UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re GENWORTH FINANCIAL, INC. SECURITIES LITIGATION	:	Master File No. 1:14-cv-02392-AKH
	:	CLASS ACTION
This Document Relates To:	:	LEAD PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO STRIKE AND MOTION TO CONVERT DEFENDANTS' MOTION TO DISMISS THE AMENDED COMPLAINT INTO A MOTION FOR SUMMARY JUDGMENT AND TO OPEN DISCOVERY
ALL ACTIONS.	:	

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

CASES

Page

STATUTES, RULES AND REGULATIONS

Lead Plaintiffs City of Hialeah Employees' Retirement System and New Bedford Contributory Retirement System (collectively, "plaintiffs") hereby submit this Reply in Support of their Motion to Strike and Motion to Convert Defendants' Motion to Dismiss the Amended Complaint Into a Motion for Summary Judgment and to Open Discovery ("Motion to Strike") (Dkt. No. 33).[1]

I. INTRODUCTION

Defendants' Opposition to plaintiffs' Motion to Strike contains a nuanced but critical modification to their discussion of Exhibit J. When defendants filed their motion to dismiss, they told the Court that "Genworth ***updated investors*** with a presentation about Genworth Australia's mortgage insurance business" "***on*** September 26, 2011." Defs.' MTD at 7. They even represented that "Genworth ***publicly disclosed*** [that] the company was fully committed to executing an IPO in Q2 2012 . . . as the loss ratios in Australia in Q3 and Q4 2011 were in line with publicly-disclosed expectations." *Id.* at 40. But those statements appear in doubt. Defendants' Opposition does not support that any presentation was actually given to analysts and investors. At most, Defendants' Opposition suggests that they put the electronic file of the slideshow on the "publicly available . . . 'Events & Presentations' page of Genworth's website," ***but apparently did not tell anyone about it***. *Compare* Defs.' MTD at 7, 40 *with* Defs.' Opp. at 3. Defendants' Opposition does not state that the electronic file was actually presented publicly and does not attach a transcript of the presentation that

[1] "Defs.' MTD" refers to the Memorandum of Law in Support of Defendants' Motion to Dismiss the Amended Complaint (Dkt. No. 30). "Defs.' Opp." or "Defendants' Opposition" refers to defendants' Memorandum of Law in Opposition to Plaintiffs' Motion to Strike and Motion to Convert Defendants' Motion to Dismiss the Amended Complaint Into a Motion for Summary Judgment and to Open Discovery (Dkt. No. 35). Emphasis is added and citations are omitted throughout unless otherwise indicated.

Greg A. Danilow declared was used to "update investors" "on September 26, 2011." Defendants' Opposition raises questions about the accuracy of Mr. Danilow's declaration.

Giving defendants the benefit of the doubt, Mr. Danilow's declaration combined with Defendants' Opposition proves, ***at most***, that defendants ***quietly*** slipped the slides onto Genworth's website. Indeed, the complete surprise expressed by analysts at the end of the Class Period suggests that if, in fact, this unusual turn of events took place, the analysts missed the information – an objective fact that eviscerates defendants' ability to rely on the slides as a basis for their disclosure arguments. But defendants have not laid the foundation necessary to show that even this version of events is likely. Mr. Danilow makes no declaration about Genworth's website and Defendants' Opposition states only that "Exhibit J ***is*** [currently] publicly available on . . . Genworth's website." Defs.' Opp. at 3. It is silent, however, about Genworth's website ***in 2011***. And it is silent, apparently, for a reason – an investigation into Genworth's website reveals that the webpage on which Exhibit J now resides "did not exist in 2011." Wroblewski Decl., ¶4.[2]

Despite this, defendants insist that the Court can accept the slides because "'[j]udicial notice may be taken of the defendants' website for the fact of its publication.'" Defs.' Opp. at 3. But as their own authority reveals, the Court can only take judicial notice of the website's publication so long as the website's authenticity is not in dispute and is capable of accurate and ready determination. *Id.* There is good reason, however, to question the authenticity of Genworth's website. In addition to the fact that the webpage at issue did not exist in 2011, the website that defendants point to now has undergone a substantial revision since the Class Period:

> Genworth used an external provider to host investor relations materials from sometime before September 26, 2011 until at least August 21, 2013, instead of

[2] "Wroblewski Decl." refers to the Declaration of Rian M. Wroblewski dated February 27, 2015 and submitted herewith.

> posting those materials on Investor.Genworth.com, where they currently reside. ***Some time on or after August 21, 2013, Genworth deleted the links to all files hosted by this external service provider, and re-uploaded them directly to Investor.Genworth.com***.

Wroblewski Decl., ¶5. Given these circumstances, and the apparent change in the website's content, the Court cannot judicially notice the website or the slideshow for any purpose.

Even if there were no grounds to question the website's authenticity, however, defendants' further argument about accepting the slides for their truth for what defendants "'believed'" or were "committed to" in connection with their scienter arguments (Defs.' Opp. at 4-5) flies in the face of a vast body of law ***universally*** holding that extrinsic documents ***cannot*** be accepted for their truth on a motion to dismiss. Defendants' proposed solution for this purposeful error is to "simply exclude Exhibit J from [the Court's] consideration of Defendants' motion to dismiss." *Id.* at 6. But the Court should not take defendants' submission so cavalierly. Defendants attempted to improperly influence the Court with facts that, at best, appear to be unsupported. In doing so, they have subjected plaintiffs to the very type of "undue prejudice" that the Private Securities Litigation Reform Act of 1995 ("PSLRA") contemplates when permitting courts to lift the discovery stay. 15 U.S.C. §78u-4(b)(3)(B) (courts may lift PSLRA discovery stay if "particularized discovery is necessary to . . . prevent undue prejudice to that party"); *see also United States v. Rosa*, 11 F.3d 315, 334 (2d Cir. 1993) (when a false impression has been made by an opposing party's improper evidence, the court has the discretion to allow the party an opportunity to cure).

Defendants have submitted documents outside of the complaint and have asked the Court to accept these documents for their truth, making it a summary judgment motion under Federal Rule of Civil Procedure 12(d). Discovery is permitted under the Federal Rules and the PSLRA.

II. DISCUSSION

A. Documents that May Be Considered on a Motion to Dismiss Are Limited and May Not Be Accepted for Their Truth

Defendants argue that "no pleading standard, procedural rule, or precedent allows a plaintiff to allege fraudulent concealment from stockholders and then, when faced with a Rule 12(b)(6) motion, insist that the Court ignore publicly available documents demonstrating that the information allegedly concealed was, in fact, repeatedly disclosed to investors." Defs.' Opp. at 2. On this much, plaintiffs agree. But where the parties part ways is with defendants' interpretation of the law as allowing the Court to accept those publicly available documents ***for their truth***.[3]

The law permits a certain limited category of documents to be considered in connection with a motion to dismiss, including "'documents appended to the complaint or incorporated in the complaint by reference, and to matters of which judicial notice may be taken.'" *Leonard F. v. Isr. Disc. Bank*, 199 F.3d 99, 107 (2d Cir. 1999). "The court may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the trial court's territorial jurisdiction; or (2) can be . . . readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b). But under no circumstances may the Court accept those documents for the truth of the matters asserted. *Staehr v. Hartford Fin. Servs. Grp.*, 547 F.3d 406, 425 (2d Cir. 2008); *Roth v. Jennings*, 489 F.3d 499, 509-10 (2d Cir. 2007) (even SEC filings in cases of fraud may be considered only for what statements the filings contain and not for the truth of the

[3] Plaintiffs obviously disagree with defendants' suggestion that "publicly available documents demonstrat[ed] that the information allegedly concealed was, in fact, repeatedly disclosed to investors." Defs.' Opp. at 2. It was not. Lead Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion to Dismiss the Amended Complaint (Dkt. No. 34) at 15, 20, 26, 28-30. Exhibit J, the only document defendants cite saying anything about Genworth's 2007/2008 vintage years, was silent about defendants' exposure to low documentation loans during these years, how they were issued, and that it was these loans that were defaulting at an increasing rate. *Id.* Plaintiffs leave that discussion, however, to their opposition to defendants' motion to dismiss.

matter asserted). Defendants' authority is in accord. Defs.' Opp. at 2-3 (citing cases accepting documents for "fact of . . . publication" but not for their truth).

1. The Court May Not Consider Exhibit J for Any Purpose

Defendants argue that "the Court may consider Exhibit J not only for the fact of its disclosures, but to the extent it 'inform[s] the competing inference analysis required by *Tellabs*.'" Defs.' Opp. at 5. Put plainly, they ask the Court to accept Exhibit J's contents for its truth. *Id.* Defendants' argument fails on multiple levels. First, defendants have failed to demonstrate that the Court can consider Exhibit J for ***any purpose***, let alone the truth of what they "believed" or were "committed to." As plaintiffs demonstrated in their Motion to Strike, Exhibit J is "not a 'written instrument attached to the complaint,' it was not incorporated into the complaint by reference, it is not a legally required public disclosure document filed with the SEC," "it is not a document possessed by or known to the plaintiff and upon which it relied in bringing the suit," and it "certainly does not qualify as a fact that is not subject to reasonable dispute under Fed. R. Evid. 201." Motion to Strike at 3. Defendants respond with the argument that "Exhibit J was just as accessible to the market (including Plaintiffs) as other documents relied on throughout Plaintiffs' complaint," using as examples Genworth's May 2, 2012 presentations that plaintiffs cited in the Complaint. Defs.' Opp. at 3. But they have not demonstrated that this was the case ***in 2011*** and have tacitly conceded that Exhibit J was not presented publicly, unlike the May 2, 2012 slide presentations. Defendants' Opposition offers nothing to support their argument that the Court can consider this admittedly extrinsic document ***for any purpose***.[4]

[4] Defendants' reliance on *Doron* and *Muller* to argue that the Court can judicially notice Exhibit J because it is on Genworth's website is misplaced. Defs.' Opp. at 3. Both cases hold that a court may take judicial notice of a party's website "as long as the website's authenticity is not in dispute and 'it is capable of accurate and ready determination.'" *Doron Precision Sys., v. FAAC, Inc.*, 423 F. Supp. 2d 173, 179 n.8 (S.D.N.Y. 2006); *Muller-Paisner v. TIAA*, 289 F. App'x 461, 466 (2d Cir.

Second, defendants' argument is directly contrary to the very cases that they cite earlier in their brief holding that courts can consider certain categories of documents for ***their publication***, but not for their truth. *Compare* Defs.' Opp. at 2 *with* Defs.' Opp. at 5. Defendants do not explain the inconsistency in their own submission. Defendants have offered Exhibit J to show what they "believed" and to what they were "committed." More specifically, they offer it to prove that "the company was ***fully committed*** to executing an IPO in Q2 2012, ***believed*** it was important, and ***believed*** it was on track during the class period." Defs.' MTD at 40. The only way to draw these conclusions is to accept the contents of Exhibit J as true. Defs.' Opp. at 3-4.[5]

Third, defendants rely too heavily on opinions by Judge Pauley, when in fact, those cases are contradicted by other authority that even defendants cite. Defs.' Opp. at 5. For example, in *Kinross*, Judge Engelmayer refused to take judicial notice of submitted documents to support a competing inference to the one advanced by plaintiff. 957 F. Supp. 2d at 287-89. Judge Engelmayer

---

2008) (same). That is obviously not the case here, especially considering that Genworth's website provider during the Class Period blocked access to archived versions of the Company website. Wroblewski Decl., ¶6. Notably, the courts in both cases only took judicial notice of a party's ***own*** website, which makes sense given that another party's website is typically not "'capable of accurate and ready determination'" for the adversary. *Doron*, 423 F. Supp. 2d at 178-79 (taking judicial notice of website's contents where statement in complaint "conflicts with the representations on Doron's own website"); *Muller*, 289 F. App'x at 466 (taking judicial notice of defendants' own website to establish that its employees made statements consistent with plaintiffs' fiduciary duty claims). Here, the webpage at issue was hosted by an external provider in 2011. Wroblewski Decl., ¶5.

[5] *Kinross*, on which defendants rely to argue that they do not offer Exhibit J for its truth, supports plaintiffs. Defs.' Opp. at 4. In *Kinross*, the court refused to take judicial notice of articles and analyst reports for their truth that industry wide cost overruns caused delays in development projects because the "causal link [was] not a fact generally known" and was "plausibly subject to dispute." *City of Austin Police Ret. Sys. v. Kinross Gold Corp.*, 957 F. Supp. 2d 277, 288 (S.D.N.Y. 2013). The court, in fact, directly rejected the very same argument that defendants make here that the court can accept documents for their truth for purposes of assessing competing inferences of scienter. *Id.* at 287-89. The only proper source for that purpose, the court held, were the allegations in the Amended Complaint. *Id.* at 289 n.3.

determined that the exhibits used to support defendants' articulated competing inference were "of no assistance to [defendant] except if taken for the truth." *Id*. at 289. He therefore struck the exhibits, explaining further that while the court may consider alternative explanations under a *Tellabs* analysis, it may not "treat [defendant's] stated explanation as necessarily true." *Id*. at 289 n.3. Judge Pauley, by contrast, did consider documents for the limited purpose of assessing the scienter inference, but did not hold that courts can accept the contents of documents as true on a motion to dismiss. To the contrary, Judge Pauley could not infer scienter after looking at forms filed with the SEC in which defendants disclosed "already-accrued" losses incurred in settling repurchase claims, and refused to find scienter after considering "internet sources . . . and news articles" in the context of "an unprecedented paralysis of the credit market and global recession." *Pa. Pub. Sch. Emps.' Ret. Sys. v. Bank of Am. Corp.*, 874 F. Supp. 2d 341, 360-61 & n.3 (S.D.N.Y. 2012); *Plumbers & Steamfitters Local 773 Pension Fund v. Canadian Imperial Bank of Commerce*, 694 F. Supp. 2d 287, 297 n.2, 301 (S.D.N.Y. 2010). In both cases, the extrinsic information the court considered was undisputed, unlike this case. *Id*.[6]

The practice of drawing inferences from extraneous documents submitted by defendants on a motion to dismiss is questionable in light of contradicting case law. *Kinross*, 957 F. Supp. 2d at 289;

[6] Nor does *Kramer* support defendants' argument. Defs.' Opp. at 5 (citing *Kramer v. Time Warner Inc.*, 937 F.2d 767, 774 (2d Cir. 1991)). In fact, defendants' own authority rejects similar attempts to stretch the holding in *Kramer* in this manner and even reveals that the use of extrinsic documents to assess the scienter inference is contrary to Second Circuit precedent. As the court in *Kinross* noted, "[t]he Second Circuit has clarified that, in *Kramer*, the district court properly took judicial notice of the 'publicized condition of the junk bond market during the relevant time period,' but that fact 'was not relied on for its truth.'" *Kinross*, 957 F. Supp. 2d at 289 (quoting *Staehr*, 547 F.3d at 425). As previously noted, the court refused to consider any extrinsic documents for this purpose. *Id.* at 289 n.3. Defendants' attempt to use *Kramer* for this same purpose is to no avail. The "illustrative reference to the condition of the bond market" in *Kramer* to illustrate how a "naked allegation" did not sufficiently allege scienter is a far cry from what defendants are asking here. Indeed, unlike *Kramer*, defendants are asking the Court to accept Exhibit J for its truth to draw conclusions about what they "believed" and to what they were "committed."

Roth, 489 F.3d at 512 (district court erred in accepting defendants' SEC filings for the truth of their contents, in inferring that those contents were sufficient and controlling, and in concluding that the complaint itself did not allege facts sufficient to show liability); *Teamsters Local 617 Pension & Funds v. Apollo Grp., Inc.*, 633 F. Supp. 2d 763, 776 (D. Ariz. 2009) (court may take judicial notice of the content of an SEC filing and the fact that it was filed with the agency, but the court may not take judicial notice of the truth of the filing's content or any inference drawn from the content).[7]

2. The Court May Not Consider Defendants' Other Exhibits for Their Truth

Defendants' motion to dismiss relies heavily on the argument that Genworth disclosed and updated investors with the truth about Genworth Australia, including that "Genworth (i) clearly and repeatedly discussed the economic problems impacting Queensland; [and] (ii) clearly and repeatedly reported quarter-by-quarter increases and decreases in delinquencies and claims that Genworth Australia experienced (including in Queensland)." Defs' MTD at 4. Defendants offer a host of documents to support these assertions, including SEC filings, press releases and conference call transcripts. *See* Declaration of Greg A. Danilow (Dkt. No. 31).

Plaintiffs moved to strike these exhibits to the extent that any of them were offered for their truth. Defendants' motion to dismiss argued that the disclosures contained in these documents revealed the truth about Genworth Australia's true financial condition. Defs.' MTD at 7. But these

[7] Notably, though, other courts, in addition to Judge Engelmayer in *Kinross*, have limited the extent consideration of what may be considered even when taking judicial notice when addressing a motion to dismiss: "[J]ust as the Court could take judicial notice of the fact that the country suffered from the Great Depression in the 1930s, the Court cannot use that fact to infer anything in particular about a business operating at the time. In short, while a Court can take judicial notice of the fact that the Company's industry suffered reversals, the Court cannot take judicial notice of the impact of those industry-wide reversals on the Company." *In re 2007 Novastar Fin., Inc.*, No. 07-0139-CV-W-ODS, 2008 U.S. Dist LEXIS 44166, at *5 (W.D. Mo. June 4, 2008), *aff'd*, 579 F.3d 878 (8th Cir. 2009).

disclosures did not reveal Genworth's true financial condition, as plaintiffs demonstrated in their opposition to defendants' motion to dismiss. For purposes of defendants' motion to dismiss, the Court may only consider these exhibits for their publication and not for their truth. This limitation persists regardless of whether or not defendants believe that plaintiffs have met "their obligations under Rule 7(b)(1)." Defs.' Opp. at 8.

B. Because of Defendants' Attempt to Infect Bias into the Proceedings, the PSLRA Discovery Stay Should Be Lifted to Allow Plaintiffs an Opportunity to Controvert Exhibit J

Under Rule 12(d) of the Federal Rules of Civil Procedure, the Court may "exclude[]" "matters outside the pleadings." Fed. R. Civ. P. 12(d). Realizing they overstepped in submitting Exhibit J, defendants now invite the Court to do just that. Defs.' Opp. at 6. But defendants cannot "unring the bell." By presenting Exhibit J, defendants have questioned the validity of plaintiffs' claims by contending that (a) the market already knew about problems with Genworth Australia before the Class Period, and (b) that defendants' beliefs were in line with their public disclosures. This places the Court in the unenviable position of having to "un-read" defendants' contentions supported by Exhibit J.

Under these circumstances, Exhibit J's exclusion provides an inadequate remedy. Instead, in accordance with Rule 12(d), defendants' motion to dismiss should be "treated as one for summary judgment under Rule 56" and "[a]ll parties must be given a reasonable opportunity to present all the material that is pertinent to the motion." Fed. R. Civ. P. 12(d); *Global Network Commc'ns, Inc. v. City of New York*, 458 F.3d 150, 155 (2d Cir. 2006) ("[T]he [conversion to summary judgment] requirement expressly addresses and solves the major problem that arises when a court considers matters extraneous to a complaint, namely, the lack of notice to the plaintiff that outside matters would be examined. It deters trial courts from engaging in factfinding when ruling on a motion to

dismiss and ensures that when a trial judge considers evidence dehors the complaint, a plaintiff will have an opportunity to contest defendant's relied-upon evidence by submitting material that controverts it."). The PSLRA likewise contemplates that while discovery shall be stayed during the pendency of any motion to dismiss, the Court may lift the stay to allow particularized discovery where necessary "to prevent undue prejudice." 15 U.S.C. §78u-4(b)(3)(B).

Courts have noted that defendants may not "use the stay as a shield to insulate themselves from liability. Indeed, if the absence of discovery would essentially protect defendants from liability, undue prejudice would result." *Faulkner v. Verizon Commc'ns, Inc.*, 156 F. Supp. 2d 384, 406 (S.D.N.Y. 2001). The court's opinion in *Vacold LLC v. Cerami*, No. 00 Civ. 4024 (AGS), 2001 U.S. Dist. LEXIS 1589 (S.D.N.Y. Feb. 16, 2001), is applicable to the circumstances here. There, plaintiffs claimed they were induced to sell their shares in a joint venture corporation formed with defendants to develop virtual lymph node technology. *Id*. at *5-*6. Though defendants represented that the company had received no interest from pharmaceutical companies for investment in the technology, it turned out after plaintiffs sold their shares that defendants had been able to procure financing from Johnson & Johnson. *Id*. at *6. The court lifted the PSLRA discovery stay "on grounds of undue prejudice" to allow plaintiffs discovery into the nature and timing of Johnson & Johnson's investment, without which, defendants may have been unfairly insulated from securities fraud liability. *Id*. at *24-*25; *see also id.* at *19, *25 (noting that "defendants declined to disclose the timing of its commercial dealings with [Johnson & Johnson]" at oral argument and "defendants' failure to specify the timing . . . further suggest[ed] the possibility that plaintiffs would suffer improper or unfair treatment in the absence of the requested discovery").

Here, defendants may also be unfairly insulated from liability if the court accepts defendants' argument that Exhibit J revealed the truth, notwithstanding the omission of any information about

low-documentation loans. Without any substantiation that that Exhibit J was in fact publicly disclosed – no transcript of the presentation, no analyst coverage, the market's shock at the disclosures at the end of the Class Period, the exceedingly rare (and thus, suspect) presentation of data four days ***before*** the quarter's end, and the highly questionable date when originally posted to the Company's website – the conclusion justifiably drawn is the presentation was ***not*** publicly given and, at the very least, did not disseminate into the market. At a minimum, determination of the slides' origination and publication is necessary to preclude defendants' insulation from securities fraud. *Vacold*, 2001 U.S. Dist. LEXIS 1589, at *24.

By improperly offering Exhibit J in support of their motion to dismiss contentions, defendants can be said to have "'opened the door'" to allowing plaintiffs to introduce evidence "needed to rebut a false impression that may have resulted from the opposing party's evidence." *Rosa*, 11 F.3d at 335. Such "'curative admissibility'" is at the Court's discretion. *Id.* So too is the decision to lift the PSLRA discovery stay to prevent "undue prejudice." 15 U.S.C. §78u-4(b)(3)(B) (granting courts discretion to lift PSLRA discovery stay to "prevent undue prejudice"). Allowing plaintiffs the opportunity to attempt to cure the impression defendants have sought to make with Exhibit J is proper under the circumstances, as well as under the Federal Rules and the PSLRA.

III. CONCLUSION

For the forgoing reasons, plaintiffs request the motion to strike all of defendants' exhibits to the extent they are offered for the truth asserted be granted. Plaintiffs also request defendants' motion to dismiss be converted into a motion for summary judgment, giving plaintiffs an opportunity to conduct discovery for curing the defendants' improper submission of Exhibit J.

Should the Court decide not to convert to a motion for summary judgment, plaintiffs request that Exhibit J be stricken from consideration for any purpose.

DATED: March 2, 2015

Respectfully submitted,

ROBBINS GELLER RUDMAN
& DOWD LLP
DOUGLAS R. BRITTON
ASHLEY M. PRICE

s/ DOUGLAS R. BRITTON
DOUGLAS R. BRITTON

655 West Broadway, Suite 1900
San Diego, CA 92101-8498
Telephone: 619/231-1058
619/231-7423 (fax)
dougb@rgrdlaw.com
aprice@rgrdlaw.com

ROBBINS GELLER RUDMAN
& DOWD LLP
SAMUEL H. RUDMAN
58 South Service Road, Suite 200
Melville, NY 11747
Telephone: 631/367-7100
631/367-1173 (fax)
srudman@rgrdlaw.com

LABATON SUCHAROW LLP
JONATHAN GARDNER
PAUL J. SCARLATO
ANGELINA NGUYEN
140 Broadway, 34th Floor
New York, NY 10005
Telephone: 212/907-0700
212/818-0477 (fax)
jgardner@labaton.com
pscarlato@labaton.com
anguyen@labaton.com

Lead Counsel for Plaintiffs

CYPEN & CYPEN
STEPHEN H. CYPEN
777 Arthur Godfrey Road, Suite 320
Miami Beach, FL 33140
Telephone 305/532-3200
305/535-0050 (fax)

Additional Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on March 2, 2015, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 2, 2015.

s/ DOUGLAS R. BRITTON
DOUGLAS R. BRITTON

ROBBINS GELLER RUDMAN
& DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101-8498
Telephone: 619/231-1058
619/231-7423 (fax)

E-mail: dougb@rgrdlaw.com

Mailing Information for a Case 1:14-cv-02392-AKH

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Mario Alba , Jr**
  malba@rgrdlaw.com,e_file_ny@rgrdlaw.com,e_file_sd@rgrdlaw.com,drosenfeld@rgrdlaw.com
- **Jeffrey R. Alexander**
  jalexander@bftalaw.com
- **Douglas R. Britton**
  dougb@rgrdlaw.com,kathyj@rgrdlaw.com
- **Greg A. Danilow**
  greg.danilow@weil.com,MCO.ECF@weil.com,robert.ruff@weil.com,Lauren.Engelmyer@weil.com,Larkin.Kittel@weil.com
- **Jonathan Gardner**
  jgardner@labaton.com,lmehringer@labaton.com,fmalonzo@labaton.com,acarpio@labaton.com,electroniccasefiling@labaton.com,agreenbaum@labaton.com
- **Caroline Jane Hickey**
  caroline.hickeyzalka@weil.com,mco.ecf@weil.com,Layne.Behrens@weil.com
- **Angelina Nguyen**
  anguyen@labaton.com,electroniccasefiling@labaton.com
- **William Stephen Norton**
  bnorton@motleyrice.com,mkimpson@motleyrice.com,kweil@motleyrice.com
- **Ashley M. Price**
  APrice@rgrdlaw.com,susanw@rgrdlaw.com
- **David Avi Rosenfeld**
  drosenfeld@rgrdlaw.com,e_file_ny@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **Samuel Howard Rudman**
  srudman@rgrdlaw.com,e_file_ny@rgrdlaw.com,mblasy@rgrdlaw.com,e_file_sd@rgrdlaw.com

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)