations (¶¶68-76, 77(d)); (iv) misleading statements concerning the sales performance and growth of Pfizer's drugs that concealed the contributions to sales resulting from off-label marketing of those drugs (¶¶84-92; Ex. B); (v) false promises concerning Pfizer's dividend; and (vi) false financial results and reports filed with the Securities and Exchange Commission ("SEC"), which did not sufficiently account for or disclose probable loss contingencies resulting from Pfizer's off-label marketing as required by Generally Accepted Accounting Principals (¶¶78-80).

The elements plaintiffs will be required to prove at trial are: "'(1) a material misrepresentation or omission . . .; (2) scienter; (3) a connection between the misrepresentation or omission and the purchase or sale of a security; (4) reliance upon the misrepresentation or omission . . .; (5) economic loss; and (6) loss causation.'" *Matrixx Initiatives, Inc. v. Siracusano*, _U.S._, 131 S. Ct. 1309, 1317 (2011) (citation omitted).

B. Documents Produced Pursuant to the Court's November 29, 2011 Order

After a joint letter was submitted to the Court on Plaintiffs' First Set of Document Requests, on November 29, 2011, the Court required defendants to produce all documents Pfizer produced in the *In*

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[2] All "¶¶" references are to the First Amended Consolidated Class Action Complaint for Violations of the Federal Securities Laws.

re Pfizer Inc. S'holder Derivative Litig., No. 09-cv-7822 (JSR) (S.D.N.Y.) (the "Derivative Action"), by December 16, 2011 and all documents produced in the governmental off-label marketing litigation *United States of America v. Pharmacia & Upjohn Co., Inc.*, No. 09-cr-10258-DP (D. Mass.) by January 13, 2012. In response to the Court's November 29, 2011 Order, defendants did produce close to 24 million pages of documents. Since January 13, 2012, however, defendants have continued to produce documents. To date, more than 8 million additional pages have been produced. Defendants have not indicated when the production pursuant to the Court's Order will be complete despite the fact that the documents ordered to be produced were already assembled for production in these other cases. The Court recognized that there was "not an issue of burden" with respect to their production. 11/29/11 Tr. at 7:25.

Def'ts shall complete production by June 1, 2012. AKH

Plaintiffs have reviewed millions of pages of documents produced to date and based on this review and the scope of documents defendants agreed to produce in the narrower Derivative Action, plaintiffs have determined that documents relevant to many issues in this litigation were redacted for relevance in the Derivative Action. Portions of documents related to the Board of Directors and Committees thereof that relate to the adequacy of the Company's internal controls, its legal reserves, regulatory compliance, the updates of significant legal and regulatory matters, the Wyeth merger, the decision to cut the Company's dividend or market guidance are relevant to this case, were not at issue in the Derivative Action and have been redacted. Indeed, documents related to the special meetings of Pfizer's Board of Directors to consider and approve the Wyeth merger, on January 25, 2009, the day before the Class Period ends, have been redacted. Plaintiffs specifically alleged that defendants attempted to obscure the impact of the alleged fraud by announcing the Wyeth merger the same day it announced the largest criminal fine in history. ¶¶139-140. In order to demonstrate loss causation at trial in this case, an element of plaintiffs' claims under the securities laws, Pfizer's internal documents discussing the approval of the Wyeth merger are relevant. Likewise, Board of Director minutes discussing Pfizer's contingency reserves are directly relevant to the claims in this case. Plaintiffs allege that Pfizer's Class Period financial statements were materially misstated because defendants failed to follow accounting rules that required that the Company accrue a loss contingency for is systemic off-label marketing violations. *See, e.g.*, ¶¶78-80.

Def'ts objections to this discovery are overruled pursuant AKH

In addition, numerous documents related to off-label marketing have also been redacted for responsiveness. In the Derivative Action, defendants objected to providing information about any drugs other than Bextra and Celebrex. Therefore, defendants have redacted documents which even mention off-label marketing of Zyvox, Lyrica and Geodon, all relevant here. These redacted documents are directly at issue because this case concerns the adequacy of defendants' disclosures and false and misleading statements, regarding governmental investigation of off-label marketing as well as off-label marketing itself.

Documents redacted for the purpose, or portions thereof, shall be unredacted, but no additional search or production required. AKH

Many of these documents, if produced in unredacted form, will impact the third party discovery required in this litigation. Resolving the redaction issue now by joint letter will determine, for example, whether discovery from third parties related to the timing of the Wyeth merger or additional hard copy and electronic searches by Pfizer are necessary. Plaintiffs have already provided defendants with a partial list of documents in the production that are redacted for responsiveness and can provide a more complete list upon request. Producing unredacted documents now, instead of after plaintiffs complete their document review is more efficient and consistent with the Court's comments during the March 26, 2012 hearing which indicated that the Court would only allow narrow redactions for privilege and none for responsiveness. Since the defendants refuse to consider producing unredacted documents, plaintiffs have requested that the parties submit a joint letter pursuant to this Court's Individual Rule 2.E.

C. Outstanding Discovery Requests

1. Plaintiffs' Second & Third Requests for Production of Documents

In addition, as the Court anticipated during the November 29, 2011 hearing, plaintiffs have concluded that certain documents critical to issues in this litigation were produced in neither the Derivative Action nor during the governmental investigations. For example, given that loss causation was not at issue in either of those cases, relevant documents related to the Wyeth merger, the dividend cut and the reduction in guidance issued by Pfizer on January 26, 2009 have not been produced. Other discrete categories of documents not previously produced are necessary in this action because these documents bear directly on elements of plaintiffs' §10(b) claims asserted under the Securities Exchange Act of 1934. To address these anticipated deficiencies in the production, plaintiffs served their Second and Third Requests for Production of Documents on November 14 and 16, 2011 respectively. These requests were not before the Court when it made its ruling on Plaintiffs' First Set of Document Requests on November 29, 2011. In fact, the Court recognized at that hearing that if documents were missing from the Derivative Action documents: "you know how to write letters." 11/29/11 Tr. at 19:22.

It appears from targeted searches of defendants' production and requests served in the Derivative Action that certain categories of documents responsive to Plaintiffs' Second and Third Requests for Production of Documents are not in the production thus far. For example, defendants have not produced documents concerning the January 26, 2009 announcement that the Company would not achieve the analyst estimates for revenue and earnings in 2009. Defendants have not produced internal or external documents – such as communications with KPMG LLP ("KPMG") – regarding the potential risks to the Company of being banned from the Medicare program for off-label marketing violations. Defendants did not produce in the Derivative Action many documents relating to Pfizer's loss contingencies, internal communications regarding loss contingencies and external communications with KPMG on this subject because these documents were not a focus of that case. In their section set forth below, defendants concede that the adequacy of reserves is an issue in this case, but flatly refuse to

search for and produce documents on this issue despite the fact plaintiffs must prove material falsity of defendants' statements with scienter at trial. Relevancy is not the barrier to production but rather defendants rote insistence that plaintiffs review all previously produced documents ordered produced before they even discuss production of these relevant documents.

To remedy this, plaintiffs propose that defendants meaningfully meet and confer regarding the Second and Third Requests for Production of Documents by May 15, 2012 and produce documents in response to these Requests for Production of Documents by June 15, 2012. This will give the parties adequate time to confer regarding the requests which seek these critical documents. In this manner, plaintiffs can complete their review of the derivative and governmental investigation documents simultaneously with their review of the unredacted documents and supplemental document production by August 31, 2012. If no agreement is reached, the parties shall prepare a joint letter on the Second and Third Requests for Production of Documents by June 15, 2012.

The 2nd & 3rd requests are premature. They can be reviewed, after depos/rog's, in focused manner to extent necessary AKH

2. KPMG LLP

In September 2011, plaintiffs served on KPMG LLP ("KPMG") a subpoena requesting documents relevant to this litigation. KPMG and plaintiffs agreed that KPMG would initially produce the documents KPMG produced in the Derivative Action. According to the agreement, after plaintiffs reviewed the initial KPMG production, plaintiffs and KPMG agreed to discuss a supplemental production by KPMG because the scope of the Derivative Action, and therefore KPMG's production in that case, was much narrower than the production required here. For example, communications between KPMG and Pfizer related to the alleged false statements are missing. Plaintiffs have reviewed KPMG's initial production and are currently attempting to come to an agreement with KPMG on a supplemental production but defendants interference with this process is hindering progress.

KPMG's production also contains a number of redactions for responsiveness as to documents that are relevant to this litigation and responsive to plaintiffs' document requests. According to KPMG, the scope of redactions in the Derivative Action production were made by Pfizer. Once it obtains Pfizer's permission, KPMG has offered to reproduce the documents it produced in the Derivative Action without the scope redactions. There is no reason Pfizer has not provided clearance to KPMG to produce these relevant documents. Therefore, plaintiffs request that Pfizer provide clearance to KPMG as soon as possible.

In addition to the redaction issues, plaintiffs anticipate that it may be necessary to present issues related to the scope of attorney client and work-product privileges asserted by KPMG and Pfizer related to the KPMG production to the Court for resolution. This, however, will depend on a review of the unredacted documents which Pfizer is preventing KPMG from producing.

A request to me is premature. If Pfizer obstructs, depos may be taken of KPMG, to identify bad cases for deductions of relevant documents. AKH

3. Investment Banks

In addition to the KPMG subpoena, plaintiffs have served subpoenas on the banks who advised Wyeth and Pfizer on the merger. Once Pfizer produces unredacted documents from the Derivative Action and documents responsive to the Third Set of Requests for Production of Documents which specifically seek documents bearing on loss causation, plaintiffs will be in a position to advise the Court whether this third party discovery is necessary. These documents are relevant here because the banks advising Wyeth and Pfizer about the merger examined what impact the $2.3 billion fine had on Pfizer's stock's value. Once defendants produce the unredacted documents, plaintiffs can advise the Court whether it will be necessary to follow-up on these subpoenas.

D. Plaintiffs' Proposal

To give the parties adequate time to complete the production, to finish reviewing the documents, to determine whether additional documents from defendants and third parties are necessary and to present any discovery disputes to the court for resolution, plaintiffs propose the following schedule:

1. May 31, 2012, the parties will meet and confer over the scope of the redactions and assuming an agreement cannot be reached, will present a joint letter;

2. May 31, 2012, parties will meet and confer over the scope of Plaintiffs' Second and Third Requests for Production of Documents and will inform the Court whether an agreement has been reached or present a joint letter by June 15, 2012;

3. Thirty days after unredacted Board of Director minutes and other documents related to the Wyeth merger are produced, plaintiffs will inform the Court whether, despite receiving unredacted versions of documents relating to the Wyeth merger, following up with third party subpoenas to the investment banks who advised Wyeth and Pfizer on the merger is necessary;

4. Once the parties have completed written discovery or have determined that they cannot reach agreement on Plaintiffs' Second and Third Requests for Production of Documents, the parties can provide an update to the Court as to when defendants' document production will be complete when plaintiffs can provide the Court with initial list of deponents and present a schedule to the Court along with a joint case management statement with a proposed schedule to complete depositions, the filing of dispositive motions, the exchange of expert reports, expert depositions, and a proposed mediation schedule if the parties believe the assistance of a mediator would be fruitful. Depending on defendants cooperation in producing documents they have thus far withheld, by July 1, 2012, the parties are in agreement that a status conference shall be proposed for September 17, 2012 to determine an initial deposition schedule.

Times shall be agreed & covered by consistent with the order and the requirements of the agreed. AKH

II. DEFENDANTS' POSITION

Defendants disagree with plaintiffs regarding the scope of this letter to the Court. Your Honor clearly articulated that the parties should provide "a joint letter setting out the boundaries of the written discovery and the production of documents and *if there 's any dispute and the like*." 3/26/12 Transcript of Proceedings at 40 (emphasis added). Defendants' position offers boundaries of discovery in precisely the areas that plaintiffs seek and proposes a discovery plain aimed at "getting to the merits of the case, efficiently and quickly." 3/26/12 Transcript of Proceedings at 24. Defendants, however, disagree with plaintiffs' desire to relitigate discovery decisions from prior litigations and to seek boundless additional discovery on issues far afield from the gravamen of their Amended Complaint.

This is a case about what Pfizer Inc.[3] knew relevant to the adequacy of Pfizer's periodic disclosures of pending government investigations and whether a financial reserve relating thereto should have been established at any time prior to when it was. *See* 8/9/11 Transcript of Proceedings at 4 (where the Court articulated the gravamen of this case as the alleged "insufficiency of disclosure" and "failure to have reserves").

During the November 29 hearing, the Court articulated a "presumption in favor of [defendants]" with respect to any additional offensive discovery that plaintiffs might thereafter come back and pursue. 11/29/11 Transcript of Proceedings at 13. The Court stated "I will not allow [plaintiffs] to ask substantive requests until [plaintiffs] have gone through that mess and decide what hasn't been produced." *Id.* at 10.

Plaintiffs agreed: "this was our initial thought, to go through these documents and then ask defendants for the documents that are missing with respect to key issues in our case." 11/29/11 Transcript of Proceedings at 12-13.

Below, defendants propose a discovery plan focused on the end game and designed to "get[] to the merits of the case, efficiently and quickly." 3/26/12 Transcript of Proceedings at 24. Defendants will provide targeted discovery related to Pfizer's disclosures of the government investigations and the establishment of a financial reserve relating thereto. Defendants' proposal directly addresses plaintiffs' specific claims and provides the Court with a basis for determining the proper deponents and, ultimately, resolving this case efficiently.

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[3] In addition to Pfizer, Inc., Plaintiffs also sue ten individuals who are current or former officers and directors. At the September 23, 2011 hearing, the Court suggested that Plaintiffs dismiss at least some of the individual defendants. First, their presence as named defendants is wholly unnecessary. Second, the Amended Complaint does not adequately allege (and there is no basis to do so) that each of these ten individuals "made" the statements of which Plaintiffs complain within the meaning of *Janus Capital Group, Inc.* v. *First Derivative Traders*, 131 S. Ct. 2296, 2302 (2011).

Plaintiffs have now received close to 24 million pages of documents and still show no intention of focusing discovery on the issues in *this* litigation. Despite plaintiffs' requests, a securities class action complaint is not a license for roving inquiry far afield of the specific claims asserted. *See Blue Chip Stamps, Inc.* v. *Manor Drug Stores, Inc.*, 421 U.S. 723, 739-43 (1975). Plaintiffs' position set forth above ignores the prior rulings and directions of this Court and fails to meet this Court's request for a discovery plan focusing "not in terms of the discovery game, but of the end game." 8/9/11 Transcript of Proceedings at 26.

A. Documents Produced Pursuant to the Court's November 29, 2011 Order

Plaintiffs got what they asked for when the Court directed Pfizer Inc. to produce all documents produced in *In re Pfizer Shareholder Derivative Litigation*, No. 1:09-cv-07822 (JSR) and all documents produced throughout the course of a lengthy government investigation encompassing Pfizer's sales and marketing of several drugs. We have completed delivery to plaintiffs of the materials produced in 64 document productions in the Derivative Litigation and believe that we have also done so with respect to the documents in the government investigations (this is being confirmed by counsel in that matter). As contemplated by this Court's order, the documents were produced exactly as they had been in those other matters – we did not revisit any of the determinations previously made by other Pfizer counsel with respect to privilege, responsiveness or anything else.

The productions made in the Derivative Litigation were made pursuant to a court Order by Judge Rakoff guiding responsiveness designations. *See* No. 1:09-cv-07822, Dkt. No. 63. Plaintiffs incorrectly assert that "numerous documents related to off-label marketing have also been redacted" in the Derivative Litigation. There, Judge Rakoff issued a discovery Order that provided the parties "shall not redact information from otherwise responsive documents if that information concerns the following subject matters: 1. Marketing, sale and promotion generally of the following Pfizer medicines . . . : Bextra, Celebrex, Geodon, Lipitor, Lyrica, Neurontin, Norvase, Relpax, Viagra, Zithromax, Zoloft, Zyrtec and Zyvox[.]" *Id.*, Dkt. No. 63. Consistent with that Order, the materials produced in the Derivative Litigation do not contain redactions related to these drugs.

Plaintiffs now demand that we go back and reconsider the productions made in the Derivative Litigation because they disagree with the scope of discovery ordered by Judge Rakoff in that action and the agreements of the parties with respect thereto. Respectfully, we have refused to "re-do" the litigation decisions of other counsel and other parties before another Judge in an action in which we were not counsel, based on our understanding of the reasons behind this Court's order. Plaintiffs made a calculated choice to forego targeted discovery in *this* matter and instead seek documents produce in other litigations. They should now be bound by that decision.

When Plaintiffs first raised the issue of redactions in the Derivative Litigation, they suggested that they would focus on the documents that relate in some way to the issues in *this* case: "[t]he part about the legal liability contingencies, which are the reserves, that entire section is redacted in the board minutes." 11/29/11 Transcript of Proceedings at 12. The Court suggested that the parties work together to eliminate the redactions. *See* 11/29/11 Transcript of Proceedings at 18. We have attempted to do so, by requesting that Plaintiffs identify those specific documents that they believe in good faith contain information relevant in *this* case which was redacted in the Derivative Litigation.[4] We expressly informed plaintiffs that we would consider their request to provide in unredacted form a small portion of documents. In response, Plaintiffs sent a 14-page listing of more than 9,000 pages that they demand be re-produced, and now suggest that this is just part of a longer wish list.

We do not believe that the Court had in mind that we re-plow the fields of the Derivative Litigation. Plaintiffs have 24 million pages of documents that they specifically requested. Enough is enough. The focus of further discovery, if any, should be on the limited issues to be adjudicated in *this* action.

B. Outstanding Discovery Requests

1. Plaintiffs' Second and Third Requests

Far from proposing limited additional discovery, as they suggested during the November hearing, plaintiffs now seek to re-instate their Second and Third Requests, which were served *before* our production of the 24 million pages already provided to them. Defendants have already responded and objected to these requests, and the Court tabled them in ordering the production of the documents from the Derivative Litigation and the government investigations. *See* 11/29/11 Transcript of Proceedings at 10. The Second and Third Requests were not crafted to capture those materials that were not included in the Derivative Litigation, as this Court requested and plaintiffs suggested. Indeed, they call for a far more sweeping and expensive discovery process.

Moreover, plaintiffs ignore the Court's rulings:

- First, this Court agreed with defendants that discovery into loss causation is unnecessary: "I'm not going to be sympathetic to the arguments that you would have to produce all of these documents to prove loss causation." *Id.* at 17.

[4] Inconsistent with plaintiffs' assertions, the parties have held several telephonic meet and confers and exchanged correspondence regarding the issue of redactions on several occasions.

- Second, the Court further stated that discovery into the acquisition of Wyeth and of Pfizer's financial advisors is "[n]ot relevant" and sustained defendants' objection to third party discovery of the topic. *Id.* at 33-34.

This Court granted plaintiffs' request for all documents from two major prior litigations. We have fully complied with the Court's order. We do not think it appropriate to re-visit judgment calls made by other counsel in other actions. We wish to move forward with defending against the allegations in *this* matter. Defendants respectfully request that this Court deny plaintiffs' additional requests, consistent with the presumption in favor of defendants.

2. KPMG

Plaintiffs' counsel served a subpoena on KPMG and, by agreement, KPMG produced to plaintiffs the documents that it previously produced in the Derivative Litigation. Again, all documents were produced to plaintiffs as they were produced in the Derivative Litigation – without altering the privilege, relevance and other discovery decisions of prior counsel.

Again, plaintiffs demand that we re-visit the judgment calls made by KPMG and Pfizer (through other counsel) in the Derivative Litigation. Again, we respectfully submit that the demand should be rejected.[5]

Plaintiffs suggest they will challenge the propriety of Pfizer's assertion of the work product doctrine in connection with Pfizer materials produced in the Derivative Litigation. Respectfully, it is not the role of this Court to retroactively supervise discovery and revisit Judge Rakoff's discovery rulings in a different case. Plaintiffs should be made to focus on the issues in *this* case.

3. Investment Banks

The Court has already considered and ruled on plaintiffs' arguments regarding third party discovery of investment banks and concluded no such discovery is warranted. *See* 11/29/11 Transcript of Proceedings at 33-34 ("[n]ot relevant . . . hearsay, objectionable, you don't need it. It won't lead to evidence and it won't be evidence."). It is time to move on.

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[5] Plaintiffs' suggestion that defendants are interfering with discovery of KPMG is unfounded. The KPMG documents that were produced in the Derivative Litigation were produced to plaintiffs here in precisely the same format without any additional redactions. Defendants have merely declined to revisit the redaction decisions made in prior litigations.

C. The Court-Ordered Deposition of Lead Plaintiffs' Investment Advisor

During the March 26, 2012 hearing on class certification, the Court ordered plaintiffs to produce the investment advisor(s) to Lead Plaintiff Stichting Phillips Pensioenfonds. 3/26/12 Transcript of Proceedings at 23 ("[Y]ou've got to produce those fellows and the investment advisor. Understand?") Plaintiffs' counsel stated they would "do [their] best to help facilitate" such a deposition, based on plaintiffs' counsel's earlier representations that the investment advisor was purportedly located in the Netherlands. *See id.* at 15. The Court ordered the deposition to be "scheduled next month or so." *Id.* at 38.

Defendants sought the deposition because Lead Plaintiff's Rule 30(b)(6) deponent knew nothing about why Lead Plaintiff purchased Pfizer stock when it did. As plaintiff's counsel explained to the court, Lead Plaintiff's knowledge about its transactions in Pfizer stock was limited to access to a purported database maintained by a third party. Yet, as the Court rightly observed (and defendants challenged[6]), "[t]hat [database] doesn't tell me very much. . . . That doesn't tell me why stock was bought." *Id.* at 22. Defendants have yet to take the deposition of anyone who can answer the question posed by the Court: "whether or not there was a material representation on anyone who had buying power for the plaintiff." *Id.*

Following the court hearing, defendants raised with plaintiffs' counsel proceeding to complete the discovery directed by the Court.

- On April 4, in-house counsel for BlackRock, Lead Plaintiff's investment advisor, contacted us to discuss a potential deposition. We subsequently provided BlackRock with a list of the topics we intended to address, to facilitate identifying the correct deponent.

- On April 13, BlackRock informed us that the knowledgeable deponent most likely resided in Princeton, New Jersey, contrary to plaintiffs' counsel's representations that such deponent was based in the Netherlands.

- On April 17, BlackRock advised us that there were likely two deponents – one based in Princeton and one based overseas, possibly in the United Kingdom.

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[6] Indeed, this very database provided the Lead Plaintiff with incorrect information regarding those transactions, as evidenced by Lead Plaintiff's amendment to its Certification of stock purchases.

- We prepared and served on April 19 a Notice of Subpoena on BlackRock, calling for documents and testimony, which largely mirrored our earlier requests. Documents are requested by May 9 and the deposition is scheduled for May 16 in New York (consistent with this Court's order, *see* 3/26/12 Transcript of Proceedings at 24).

We have yet to hear from either plaintiffs or Blackrock regarding whether a properly prepared and knowledgeable deponent will be available on May 16.

D. Defendants' Proposal

The Court requested an "estimate by [defendants] of what defenses [defendants were] really going to be putting forward, because [this Court] want[s] the discovery to focus, not only on the proofs, but on the defenses, as well. *And that way we'll limit everything*[.]" *Id.* at 23-24 (emphasis added). Accordingly, defendants propose below a simple path to allow the Court and the parties to focus on the issues in *this* case.

Consistent with Rule 1 of the Federal Rules of Civil Procedure, the Court has continuously expressed its preference for efficiency and urged the parties to avoid excessive discovery requests which merely balloon expenses. *See, e.g.*, 11/3/10 Transcript of Proceedings at 39. Counsel for Lead Plaintiff previously agreed with the Court's focus on costs: "We are very sensitive to this court's sensitivity toward excess expenditure and waste." *Id.* at 41. Plaintiffs' professed sensitivities, which at the time weighed against involving potential co-counsel, apparently do not extend to avoiding unnecessary and burdensome costs in discovery.

Defendants propose to work with Plaintiffs' counsel on the time-table they suggest at page 6, *supra*, and to produce documents relevant to the key issues identified by the Court – Pfizer's disclosures of pending government investigations and the establishment of financial reserves relating thereto. Such discovery will provide the parties and the Court with the necessary background to approve a deposition schedule that both focuses on the issues in this case and allows the parties to "get[] to the merits of the case, efficiently and quickly." 3/26/12 Transcript of Proceedings at 24.

E. Conclusion

We respectfully request that the Court schedule any hearing on the topics raised herein after May 16, so that we may efficiently address the proposed discovery plans as well as any issues that arise out of the contemplated deposition, particularly given the likelihood that a second deposition of a non-United States witness remains to be scheduled.

Very respectfully yours,

HENRY ROSEN
ROBBINS GELLER RUDMAN
& DOWD LLP

Very respectfully yours,

Charles Gilman /PL

CHARLES A. GILMAN
CAHILL GORDON & REINDEL LLP

Judge wrote:

On p.1:

"I will meet with counsel June 1, 2012, 10:00 a.m. ro review progressl and to assure better cooperation among counsel than is suggested by this letter.

5-11-12
Alvin K. Hellerstein"

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On p. 3:
Top righthand corner "Defendant should complete production by June 1, 2012. AKH"

On p. 3
"Defendants objectives to this discovery are sustained. AKH

On p. 3
"Documents redacted for this purpose, or portions thereof, shall be unredacted, but no additional search or production is required. AKH"

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On p. 6
"Time shall be agreed to by counsel, consistent with his order and the requirement of due speed. AKH"

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