

IN THE DISTRICT COURT OF THE UNITED STATES
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

IN RE: LIPITOR

2:14-MN-2502

TRANSCRIPT OF STATUS CONFERENCE
FRIDAY, MAY 16, 2014
BEFORE THE HONORABLE RICHARD M. GERGEL,
UNITED STATES DISTRICT JUDGE

Court Reporter: Amy C. Diaz, RPR, CRR
P.O. Box 835
Charleston, SC 29402

Proceedings recorded by mechanical shorthand,
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1 THE COURT: Okay. We are here in our In Re Lipitor
2 status conference 2:14-MN-2502. Good morning everyone. I
3 notice that we have a lot in attendance here today.

4 (Interruption by phone operator.)

5 THE COURT: Let me start over again. We are at a
6 monthly status conference, May 16, 2014 in the matter of In
7 Re Lipitor 2:14-2502. Let's have counsel who are going to be
8 speaking identify themselves for the record, please.

9 MR. HAHN: Blair Hahn for the plaintiffs, Your
10 Honor.

11 MR. MARCUM: Christian Marcum for the plaintiffs.
12 Potentially.

13 MR. CHEFFO: Mark Cheffo for Pfizer.

14 THE COURT: Very good. Mr. Cole, are you going to
15 be quiet today?

16 MR. COLE: I'm hoping to be quiet.

17 THE COURT: I may call upon you if I don't agree
18 with what the others are doing. I always like your good
19 judgment on things.

20 Let me sort of go through, if I might, some of the
21 issues, and then if I left stuff out or need to address
22 issues in more detail, let's -- I'll give y'all a chance to
23 identify those for me.

24 One of the questions I had was what happens if we
25 select the 14 cases and then plaintiff dismisses cases? Now,

1 let me just say that raises this whole system that we are
2 trying to anticipate so no party can game the system, right?
3 We are trying to randomly select cases to try. I could just
4 pull a number out of a hat and do it, but I'm trying to do it
5 in a way that is more deliberate than that. But we've got to
6 have a system where neither party can game it, okay? That's
7 important here.

8 And let me -- I've thought a lot about this. Ms.
9 Boroughs and I have done a lot of thinking about how do we
10 prevent either party from doing that? And here is sort of
11 what I thought would be the solution: Up to August -- you
12 know, June we'll identify seven each. By August 1 either
13 party can -- you know, if a case is -- you know, what would
14 happen here is the case is somehow dismissed, okay, by the
15 plaintiff. If the plaintiff does that before August 1, then
16 either party can select another. After August 1, if the
17 plaintiff dismisses a defense case, the solution I think
18 that's most rational is the defense strikes a plaintiffs'
19 case. We've got to keep the same even number in the pool.
20 I'm trying to deter that. I think that would be a pretty
21 high price for plaintiff to pay to dismiss a defense case.
22 But if you are doing that, there is a price for it. And so
23 we would go from 14 to 12. I mean, and I think that would --
24 and there may be issues that we can't even anticipate that
25 will come up and we'll have to revisit this, but what I'm

1 trying to do is to have y'all get a hand in a pool of cases
2 that we then, you know, get a sort of fair representation to
3 draw the first two. So that would be my solution to that.
4 That is sort of the August 1 is the drop dead date. And, you
5 know, before then if the cases are dismissed, fine, but after
6 that, those are the 14 we are going to be drawing upon to
7 select the first and second and thereafter.

8 I was asked, well, should those be with or without
9 prejudice? You know, of course I get this 41(a)(2) question
10 all the time. And, you know, the case law is that it's very
11 fact specific. You know, what is the reason the plaintiff is
12 dismissing? What is the prejudice to the defendant? And I'm
13 not going to lock myself into it. What I don't want, the
14 plaintiffs to have the ability to willy-nilly bringing cases
15 in and out like a deck of cards. And, you know, you may
16 well -- when you do that, your case could get dismissed with
17 prejudice. So I'm trying to deter the kind of gaming of the
18 system, is all I'm trying to do.

19 And so I'm going to tell you I'm not going to tell
20 you yet. I'm going to have -- if you dismiss one, I'm going
21 to have to -- you are going to come before me after the
22 answer is filed and I'm going to have to make a determination
23 based on all the factors I normally consider in a 41(a)(2)
24 dismissal.

25 Okay. Now, a question arose, what happens if we

1 have 14 cases in the pool, discovery pool, and Lexicon is not
2 waived? And it occurred to me, you know, once that question
3 was raised that we won't ever have that problem because the
4 only cases that are going to be in the pool of cases that are
5 going to be the 14 are cases I can try.

6 Now, let's talk about how that would be. They would
7 certainly include the 30 cases already filed here. There are
8 approximately 69 cases that have been directly filed. I
9 understand y'all have some kind of understanding that you
10 could still -- you would make a 1404 motion on those. I'm
11 going to require y'all to -- I'm going to set a deadline for
12 making 1404 motions, but I'm going to address those before
13 you pick the cases on June 20th. So we are going to know
14 those cases are in the pool that I can try, the ones that I
15 don't agree to transfer back for inconvenient forum.

16 As to those large body of other cases, if you guys
17 work out that if they are among the 14, Lexicon is waived,
18 I'm okay with that. But I'm not having y'all have them come
19 and go when you pull them out of the system by just saying,
20 I'm now asserting Lexicon. It's a right of both of y'all.
21 And if we want all 700 some odd cases in the pool, you are
22 going to have to waive Lexicon for this purpose. I'm not
23 telling you you need to waive it for every purpose, but if
24 they are going to be among the 14, they've got to be cases I
25 can try. Does that make sense to everybody? We can't have

1 people say, oh, no, that one now we don't waive Lexicon. I
2 mean, we've got to have the pool.

3 My own preference is we would say all of them are in
4 there because I think that gives everybody more choices. But
5 y'all -- Lexicon is a right each of your -- there is a right
6 here on that, and I can't -- I can't waive it. I can't make
7 y'all waive it. So if you want to work it out among
8 yourselves on that. But what I will definitely do is I know
9 the 30 I can try because they are the South Carolina cases.
10 And I know that on all the cases in which a 1404 motion is
11 not timely filed or which I deny the motion, I can try those.
12 And I will definitely have those for the pool, and you will
13 know what that pool is in which y'all would pick seven each.

14 So any thoughts about that? I mean, what's
15 everybody's thought about that? Mr. Hahn?

16 MR. HAHN: Your Honor, from the plaintiffs'
17 perspective, the seven the plaintiffs would pick that would
18 be part of the 14 we would certainly waive Lexicon on those
19 and make sure that the plaintiffs were fully aware --

20 THE COURT: Both sides have to waive Lexicon.

21 MR. HAHN: Yes, sir.

22 THE COURT: It would have to be a mutual thing. And
23 so that's the problem is I can't make y'all waive that, and I
24 can't set a deadline, it's a right. You know, I can't make
25 you -- it's not something you have to assert; it's your

1 right.

2 MR. HAHN: The issue as I see it is on the defense
3 picks with your August 1 deadline, we would certainly have
4 time to talk to those people. If they are going to waive
5 Lexicon and somebody doesn't, for whatever reason, we would
6 work through that --

7 THE COURT: You've got to do it by June because
8 they've got to be -- the 14 have to be cases I can try.
9 That's the problem.

10 MR. HAHN: Well, the problem then with the defense
11 pick is we don't know who they are going to pick. So we
12 can't talk to them about whether or not they are going to
13 waive Lexicon.

14 THE COURT: We are going to set a deadline for y'all
15 to determine what cases are in the pool because you both need
16 to know that.

17 MR. HAHN: Yes, sir.

18 THE COURT: So I think we are going to need to work
19 out something where y'all will have a deadline, maybe June 1
20 or whatever the date is, that all the cases which are triable
21 in this District without unilateral action of either party.
22 Because those are the only ones, Mr. Hahn, we can have in the
23 14. It doesn't make any sense otherwise.

24 MR. HAHN: And the proposal that we've submitted,
25 we have on June 20th we pick seven, June 23rd they pick seven

1 and by June 27th we would certify that their picks were
2 waiving Lexicon.

3 THE COURT: No, we can't do that because that gives
4 you a chance to -- you've got to know before y'all pick them,
5 before you do the 14 -- just get your head around this,
6 before you do the 14, y'all need to know what pool of cases
7 you can draw from. You've got to know that; otherwise, it's
8 a meaningless set of -- because of the 700 some odd cases
9 only -- you know, there is a very limited number that -- it's
10 a small minority of them are actually triable right now in
11 the District without waiver of Lexicon. So y'all need to
12 sort that out beforehand; not afterwards. Because I want
13 those 14 to be meaningful. You've got a lot of work to do
14 between June and August --

15 MR. HAHN: Yes, sir, we do.

16 THE COURT: -- to sort all that out. And we don't
17 need -- I mean, that June date is a very important date for
18 y'all to get going on the individualized discovery. So we
19 are not -- I mean, I would think the removal between June and
20 August 1 would be the exception not the rule. Because y'all
21 are going to be doing all your due diligence, both of you, on
22 those cases.

23 MR. HAHN: The other issue then is, which Mr.
24 Cheffo and I have had a discussion about, is Pfizer's right,
25 and does the Court view their right to waive Lexicon on cases

1 individually or is it a one time you are waiving Lexicon on
2 the plaintiffs?

3 THE COURT: What you think, Mr. Cheffo?

4 MR. CHEFFO: I think as you told them a few times,
5 Your Honor, you are basically taking the parties' concern,
6 and you've taken some of the things that we have proposed and
7 you've come up with a creative and effective solution. So I
8 think the way you laid it out, it may not have been exactly
9 what, you know, what I would have proposed, but I think what
10 you've done is essentially say, look, both parties have to
11 know. And I think we need to meet and confer about -- I'll
12 tell you that, I mean, Lexicon is usually, as Your Honor
13 knows, a defense issue. It's not usually the plaintiffs
14 say --

15 THE COURT: I understand that.

16 MR. CHEFFO: -- don't pick my case I don't want to
17 go to trial.

18 So I think what we've done in other litigations --
19 and I'll talk to my client about this -- typically we will
20 say cases that are picked we will waive it as to those cases,
21 you know, kind of blindly.

22 So I think you might say look, the case is in -- and
23 this is not impossible, this is, you know, a few hundred
24 cases -- between now and then they call their clients,
25 explain to them and say, here is the issue, do you want to

1 waive Lexicon? And presumably everyone will say, sure, I
2 want my case to go to trial.

3 THE COURT: Truthfully y'all probably each in your
4 head have a pool of 40 or 50 cases y'all would like to put
5 among the seven. Y'all are probably thinking about all of
6 that. It's not like you are calling all 700 clients and
7 saying, do you waive Lexicon?

8 MR. CHEFFO: The only thing is this: Because we
9 are on a tight schedule, we are going to get -- frankly, we
10 don't know anything about the vast majority of the cases.
11 The answer to that, and Your Honor addressed this, is June
12 2nd we are supposed to get the fact sheets. At that point we
13 have a few weeks to go through essentially a few hundred or
14 more fact sheets, and that's how we are going to pick. Now
15 we certainly know about the 14 and 30 cases because we have
16 records on those.

17 So the way Your Honor has proposed this, it makes
18 sense, is that, you know, basically if they say, look, all of
19 these cases are in, everybody is in, then we both have kind
20 of a fair amount of information. It's their clients, they
21 know who they are. But as to June 2nd, we'll get this kind
22 of massive fact sheets, we'll go through -- and what we don't
23 want to do is the plaintiffs to kind of self select and say,
24 here is the 40 people who we think waive Lexicon because
25 that's essentially a pick of their own cases.

1 THE COURT: I agree with that. And, you know, there
2 is always a -- you know, it's like the tax law. They
3 passed -- Congress passes something to fix a problem and then
4 all the tax lawyers spend all their time getting around the
5 system. And y'all may both find ways to game this. And if
6 it is, I'm going to revisit me just going into a hat and
7 pulling two out. I mean, I warned y'all I will do that if I
8 think it's not working. So if I start having problems that
9 people are playing games on the Lexicon issue, I'm going to
10 revisit how our selection process is.

11 MR. CHEFFO: And that's why -- as I said, you know,
12 I'll talk to my client. I know what we've done in other
13 litigations is to kind of waive it. As long as the pool
14 is -- essentially because we share the same resolve, I think
15 the plaintiffs do, too, we want to find the cases that are
16 either outliers or the kind of cases that don't tell us
17 anything. And to the extent that we are all looking at the
18 same collection and compilation of cases and then picking
19 cases we intend to strike, that's how we get to this final
20 where we get cases hopefully that are represented. And I
21 think that process can work well.

22 You know, I will just tell you that the reason why I
23 think we are concerned about this is we have been in the
24 Zoloft litigation where we've now kind of gotten through
25 that, but we had -- there was 25 cases, plaintiffs picked 13.

1 If all 12 of the plaintiffs' cases remain, we had to pick
2 about 30 cases. So I think this addresses some of those
3 issues because we don't have time to keep putting people in
4 the pool.

5 THE COURT: Correct. And I'm trying -- it's not a
6 perfect system. There is -- and we get some of these
7 discovery issues, the same answer. There is nothing perfect,
8 right? We are just sort of trying to do our best at sort of
9 approximating something fair. And I think this system in the
10 end hopefully will have a pool of cases that are fairly
11 representative, that are outliers, and we'll -- you know, if
12 we need to try them, we'll try a couple of them and get a
13 good feel about -- you know, we'll get a good feel where the
14 law goes on these issues.

15 Yes, sir, Mr. Hahn?

16 MR. HAHN: Yes, sir, Judge. And that's what the
17 plaintiffs want as well. I just want to make it clear that
18 we will have to contact all 700 plaintiffs on the Lexicon
19 issue because we don't know which ones they are going to
20 pick. And we will do our best to do that.

21 THE COURT: Well, you know, you are going to have to
22 have a mechanism periodically through this trial to
23 communicate with your clients. You know, normally you don't
24 think of Lexicon as a plaintiffs' issue. I understand it
25 certainly is theoretically. So don't overplay that one too

1 much. I mean, I think both of y'all are best served by
2 coming to me and saying, Judge, everything that has been
3 transferred here, everything -- they are all in. I mean, I
4 think that's simpler, but I can't make y'all do that.

5 MR. HAHN: And I can't make the people I'm
6 representing --

7 THE COURT: I understand.

8 MR. HAHN: My concern is I've got somebody in
9 Kalamazoo and her cousin is a bailiff in the local court and
10 that's where she wants her case tried.

11 THE COURT: Well, then she'll come out. That's what
12 happens. But, you know, part of the burden of representing a
13 large number of people, which y'all tell me eventually will
14 be in the thousands, is these kinds of things where you have
15 to get individualized authority, it's part of the burden.
16 There is some efficiency in here but there is some
17 inefficiency as well. You've got 21 members of the steering
18 committee, let them earn their keep, I think 21 divided by
19 seven isn't that bad, and tell them that the Judge assigned
20 each of them one twenty-first of those -- of the
21 communications.

22 Okay. There was a question raised about how many
23 fact witnesses the defendant can take in the discovery pool.
24 And I'm going to say, I think six makes more sense to me than
25 four. So six is fine. And I've got to tell y'all something,

1 if something gets in a case where there is some conflicted
2 issue that needs more discovery, we are doing this as an
3 approximation. I'm willing, if you've got a strong reason to
4 do it, to allow more depositions if something gets
5 complicated in the case where you need more information. But
6 six is the number that we'll agree to is the standard number.

7 I had a whole series of things about -- first of all
8 we had this issue about expert depositions. The plaintiff
9 proposes that the plaintiff deliver the expert reports and
10 then two weeks later the defendant does. And the defendant
11 proposes do all the plaintiff reports and then the defense
12 reports. Folks, we don't have enough time for waiting like
13 that. The plaintiff says they are not going to take the
14 deposition of a defendant expert in any area until the
15 plaintiffs have been done at least 10 days later. I think
16 the plaintiff has a better argument there. Plaintiff expert
17 reports, 10 days later the defense expert reports, but the
18 plaintiff experts get taken first. Otherwise, it is going to
19 be kind of shooting in the dark about what the theories are.
20 But I think that's the best solution for that.

21 And there are a whole series of other issues where
22 the plaintiff proposes a little bit of a later date, the
23 defendant an earlier date on when we do the pool strikes when
24 we do pick the date, and I'm on each of those picking the
25 earlier date, which happens to be here the defendants

1 proposing the earlier dates. But it's just I think getting
2 things done earlier and getting things resolved earlier is
3 the better course. And you will see that throughout the
4 final Order that I'm just basically picking those earlier
5 dates.

6 The specific trial date. Let me just say this, you
7 know, I don't yet have my jury terms for July of 2015. We do
8 that like in November or December. We have a system for
9 doing it. It will probably be -- this year it's July 9th.
10 And what exactly the date will be in July 2015 is probably
11 within a couple of days of that. And my plan is, and if all
12 things work out fine, that I would draw a jury and I would
13 start the trial the next morning. But one thing that could
14 interfere with that is I have speedy trial obligations in
15 some criminal cases that might interfere with that. But in
16 the absence of that, we would tee it up the next morning and
17 plan to go as long as it takes to go.

18 And I know this is early, anybody have any idea what
19 kind of trial length we are thinking about on something like
20 this on a bellwether case?

21 MR. HAHN: Typically in a case like this plaintiffs
22 can put their case up within 10 trial days.

23 THE COURT: Okay. How about --

24 MR. CHEFFO: Um, I think that's fair. I mean, what
25 we've done -- we haven't actually discussed this -- but

1 again, in some others with some of the Federal Courts tend to
2 be considering time trials, even though it's outside --

3 THE COURT: I'm not likely to give time. I'm more
4 likely to let you try the case. And this first one I think
5 probably enough time to try the case.

6 MR. CHEFFO: And absolutely, Your Honor. And we
7 can -- so, you know, with a time trial, I would say it's
8 typically about three weeks, two to three weeks. If no time
9 trial, you know, maybe three to four weeks.

10 THE COURT: You might make me a believer in time
11 trials.

12 MR. CHEFFO: It could be six months, Your Honor.

13 THE COURT: Y'all haven't tried a case with me. I
14 will not sit around that long. I will move you along. I
15 always say I want the next witness ready right then, you
16 know, you don't leave the jury sitting and all that.

17 MR. CHEFFO: Perhaps you will indulge us at some
18 point, I don't want you to make an advisory ruling, but at
19 some point maybe when we get a little closer we can address
20 the issue of timed trials and highlight some of the pros and
21 cons.

22 THE COURT: I've never done one, but I'm open to
23 hearing you out on them. I just as an old trial horse
24 myself, I just have artificial rules when your particular
25 case may, you know, might lend itself. But I'm open to

1 hearing y'all out on that, okay?

2 MR. CHEFFO: Yes, Your Honor.

3 THE COURT: Okay. Now let's talk about predictive
4 coding versus key word searches. Let me sort of tell you my
5 thinking, and then I want to hear what y'all -- knowing that,
6 what your preference would be.

7 Obviously key word searches are the more traditional
8 method of doing it. If we went to a key word searches, I
9 think the plaintiffs' broader searches here would be
10 appropriate. If we did predictive coding, I think generally
11 the defendant's approach is the better with one caveat:
12 Magistrate Judge Peck's article. And there is one case where
13 they did a consent order. They provided that after you had
14 the sample documents, the sort of responsive/nonresponsive
15 ones would be disclosed to the plaintiff, I thought with that
16 modification that y'all already agreed on the plaintiff being
17 involved in selecting the sample documents I think is
18 appropriate. But training the device and so forth, and
19 training the computer and so forth, I don't -- I don't think
20 that's necessary. So predictive coding sort of the defendant
21 approach with that one modification key word search,
22 plaintiffs' approach.

23 Now, knowing that's where I would come down, which
24 one would you want me to pick? How about you, Mr. Hahn?

25 MR. HAHN: I'm going to defer to Mr. Marcum.

1 THE COURT: Mr. Marcum, I knew you were here for a
2 good reason.

3 MR. MARCUM: Thank you, Your Honor.

4 As I understand what you've just said -- I think
5 someone behind me should stand up and yell at me if I say the
6 wrong thing -- but I think predictive coding with the
7 modification that the plaintiffs are involved in reviewing
8 the sample sets of the documents, both responsive and
9 nonresponsive --

10 THE COURT: Correct.

11 MR. MARCUM: -- I do think that would be our
12 preferred approach.

13 They also made reference to beginning sort of the
14 seeding process using documents from custodians they've
15 already given us. And I think that may be okay, too. The
16 only thing I would say about that is the 11 custodians
17 they've given us to date have all been from the Medical or
18 regulatory sort of side of the company. We have the issue of
19 about 45 percent of those documents being these slip sheets,
20 nonresponsive slip sheets. So I have those two concerns
21 about that. But I think perhaps --

22 THE COURT: This is the parent/child issue?

23 MR. MARCUM: That's correct.

24 THE COURT: I'm going to get to that next.

25 MR. MARCUM: Right. Thank you.

1 So if we were to do that sort of seeding process
2 using some of those prior documents, which I think could be a
3 good approach. The other thing I would ask is that perhaps
4 we do a little bit of a hybrid, and maybe with our search
5 terms -- they are more appropriate, we think they are and
6 you've said that you think they are -- maybe give us a couple
7 of custodians. We can talk about the number from Marketing,
8 you know, or from other areas of the company.

9 THE COURT: It's important that the sample set, you
10 know, be adequate. It's the foundation of the whole
11 predictive coding. If you've got that not done well -- so I
12 want y'all to try to work it out, Mr. Marcum. If you can't,
13 come to me. I understand the problem and it needs to be
14 sufficiently inclusive so what you are training the computer
15 to do, it covers the terms. I mean, I kind of get the
16 problem with the key word searches. If you go out there --
17 and we all think, when we think about key words, we think
18 like lawyers, right? This is what Judge Peck talks about.
19 And we all think about how somebody might put something in an
20 e-mail where there is a whole language of e-mail
21 abbreviations and euphemisms. There is a language within the
22 culture of the company you don't even know about.

23 So for that reason, you know -- I think, you know,
24 we really need to get the sample right. And that's why I
25 think y'all's idea that y'all would participate in the

1 samples, identifying the samples, would be very important.

2 Mr. Cheffo, what's your thought?

3 MR. CHEFFO: You know, Your Honor, I actually like
4 most of either one. I think you've said this, I need to
5 confer with my client. Here is the issue: The particular
6 coding, we get something new, it's novel, haven't done and
7 the client did propose it, the main issue is what you've
8 addressed and I'm not going to revisit that, but their view
9 is -- to give you an example: The way it works in Safety,
10 for example, typically they could have a meeting and somebody
11 goes to a meeting, there is 10 different things, it could be
12 on X medicine, this medicine, the other thing, and there is a
13 lot of information, a lot of data because they work in these
14 multi-disciplinary teams. The concept of sharing
15 nonresponsive, which could be things like other litigations,
16 completely -- with plaintiffs' lawyers who have litigation
17 here and everywhere else is something --

18 THE COURT: My problem with that -- I have given a
19 lot of thought to that. And I think you've got to weigh
20 that -- in this job you are constantly weighing people with
21 good arguments. It's a good argument. The problem is we've
22 got to have a reliable system and we've got to have enough
23 transparency that we don't -- that it's not a black hole.
24 And I don't have enough confidence and the plaintiff doesn't
25 have enough confidence that we know what's going on if we

1 don't have -- if they don't have access to that.

2 So I'm not having them sit over your shoulder, I'm
3 not having them train the machine and over and over, but what
4 y'all mark responsive and nonresponsive -- and let me just
5 say this, if it's privileged, we'll talk -- you can assert a
6 privilege on those documents, on those -- the ones if you
7 mark nonresponsive and they are privileged, you are able to
8 assert privilege to me, okay? So attorney-client, whatever,
9 I'm prepared to do it. But, you know, if you need to talk to
10 your client, fine, but you need to tell me within the next 24
11 hours or so, end of the day Monday, which one do you prefer?
12 You proposed -- I'm basically taking your predictive coding
13 system with a slight, slight tweak by the guy who best
14 recognizes them in the judiciary as knowing this system, and
15 I think it's an important -- I think Judge Peck is right
16 about this. And if you are now saying, well, if I do the
17 Peck edition, then I don't want it, then I've got to weigh
18 what I'm going to do. And I'm going to make a decision. The
19 view you take it's not going to be dispositive to me, but I
20 want to hear from you.

21 MR. CHEFFO: And that's why I said, you know, I was
22 just expressing why I didn't feel comfortable, frankly,
23 telling you right off the bat, because this is a little bit
24 of a tweak. And I get what Your Honor is saying, I just need
25 a little bit of time. Twenty-four hours is fine. I will

1 regroup with the right folks, advise them and we'll get back.
2 I mean, and maybe some of this is devil is in the details, so
3 I understand. Are we talking about trying to initially find
4 some -- do some kind of searches to be able to -- and as to
5 those kind of limited searches as we train the system, after
6 some period of time we show them the nonresponsive, and then
7 once we develop this predictive coding model then you would
8 say we would just use that and we would give them the
9 documents?

10 THE COURT: Right. You know, you do it multiple
11 times, you do the training multiple times. And eventually I
12 saw like in the sample Judge Peck had in his thing, it was
13 like 3,500 documents in the end were ultimately used.
14 Whatever number is used, I don't want to get into setting a
15 minimum or a maximum or anything. But any document that
16 y'all produce as y'all were training it that says
17 nonresponsive, I want the plaintiffs to be able to see it.
18 Because if it looks responsive to them, then it undermines
19 the confidence we would have in the predictive coding, the
20 training of the computer.

21 MR. CHEFFO: And I think I did read the decision
22 and -- you know, I didn't study it -- I think there were some
23 limitations and there were -- again, these are issues that I
24 think we can talk about maybe, you know, the suggestion would
25 be have the people who are doing it kind of not agree to

1 sharing that information. Again these are issues --

2 THE COURT: Absolutely. I'm fine about all that.
3 And I'm not trying to -- you know, I think there is some
4 validity to the point, hey, these things that are determined
5 nonresponsive, you are just dumping them over to these guys
6 that normally wouldn't have access to them, that's a fair
7 point to make. It's just in the end we are relying on a
8 computer to pick documents rather than people and rather than
9 key words and we've got to make sure that the computer has
10 the right data protocols to do that.

11 MR. CHEFFO: And look, Your Honor -- and again, I
12 appreciate Your Honor bringing the issue, saying, look, if
13 you don't like predictive coding, then we are going to go
14 with the larger search terms, the broader search terms.

15 THE COURT: In the end I'm not sure which two of
16 those I'm going to do. If you come back and tell me, you
17 know, the defendant now takes the view it doesn't want
18 predictive coding, you don't get to make that final -- I make
19 the final decision; not you. But I'm going to let y'all know
20 my thinking so I could hear the benefit of your response
21 before I make that final decision.

22 MR. CHEFFO: And I will get back to you on
23 predictive coding. Just so we are clear -- and this I can
24 answer today -- our view would be as a first choice, because
25 of the complications of predictive coding -- and frankly, it

1 could take months and months and months -- we did propose
2 that I think right now our view would be first and foremost
3 our search terms should be what the Court goes with. We can
4 do that quickly. I think we talked about --

5 THE COURT: That one in my view is not acceptable,
6 so let's go to the next one.

7 The plaintiff search terms versus predictive coding.
8 Those are your two options.

9 MR. CHEFFO: That's what I will get back to you on.

10 THE COURT: Okay. Very good. And we'll hear
11 something by the end of the day Monday on that. If you would
12 provide it in writing, and we'll file it and the plaintiffs
13 will then know what the company's preference is.

14 MR. MARCUM: May I say something else on this?

15 THE COURT: Yes.

16 MR. MARCUM: Given the aggressive deadlines that we
17 were just talking about on other issues and how this sort of
18 fits into that, either we agree on some aggressive schedule
19 to get this predictive coding, and if that's what the Court
20 ends up ruling on to get it done, or you impose an aggressive
21 Scheduling Order.

22 THE COURT: And I'm prepared to do it if you tell me
23 to do it. I would love to see a recommendation from y'all
24 quickly on that. Because it does -- you know, the easier
25 course -- now guys, you know, I know everybody is sort of

1 enchanted with predictive coding, and I do think the study
2 suggested it's more reliable than any key word methods that
3 have been used. But, you know, everybody take a deep breath.
4 It may be that y'all will be just as happy with the broader
5 search terms. So, you know, just think about that because
6 then that's kind of done. And why don't y'all by the end of
7 the day Monday do the same thing. Tell me what -- that y'all
8 get to confer a bit and make a decision on that, okay?

9 MR. MARCUM: Fair, Your Honor. Thank you.

10 THE COURT: And then I do need for y'all to confer
11 if we are going to do predictive coding because we've got to
12 get a system of -- I mean -- and I'll be glad if y'all can't
13 agree on a date which the sample documents will be generated
14 and then the system, because it's going to take Mr. Cheffo's
15 team some real time, quality time, to train the system. I
16 mean, it's not something you do instantly.

17 So now let's talk about parent/child documents.
18 Folks, I have thought about this a lot, and here is sort of
19 my take on it: This system, all our search here, we've got
20 tens of millions of documents and we are trying to find the
21 relevant ones. And in some ways we are looking for the
22 needle in the haystack is what we are doing. And every
23 system we have is only partially effective, key word search,
24 predictive coding, everything else. And we are trying to
25 design methods that somehow don't have us looking at every --

1 eyeballs on every document of the defendant. It's just not
2 even physically possible to do. And it seems to me the
3 experience we've had up to now with the production of these
4 documents with -- that when the plaintiff has looked at them
5 and it was obvious that the attachments or the e-mail string
6 would have been relevant, on numerous occasions they were
7 absolutely right. And it makes sense to me that a place you
8 would look for relevant documents would be attachments and
9 e-mail strings in which there is something relevant.

10 So to me generally I think the better course here,
11 it's sort of weighing -- there is an argument the defendant
12 makes about burden and all that, I think -- I've thought
13 about that -- but I think the better argument is that the
14 whole document and all the attachments should be produced.

15 Now, saying that, there was one area which I thought
16 kind of made sense, the defendant's concern, and that was
17 there might be attached adverse incident reports on unrelated
18 drugs in which individual names are mentioned. And it would
19 be a huge burden on the defendant to have to go and redact
20 those. And I can't see how they would be -- that kind of
21 information is particularly relevant. So the modification I
22 would make there is if it relates to adverse event reports
23 regarding other drugs, that if it includes personally
24 identifying information, that that would not be subject to
25 the parent/child ruling I would make.

1 Yes, Mr. Cheffo?

2 MR. CHEFFO: This is one, Your Honor, I would a
3 little more forcibly ask Your Honor to consider.

4 THE COURT: I'm glad to hear from you. I have been
5 reading your work. I read it a couple of times.

6 MR. CHEFFO: I know you have.

7 And really there is one thing, I think almost become
8 background noise, it's burdensome, but here just to give
9 you -- there has been -- in the production so far there has
10 been 70,000 hours spent. That's just spent on review. That
11 doesn't include the Nelson Mullins or the Quinn Emanuel time.

12 The way Pfizer works with this parent/child --
13 intuitively, for example, some of these -- and I have some
14 statistics, we've produced hundreds of thousands of pages
15 from custodial files -- the way many of these people work is
16 that they will have a bunch of documents. Like I said, it
17 could be a committee, they will have 10 different things. So
18 you cannot get to the point of, in our view, just saying,
19 well, you know, redact the problems. You have to look at
20 every page of every attachment. And what that does is it
21 creates an un -- I mean, just really a Herculean, probably
22 four, five, six, seven times the amount of documents would be
23 captured, which will be literally millions and millions of
24 dollars.

25 And literally what we have here in perspective is

1 the plaintiffs came first and they said, look, we had 20
2 something documents. And we said early on, we are kind of
3 working with search terms. We -- I think they identified 25
4 or 26. And we said as to 21 of them, I believe, 20, 21, you
5 know, you are right. Part of this we said from the beginning
6 it's the way we pull documents where that we could refine our
7 search terms. So we not only produced those but then we
8 modified the terms such that it would capture those. They
9 then came back and said, well, we've looked at 200,000 pages,
10 and you know what? This whole process is working because we
11 found seven documents that weren't these parent/child.

12 And here is the deal with the seven documents, first
13 of all -- again, I don't attribute any bad faith, just
14 clerical error -- but three of those actually would have been
15 caught by their search terms and our new search terms. One
16 of them is basically subject to another protocol would have
17 been produced. So what does that leave you with? That
18 leaves you with over 200,000 documents, you have three
19 documents. And as to those three, we have figured out
20 through -- you know, the experts have looked at and said it
21 was just a minor change, which we obviously did, in terms of,
22 you know, the search words. It's almost like a Westlaw
23 search, if you make it a little closer. And under the
24 current protocol it captures every one of them under what
25 we've used as search terms. And we've shared that with the

1 plaintiffs. And frankly, other than these seven documents,
2 we haven't heard a single document.

3 So the idea that -- I just want to make -- the
4 reason I'm spending a minute or two on this, Your Honor, is I
5 don't want the Court to be left with the impression that
6 there is kind of some, you know, kind of very fundamental
7 breakdown. I think it's just the opposite, that this is -- I
8 think it's .001 percent to your point. I mean, could there
9 be documents, you know, theoretically, but we've also said a
10 few things because when we've pulled all these documents of a
11 custodial file in a manner of if we learn later that there
12 is -- someone finds a document that we need to modify our
13 search, we'll do it and we'll go back and be able to deal
14 with it.

15 So the idea of spending what could be tens of
16 millions of dollars up front when they found basically three
17 documents which have been corrected. And here is the one
18 thing I would say, too, it's not that these documents are
19 completely unintelligible, right? Because what we are
20 talking about is the quote unquote child documents. So you
21 read the e-mail, and you say, Mrs. Smith is talking about X,
22 Y and Z, and they attach two documents. And usually it will
23 say in the e-mail what the things are. So, you know -- and
24 our people have now been instructed to actually look at all
25 of the parent e-mails and if there is any inkling that they

1 believe the child they are now reviewing it.

2 So I stand here to say this is an interim process,
3 what we did six months ago obviously was in good faith, we
4 thought we did the right thing, but they have brought some
5 issues to our attention and we have changed them.

6 THE COURT: Let me hear from the plaintiff on this.
7 And particularly in light of the fact that we are going to do
8 predictive coding or the plaintiff search, does that largely
9 solve the problem that was identified earlier?

10 MR. MARCUM: I don't think it does, Your Honor.
11 And let me also respond to the seven out of a hundred
12 thousand thing.

13 THE COURT: I thought the number was 26.

14 MR. MARCUM: Well, the number is. Exactly. There
15 is that. And not only that, but that was done in sort of a
16 sampling of the hundred thousand that have been treated this
17 way. We haven't identified others because once we found
18 these 25 or 26, saw this problem, we then raised this issue
19 for the relief that we've requested here. And that's out of
20 11 custodians that have been produced to date and they owe us
21 I think 26 more over the next couple of months.

22 And so in terms of the burden, if things keep going
23 this way, that burden, it's going to be greater for us. And
24 I don't know that our search terms completely fix the issue,
25 even though we would like to say they do. But if you look at

1 some of the documents, some of them are hyper-technical.
2 They are tables that were attached to e-mails that don't
3 include some of the search terms.

4 One of them, for example, was a line listing of
5 adverse event reports, which just had case numbers and some
6 descriptions, but didn't say Lipitor, didn't say atorvastatin
7 or any other statin. So I don't think that the search terms
8 do completely erase this problem.

9 MR. CHEFFO: Your Honor? I'm sorry.

10 THE COURT: Yes, Mr. Cheffo.

11 MR. CHEFFO: Understand one thing, I mean, you
12 know -- and I only raise this because we are creatures of
13 experience, not that I was bound by anything others did -- we
14 did address this in the recent litigation and the Special
15 Master, and he came out not exactly with our position here.
16 He said, you don't have to produce them all, but he set up, I
17 think it was seven or eight different designations like
18 another medicine or some code. It was something other than
19 they don't know what they are. So it did two things. It was
20 obviously a little more burdensome, but things like HIPPA,
21 these adverse event, it's kind of -- we can't waive it. Your
22 Honor probably can't even order us to just produce it. So we
23 literally have to go through it page by page. But if we
24 basically -- as a stop gap, what I would suggest is this is
25 not an unfixable problem. As you've said all along, you

1 know, if it turns out that they continue to come back, they
2 have issues, which I don't think they will, we can revisit
3 this, but I think as an intermediate step what we might do
4 going forward is as to these child nonresponsive we use a
5 seven or eight code designation, so say nonresponsive,
6 another medicine, you know, whatever they are. I don't
7 remember what are there. So it does give them kind of, you
8 know, a guidance as to generally what it is. Almost like we
9 do on a privilege log, but --

10 THE COURT: But you are having to look at them
11 anyway, Mr. Cheffo. What you are going to go through -- I
12 mean, y'all are reading them anyway. That's -- let me say
13 something: I think you make a very strong argument. I
14 just -- my difficulty is that I've got to do a sort of weigh
15 a benefit/burden analysis. And we are getting enormous
16 efficiency by having an MDL. I mean, you are not in 60
17 different jurisdictions trying to litigate this. And, I
18 mean, that's a calculation that's good. What happens is is
19 that we need to be comprehensive. And I think it's a close
20 call, but I come down I think you've got to produce it.

21 And I'm concerned about this issue with the HIPPA.
22 And if there are other aspects like that that are very
23 specific that, you know, you want to raise with me, I'm glad
24 to make other modifications that seem appropriate, but it
25 just makes sense to me that if you've got something that's

1 relevant to this claim and it's in an attachment, that's a
2 pretty good place to look. And y'all are already looking at
3 it, and, you know, so I'm going to order that it be produced.

4 MR. CHEFFO: Okay. And just so -- you know, and I
5 understand Your Honor -- but the way our process works -- and
6 Rachel correct me -- we are actually not looking -- we are
7 not trying to have this information and not produce this. So
8 it's not like we are spending these tens of millions of
9 dollars to review these nonresponsive documents, because that
10 would be a harder argument for me to tell you that we've done
11 the work already. The idea is, pursuant to the protocol,
12 someone reads the e-mail, they then kind of look at the
13 attachments. It could be a thousand pages. Someone looks at
14 and says, this has to do with drug X and whatever --

15 THE COURT: I'm going shorten the time to some
16 degree because they know they are going to have to produce
17 it. They are going through -- you are going to -- under your
18 system you are proposing, they were going to tell us why the
19 attachment wasn't relevant. I just feel like you don't have
20 to read all that, the time is going to have to be expended
21 anyway, and put the burden on the plaintiff to -- I mean, you
22 know, it's a little bit of the dog catching the tire here for
23 the plaintiff. I mean, they are going to get vastly more
24 documents to read. And at some point they are going to say,
25 we should have listened to Cheffo and not gotten them. I

1 think in the end they may well do that.

2 But it just seems to me logical when we are trying
3 to, you know, the benefit/burden here, that this is a place
4 where -- and you know, the examples, I have a bunch of
5 attachments here that were provided to me. I mean, I just, I
6 think it's -- and I don't attribute any effort to hide the
7 ball by the defendant. I don't see that at all, because this
8 is an imperfect system, and in an imperfect system I think
9 this is the best solution.

10 So I'm -- I've ruled that the defendant will produce
11 those. I will tell you, I've already issued anything about
12 HIPPA, if something of that nature as y'all begin your
13 search, Mr. Cheffo, arises that causes incredible burden, I'm
14 open to making other modifications like that.

15 MR. CHEFFO: I appreciate that, Your Honor.

16 THE COURT: And I think in the experience you may
17 find such things and I'm open to that.

18 MR. CHEFFO: Thank you, Your Honor.

19 THE COURT: Thank you.

20 Then we have an issue of the plaintiffs' Motion to
21 Compel the deposition transcripts. I had previously ordered
22 that the testimony be identified. I know I've got a response
23 I read this morning from the defendant. I ordered that the
24 deposition transcripts be produced.

25 Okay.

1 MR. MARCUM: Clarification. Be produced without
2 the restriction that --

3 THE COURT: Correct.

4 MR. CHEFFO: We were not trying to second guess
5 Your Honor.

6 THE COURT: No limitation on the use of depositions
7 or anything like that, it's fair game.

8 Okay. Future. I was asked to sort of look ahead so
9 people could make plans for future status conferences. And
10 let me go ahead and share some dates with you for the ones
11 through the end of this year. June 13th is the next one,
12 July 18th, August 15th, September 19th, October 17th,
13 November 14th and December 19th. Let me do that again. June
14 13th, July 18th, August 15th, September 19th, October 17th,
15 November 14th and December 19th.

16 Folks, y'all have -- and I very much approve of when
17 you are having disputes of doing these by letter. Sometimes
18 y'all have been submitting me things that I think y'all
19 presume to be confidential. I've got to file these letters.
20 So to the extent you have something you don't want on the
21 ECF, you can send it directly to my chambers as long as you
22 copy each other and indicate that, or you can, you know, seek
23 to seal them. But I've got to file them. I've got to have
24 a -- you know -- and frankly, I would just prefer when you
25 send me a letter go ahead and file it, you know, go ahead and

1 do it yourself. If you don't, I'm going to do it because we
2 need to have a record of what's going on and what decisions
3 we make. There is an efficiency in not filing these motions
4 but on the other hand we've got to keep a record.

5 Okay, folks, I've worked through my list.

6 Let me first ask the parties in the courtroom if
7 they have additional matters they would like me to address.

8 MR. HAHN: Can I have just a minute, Your Honor?

9 THE COURT: Yes.

10 (Pause in proceedings.)

11 MR. HAHN: Your Honor, just to update the Court,
12 there were two issues from your CMO 4 Order, master pleadings
13 and defendant fact sheets, we are working diligently to get
14 those completed. As late as or early as this morning we have
15 been talking about the master pleading.

16 There are a couple of issues that we have. I don't
17 know if you think we should raise those with the Judge now.

18 MR. CHEFFO: I think we would get some guidance.

19 THE COURT: Okay. That would be fine.

20 MR. HAHN: We have a Master Complaint written and
21 we have a short form Complaint written that the defendants
22 have looked at, and I believe that we are if not in
23 agreement, very close to being in agreement on those
24 documents. The issue that has arisen is the defendants would
25 like for all of the plaintiffs that have already filed

1 Complaints to go back and re-file the short form Complaints.
2 And I understand -- and I'll let Mr. Cheffo explain to you
3 why -- I understand his concerns. We have concerns as well
4 that it's potentially busy work or that we've got individual
5 plaintiffs that have gotten caught up in the MDL, and to
6 force them to use the short form Complaint when they actually
7 filed in their own district originally.

8 THE COURT: Mr. Cheffo, why is that a benefit to the
9 defendant?

10 MR. CHEFFO: You know, as I said, I'm a firm
11 believer in the goose gander rule, and definitely do not want
12 busy work. I think a few things. What we say is we see the
13 benefits of a Master Complaint and a short form Complaint,
14 and I think we would propose to the plaintiffs as to the 14
15 they have agreed they would do those, that makes sense. And
16 if anybody gets added to the discovery pool, they will
17 obviously do that quickly. And I said as to the others --

18 THE COURT: How many are we talking about, "the
19 others"?

20 MR. CHEFFO: Basically everybody in the Complaint.

21 THE COURT: 700 people basically.

22 MR. CHEFFO: Right. And here -- and this is a
23 little more of a practical -- it's not in any way trying to
24 make it work, because one school of thought is you don't need
25 a Master Complaint, the other is you have a Master Complaint.

1 So what the plaintiffs have proposed -- and again, I
2 think they are trying to work through these issues; we all
3 are -- we want the Master Complaint to apply to everybody.
4 Let's say there is 700. But we don't think we need to do the
5 short form Complaint. And, you know, it's kind of hard when
6 you look at what does that really mean? What about the state
7 court? So my real concern is let's say we want to make a
8 motion on the Michigan law and Michigan plaintiffs.

9 THE COURT: You want a standard document in which
10 would apply to all the cases?

11 MR. CHEFFO: In or out. So we are saying if we are
12 going to use a Master Complaint, then we should have
13 everybody using it, but to have --

14 THE COURT: That kind of frankly makes sense to me,
15 Mr. Hahn, just so I make a ruling and we don't say, well, you
16 know, there were 306 that didn't have that language in it.

17 MR. CHEFFO: That's the concern.

18 THE COURT: I just think it's -- you know, part of
19 the benefit of the standard Complaint is really, you know,
20 that it binds everybody when you make it. I kind of think
21 that makes sense.

22 MR. HAHN: Your Honor, Mr. Coffin is the one that's
23 been heading up this issue.

24 THE COURT: Yes, Mr. Coffin. You've got the Master
25 Complaint assignment?

1 MR. COFFIN: I did, Your Honor, and I was happy to
2 have it.

3 We've had some good discussions, quite frankly, Mr.
4 Cheffo and I, his team and our team. I think the issue is we
5 want some efficiency, and both sides want efficiency. So if
6 we have a Master Complaint, which I think we agree we should
7 have, then the defendant should have the ability to be able
8 to file a Master Answer that denies or makes whatever
9 assertions about the allegations. I think the problem is
10 there are going to be people who file cases that have some
11 state law issues that fall outside of what's in the Master
12 Complaint. But that's not really a problem the way that we
13 propose the CMO. And that's -- here is the solution: And
14 that is that everything that is in a Complaint that's already
15 been filed will be deemed denied by the defendants. We are
16 not asking them to file some separate Answer for each
17 individual case that's been filed. We understand that they
18 need that coverage, and we are happy to give them that
19 coverage. But what we can't do -- what we don't want to do
20 first is the busy work for the 700.

21 THE COURT: Of course I just sent them on producing
22 millions of parent/child documents. So what is good for the
23 goose is good for the gander perhaps.

24 MR. COFFIN: There is no benefit, I understand
25 that.

1 THE COURT: Do you want me to rethink that one?

2 MR. CHEFFO: We might trade this issue, Your Honor.

3 THE COURT: I've just got to tell you, I'm very
4 close on Mr. Cheffo on the other one, you might get me back
5 over now worried about the burden.

6 MR. COFFIN: Here is the other thing: Your Honor
7 could deem that every Complaint that's filed, you know,
8 conforms with the Master. We just can't do that because we
9 don't -- I mean, we can't tell a lawyer or a plaintiff in
10 Idaho what they can and can't plead.

11 THE COURT: Okay. If you are going to do the
12 standard Complaint, and it will only include the straight up
13 tort claim, it won't show any other claim that might exist
14 under state law.

15 Mr. Hahn, how would that be?

16 MR. COFFIN: Well, the short form does allow the
17 lawyer to indicate anything that's outside the Master
18 Complaint, any claims that are outside the Master Complaint.
19 We just have to do that because --

20 THE COURT: Correct. So you are not foreclosed from
21 doing that.

22 MR. COFFIN: Exactly.

23 THE COURT: Let me just say something: Again, it's
24 one of those things where there are good arguments on both
25 sides, but I think everyone should be required to do the

1 short form Complaint. So I'm going to rule that that's going
2 to be required.

3 MR. COFFIN: Even for those that are already filed?

4 THE COURT: The ones already filed, yes, sir. I'm
5 sorry about busy work. There will be a lot of people doing
6 busy work in something like this case.

7 MR. HAHN: Thank you, Your Honor. I expect we will
8 be able to get a CMO to you early next week.

9 THE COURT: Okay. Very good. Any other issues,
10 Mr. Hahn, you want to have addressed?

11 MR. HAHN: No, sir, Your Honor.

12 THE COURT: Okay. Mr. Cheffo?

13 MR. CHEFFO: No, we are good. Thank you, Your
14 Honor.

15 THE COURT: You are good. Okay.

16 Let me see if we can go on the -- if we have any
17 questions from folks on the telephone. Is there an operator
18 who needs to activate that system?

19 THE OPERATOR: Yes, sir. Ladies and gentlemen, if
20 you wish to have a question, you may hit star then one on
21 your touch tone phone. You will hear a tone indicating you
22 have been placed in queue. You may remove yourself from
23 queue at any time by pressing the pound key. If using a
24 speaker phone, please pick up the handset before pressing the
25 numbers. Once again, if you have a question you may hit star

1 one at this time. And just a moment for our first question.

2 We have a question from the line of Donald Edgar.

3 Please go ahead.

4 MR. EDGAR: Is it --

5 THE COURT: Yes, it is.

6 MR. EDGAR: Good morning, Your Honor. This is
7 Donald Edgar, California. Has the Court -- is the Court
8 aware of or given any consideration to motions to remand for
9 transferor cases?

10 THE COURT: Do I have any -- I don't have any on
11 record, any motions to remand at this time.

12 MR. EDGAR: Is there any particular protocol that
13 the Court would hope to entertain?

14 THE COURT: Hold on a second, Mr. Edgar.

15 (Pause in proceedings.)

16 THE COURT: We have received here no motions to
17 transfer. And if -- I believe they have been filed with
18 the -- with the panel for multi-district litigation.

19 Mr. Hahn, is that correct, there is some filed
20 there?

21 MR. HAHN: Most of the motions were filed in the
22 transferee court.

23 THE COURT: So nothing is transferred here. If you
24 want to file a motion here for remand, there is a system in
25 which you communicate with lead counsel. One of the earlier

1 Management Orders addresses that system. But you have a
2 right to make a motion for remand. And if you make that
3 filing, we will of course have it briefed and we'll make
4 decisions on them as they come.

5 MR. EDGAR: Okay. Great. Thank you, Your Honor.

6 THE COURT: Yes, sir. Other questions?

7 THE OPERATOR: Once again if you have a question,
8 it's star one. At this time we have no further questions.

9 THE COURT: Thank you very much. Ms. Burroughs, do
10 I have anything else we need to cover? Well, thank you very
11 much. Keep working hard. Our plan is on Monday after we
12 hear from all the parties, we'll issue very shortly after
13 that a new Order on this matter.

14 Okay. Good luck to you.

15 *****

16
17 I certify that the foregoing is a correct transcript from the
18 record of proceedings in the above-titled matter.
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24 Amy C. Diaz, RPR, CRR

May 16, 2014

25 S/ Amy Diaz