



**ORDER REGARDING HIGH-LEVEL CUSTODIANS, SEARCH TERMS AND DEPOSITIONS, AND COMPLETION OF FACT DISCOVERY**

WHEREAS, the Court stated in its Order of January 20, 2021, that, “It is the intent of this Court to approve the discovery of high-level employees in this proceeding”,

WHEREAS, Dispute Letters have been submitted regarding Bellweather Plaintiff’s requests for production of documents from, and depositions of, high-level employees of various Defendants,

WHEREAS, Plaintiffs have filed an Amended Motion to Enforce the January 21, 2020, Order and for Sanctions,

WHEREAS, the Special Master has reviewed and conferenced said Dispute Letters and Responses,

WHEREAS, this Order is intended to reflect the Court’s review of all Dispute Letters and Responses regarding production of documents from, and depositions of, high-level employees of Defendants,

WHEREAS, the parties have advised the Special Master of agreements regarding certain Defendants’ high-level employees,

WHEREAS, the Court desires to establish a comprehensive protocol for the production of documents from high-level employees and the depositions of high-level employees of all Defendants and Third Parties and establish a deadline for completion of such discovery, consistent with the Court’s desire to allow discovery pursuant to Pennsylvania practice, to allow appropriate discovery from high-level employees within the parameters applicable to such discovery, and to protect the parties from undue burden or oppression, and

WHEREAS, the Court desires to establish a deadline for completion of all fact discovery.

NOW, THEREFORE, this 27 day of June, 2022, it is hereby ORDERED and DECREED as follows:

1. Subject to the provisions of this Order, all fact discovery, including but not limited to depositions of any high-level employees, shall be completed no later than December 31, 2022.

2. Nothing in this Order shall be construed so as to eliminate the requirement that good cause be shown for the deposition of any high-level employee or to shift the burden of establishing such good cause.

3. The parties may, by Stipulation and proposed Order, seek modification of the provisions of this Order.

4. Bellweather Plaintiffs' Motion for Reconsideration of the Court's November 19, 2021, Order, it is hereby dismissed as Moot.

5. The provisions of this Order shall not apply to discovery between parties who have entered into an Agreement to settle and discontinue all claims between Plaintiffs and the settling Defendant.

#### GOOD CAUSE

6. The parties' Dispute Letters discuss the burden regarding good cause for discovery from high-level employees. Plaintiffs argue that requiring them to demonstrate good cause before conducting such discovery impermissibly shifts the burden to the party seeking the discovery. Defendants argue that, given the nature of discovery from high level employees, Plaintiffs should be required to demonstrate good cause at the time of seeking the discovery.

7. None of the parties have cited Pennsylvania authority directly addressing this issue. The Special Master's research has likewise failed to produce such authority.

8. Plaintiffs have referenced Pennsylvania Rules of Civil Procedure 4003.1(a) and 4007.1.

9. Rule 4003.1(a) provides as follows:

Subject to the provisions of Rules 4003.2 to 4003.5 inclusive and Rule 4011, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.

10. Rule 4007.1 provides, inter alia, as follows:

(a) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action, except that no notice need be given a defendant who was served by publication and has not appeared in the action. A party noticed to be deposed shall be required to appear without subpoena.

...

(c) The purpose of the deposition and matters to be inquired into need not be stated in the notice unless the action has been commenced by writ of summons and the plaintiff desires to take the deposition of any person upon oral examination for the purpose of preparing a complaint. In such case the notice shall include a brief statement of the nature of the cause of action and of the matters to be inquired into.

11. Neither Rule imposes a requirement that the party seeking the discovery establish good cause as a prerequisite to serving the discovery requests.

12. Plaintiffs have also referenced *Econ Marketing, Inc. v. Side II Assocs. Ltd.*, 17 Pa. D. & C.4th 341 (Com. Pl. 1992), *aff'd sub nom. Econ v. Side II Assoc.*, 432 Pa. Super. 695, 635 A.2d 210 (1993). *Econ* concerned plaintiff's petition for protective order to strike the defendant's notice of taking depositions of the president of the plaintiff corporation. Citing Pennsylvania Rules of Civil Procedure 4011 (relating to the scope of discovery) and 4012 (relating to protective orders), the Court stated that, "It is incumbent upon the party requesting the relief to show the necessity of a protective order." *Econ Marketing Inc. v. Side II Associates*, at 344.

13. While not binding, Federal decisions are instructive, especially given the dearth of direct on point Pennsylvania authority.

14. Defendants have cited *Reif v. CNA*, 248 F.R.D. 448 (E.D.Pa. 2008), Plaintiffs filed a Motion for Leave to File a Motion to Compel, asking the Court for leave to take the deposition of Defendant's president. The Court stated that, "Because the Reifs have failed to show Lilenthal's statement influenced the alleged discrimination and lower level employees are more knowledgeable, I will deny the Reifs' request for leave to file a motion to compel without prejudice to its reassertion after the corporate designee deposition and interrogatories." *Reif v. CNA*, at 449. The opinion contains a discussion of the standards for determining whether the deposition of a high-level employee may be taken, but does not state that the party seeking the deposition has the burden in the first instance of demonstrating good cause for same.

15. However, other Federal cases have addressed the issue more squarely.

The parties dispute which party should bear the burden under the apex doctrine. The apex doctrine does not represent an exception to the rule that a party seeking to quash a subpoena bears the "heavy burden" of demonstrating that the subpoena represents an undue burden. *See Frank Brunckhorst Co. v. Ihm*, No. MISC. 12-0217, 2012 WL 5250399, at \*4 (E.D.Pa. Oct. 23, 2012). The apex doctrine is merely a tool for guiding the Court's analysis in determining whether to limit discovery under Rule 26(b)(2)(C) because the discovery can be obtained from some other source that is more convenient, less burdensome, or less expensive. *As such, the party seeking to quash the subpoena still bears the burden of persuasion.* The apex doctrine does, however, apply a rebuttable presumption that a high-level official's deposition represents a significant burden upon the deponent and that this burden is undue absent the two factors set forth in the apex doctrine, which go to the lack of a more convenient, less burdensome, and less expensive alternative. *See Performance Sales & Mktg.*, 2012 WL 4061680, at \*3-4 ("Put simply, the apex doctrine is the application of the rebuttable presumption that the deposition of a high-ranking corporate executive either violates Rule 26(b)(2)(C)'s proportionality standard or, on a party's motion for a protective order, constitutes 'good cause' for such an order as an 'annoyance' or 'undue burden' within the meaning of Rule 26(c)(1). Should the deposing party fail to overcome this presumption, the court must then limit or even prohibit the deposition."). *United States ex rel. Galmines v.*

*Novartis Pharms. Corp.*, No. CV 06-3213, 2015 WL 4973626, (E.D. Pa. Aug. 20, 2015), at 1-2 (emphasis added).

16. In *Pegley v. Roles*, No. CV 17-732, 2018 WL 572093 (W.D. Pa. Jan. 26, 2018), Defendants requested a protective order precluding the deposition of a high-level employee. In denying the request, the Court stated, inter alia, that,

Federal Rule of Civil Procedure 26(c) authorizes that, “for good cause,” a court may issue a protective order “to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” FED. R. CIV. P. 26(c)(1). A showing of “good cause” is a threshold requirement for the protection of discovery materials. *See Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 786 (3d Cir. 1994). “Good cause is established on a showing that disclosure will work a clearly defined and serious injury to the party seeking closure. The injury must be shown with specificity.” *Publicker Indus., Inc. v. Cohen*, 733 F.2d 1059, 1071 (3d Cir. 1984) (citation omitted). “Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning,” do not support a showing of good cause. *Cipollone v. Liggett Group, Inc.*, 785 F.2d 1108, 1121 (3d Cir. 1986). *Pegley v. Roles*, at 2.

17. Implicit, if not express, in the *Galmines* and *Pegley* opinions is the conclusion that the burden is on the party seeking to establish the absence of a basis for conducting the discovery.

18. Given the liberality stated in the Pennsylvania Rules of Civil Procedure, the abovementioned instructive authority, and the absence of clear authority to the contrary, this Court must conclude that it shall not require Plaintiffs herein to demonstrate good cause for discovery from Defendants’ high-level employees before requesting such discovery, and that the Court may address the propriety of such discovery in the context of Motions for Protective Orders or Dispute Letters following the notices.

19. Nothing herein is intended to constitute a determination that requests for production of documents from, or depositions of, any particular high-level employees are appropriate (except as otherwise stated herein or those instances where the parties have reached

agreements). Any such determination will be made upon the filing of Motions for Protective Orders and Responses to same or Dispute Letters, except as otherwise stated in this Order.

### COMMENTS BY COUNSEL

20. Counsel have raised various other issues in their Dispute Letters and Responses.

21. Defendant Teva for argues that Teva does not possess documents requested by Plaintiffs. As this Order (and the proposed Order that was previously circulated states, Defendants “shall produce such documents *as are within said Defendants’ possession, or the possession of employees of said Defendants*”. (see, e.g., paragraph 35 *Infra*; emphasis added).

22. Defendant Teva argues that the high-level employees in issue had minimal involvement in the subject matter of this litigation and should not be required to search for or produce documents or submit to depositions. As stated hereinafter, once Plaintiffs provide an offer of proof, Defendants may object to same, and such issues will be addressed in that context.

23. Defendants argue that the discovery requests are untimely and are barred by prior Orders in this litigation.

24. Defendants contend that the Requests for Production of Documents from high-level employees are barred by this Court’s Order of March 9, 2020, which provides, *inter alia*, as follows:

Written discovery of parties closed January 31, 2020. No additional written discovery will be permitted on any party absent a showing of good cause and permission of the Court. Nothing herein is intended to limit a party’s ability to seek third-party discovery.

25. On or about August 12, 2019, Plaintiffs served written Requests for Production on Defendants.

26. On or about July 29, 2021, Plaintiffs served written Requests for Production to High-Level Custodians on Manufacturer Defendants. Plaintiffs contend that the 2021 Requests were essentially duplicative of the 2019 requests, and are therefore not barred by the March 9, 2020, Order. While the 2019 Requests do not expressly seek discovery from high-level employees, they are sufficiently broad so as to encompass the documents that Plaintiffs are seeking. By way of illustration, Request 40 of the 2019 Requests asks for:

All minutes of Your board or directors' meetings that refer to the sale, promotion, marketing, manufacture, advertisement, and/or distribution of Opioids within Pennsylvania from January 1, 1995 until the present, and including the materials in any board package relating to Opioids.

27. Also by way of illustration, Request 34 asks for:

*All documents* concerning any plan, program or system in place, from 1995 to present, that waws designed or intended to ensure that pharmaceutical marketing representatives working in Pennsylvania for You or on your behalf provided truthful, accurate information about any opioid that you sold, promoted, marketed, manufactured or distributed in Pennsylvania. (emphasis added).

28. There are numerous other Requests in the 2019 Requests that ask for "all documents" related to various matters.

29. Therefore, while the 2019 Requests do not expressly reference high-level employees, it cannot be said with certainty that high-level custodial files were not encompassed within the Requests, especially given the Court's Order of January 20, 2021, providing, inter alia, that, "It is the intent of this Court to approve the discovery of high-level employees in this proceeding." Therefore, the Order of March 9, 2020, does not bar Requests for Production of custodial files of high-level employees or the depositions of high-level employees. The issues regarding Requests for Production from the Manufacturer Defendants' high-level employees were thoroughly discussed in dispute letters and in conference with the Special Master.



30. Defendants argue that the discovery requests should be precluded in that the burden of compliance is disproportional to the need for the documents and information or the requests are duplicative. The Pennsylvania Rules of Civil Procedure are clear – a party can make a request, and an opposing party may object. This Order sets forth a protocol for discovery from high-level employees but does not, except otherwise stated, determine whether particular employees are subject to discovery. Of course, a party may also seek a Protective Order; certain Defendants have done so, and their Motions for Protective Orders will be addressed in separate Orders.

31. Certain Defendants argue that this Order permits successive depositions beyond those identified in the discovery requests that gave rise to the deposition. It is accurate that this Order permits same, but only if the need for a successive deposition is “as a result of information obtained in the deposition” (e.g., paragraph 54). Additionally, this Order requires an offer of proof when a deposition is noticed, thus protecting the parties from abuse and affording the parties the opportunity to object.

32. The prior proposed Order states that a party seeking a successive deposition (see e.g. paragraph 31 above) shall identify the proposed deponent and provide not less than five days notices of the deposition. Certain Defendants have argued that this notice period is too short, and does not afford them an appropriate period in which to object; they argue that the notice period should be at least fifteen days. This provision of the proposed Order has been altered, as set forth hereinafter.

33. Certain parties have objected that some Defendants were not referenced in the proposed Order. That is inaccurate. Both the circulated proposed Order and this Order address

Defendants where agreements have been reached or issues resolved in Conference, and contain provisions addressing all other Defendants.

34. Plaintiffs have argued that agreements were reached with Defendants Amerisource Bergen Drug Corporation, Endo, PAR, and Walmart, but that the agreements are not reflected in the proposed Order. Subsequent to the circulation of the proposed Order, it was determined that there is a partial agreement regarding Defendant Walmart, and same is reflected herein. There is also a partial agreement as to Defendant Amerisource Bergen, and same is reflected herein.

**DEFENDANTS ALLERGAN, TEVA AND JANSSEN**

35. Defendants Allergan and Teva shall, within forty-five (45) days of this Order, perform searches using the search terms for requested high-level custodian files, and shall produce such documents as are within said Defendants' possession, or the possession of employees of said Defendants, in response to Plaintiffs' Requests for Production regarding the following individual Allergan/Teva employees:

- A. Allen Chao
- B. Paul Bisaro
- C. Tessa Hilado
- D. R. Todd Joyce
- E. Sigurdur Olafsson
- F. Bent Saunders

36. Defendant Janssen shall, within forty-five (45) days of this Order, perform searches using the search terms for requested high-level custodian files, and shall produce such

documents as are within said Defendants' possession, or the possession of employees of said Defendants, in response to Plaintiffs' Requests for Production regarding the following individual Janssen employees:

- A. Alex Gorsky
- B. David Norton

37. Plaintiffs shall, within twenty (20) days of receipt of documents produced pursuant to paragraphs 35 and 36 above, identify any high-level employees for deposition with an offer of proof of the subject matter of the deposition and the time periods of the inquiry. Plaintiffs shall be precluded from deposing any Allergan, Teva or Janssen high-level employee who is not so identified, unless Plaintiff demonstrates, based on information not previously in Plaintiff's possession, that the proposed deponent could not have been identified earlier.

38. In the event that Defendants contend that good cause does not exist for the deposition of any employee that Plaintiffs identify pursuant to paragraph 37 above, the parties shall, within ten (10) days of identification of the employee, submit Discovery Dispute letters to the Special Master to review and make prompt recommendations.

39. Within seven (7) days of completion of a deposition, Plaintiffs shall identify any person who, as a result of information obtained in the deposition, Plaintiffs desire to depose. The Parties shall then confer and determine whether they are able to agree to the deposition and identify a date on which any such deposition shall take place. If the parties are unable to agree, the deposition may be noticed for a date less than fifteen (15) days after identification of the proposed deponent. If a Dispute Letter is submitted within ten (10) days after identification of such a proposed deponent, that deposition shall not proceed until the dispute has been resolved by agreement or Order.

40. In the event that Defendants contend that good cause does not exist for the deposition of any person that Plaintiffs identify pursuant to paragraph 39 above, Defendants shall notify Plaintiffs and the parties shall, within ten (10) days of receipt of such notice, submit Discovery Dispute letters to the Special Master to review and make prompt recommendations.

#### **DEFENDANT WALMART**

41. Counsel for Plaintiffs and counsel for Defendant Walmart have agreed to the following:

In full and final resolution of Plaintiff's requests for document discovery of Walmart High-Level Employees as set out in Walmart's letter of April 8, 2022, Walmart shall, within sixty (60) days of this Order, perform searched using the search terms Walmart has used for its productions in the above-referenced cases over the custodial files of Jahn Agwunobi and George Riedl, and produce responsive, non-privileged documents.

42. Plaintiffs shall, within twenty (20) days of receipt of documents produced pursuant to paragraph 41 above, advise Defendant of whether it desires to depose the abovementioned individuals, with an offer of proof of the subject matter of the deposition and the time periods of the inquiry. Plaintiffs shall be precluded from deposing any other Walmart high-level employees, unless Plaintiff demonstrates, based on information not previously in Plaintiff's possession, that the proposed deponent could not have been identified earlier.

43. In the event that Defendants contend that good cause does not exist for the deposition of any employee that Plaintiffs identify pursuant to paragraph 42 above, the parties shall, within ten (10) days of identification of the employee, submit Discovery Dispute letters to the Special Master to review and make prompt recommendations.

44. Within seven (7) days of completion of a deposition, Plaintiffs shall identify any person who, as a result of information obtained in the deposition, Plaintiffs desire to depose. The Parties shall then confer and determine whether they are able to agree to the deposition and identify a date on which any such deposition shall take place. If the parties are unable to agree, the deposition may be noticed for a date less than fifteen (15) days after identification of the proposed deponent. If a Dispute Letter is submitted within ten (10) days after identification of such a proposed deponent, that deposition shall not proceed until the dispute has been resolved by agreement or Order.

45. In the event that Defendants contend that good cause does not exist for the deposition of any person that Plaintiffs identify pursuant to paragraph 45 above, Defendants shall notify Plaintiffs and the parties shall, within ten (10) days of receipt of such notice, submit Discovery Dispute letters to the Special Master to review and make prompt recommendations.

**DEFENDANTS ANDA, H. P. SMITH, AND McKESSON**

46. Pursuant to agreement of Plaintiffs and Defendants Anda, H. P. Smith, and McKesson:

A. Anda - Defendant has performed agreed-upon searches and produced documents from the following high-level employees:

1. Charles D. Phillips
2. Albert Paonessa, III
3. Patrick Cochrane

B. H.D. Smith - Defendant has performed agreed-upon searches and produced documents from the following high-level employees:

1. J. Christopher Smith
2. Hendy Dale Smith, Jr.

c. McKesson – Defendant has performed searches and produced documents from the following high-level employees:

1. Mark Walchirk (using McKesson "all-states" search terms)
2. Frank Starn (using McKesson "all-states" search terms)
3. John Hammergren (providing documents as produced in the

federal MDL)

47. Plaintiffs shall, within twenty (20) days of receipt of documents produced pursuant to paragraph 46 above, identify any high-level employees for deposition with an offer of proof of the subject matter of the deposition and the time periods of the inquiry.. Plaintiffs shall be precluded from deposing any Anda, H. P. Smith, or McKesson high-level employee who is not so identified, unless Plaintiff demonstrates, based on information not previously in Plaintiff's possession, that the proposed deponent could not have been identified earlier.

48. In the event that Defendants contend that good cause does not exist for the deposition of any employee that Plaintiffs identify pursuant to paragraph 47 above, the parties shall, within ten (10) days of identification of the employee, submit Discovery Dispute letters to the Special Master to review and make prompt recommendations.

49. Within seven (7) days of completion of a deposition, Plaintiffs shall identify any person who, as a result of information obtained in the deposition, Plaintiffs desire to depose. The Parties shall then confer and determine whether they are able to agree to the deposition and identify a date on which any such deposition shall take place. If the parties are unable to agree, the deposition may be noticed for a date less than fifteen (15) days after identification of the

proposed deponent. If a Dispute Letter is submitted within ten (10) days after identification of such a proposed deponent, that deposition shall not proceed until the dispute has been resolved by agreement or Order.

50. In the event that Defendants contend that good cause does not exist for the deposition of any person that Plaintiffs identify pursuant to paragraph 50 above, Defendants shall notify Plaintiffs and the parties shall, within ten (10) days of receipt of such notice, submit Discovery Dispute letters to the Special Master to review and make prompt recommendations.

**DEFENDANT AMERISOURCEBERGEN DRUG CORPORATION**

51. Counsel for Plaintiffs and counsel for Defendant AmerisourceBergen Drug Corporation have agreed that said Defendant shall perform agreed-upon searches and produce documents from Steven Collis and Robert Mauch.

52. Plaintiffs shall, within twenty (20) days of receipt of documents produced pursuant to paragraph 51 above, identify any high-level employees for deposition with an offer of proof of the subject matter of the deposition and the time periods of the inquiry. Plaintiffs shall be precluded from deposing any AmerisourceBergen high-level employee who is not so identified, unless Plaintiff demonstrates, based on information not previously in Plaintiff's possession, that the proposed deponent could not have been identified earlier.

53. In the event that Defendants contend that good cause does not exist for the deposition of any employee that Plaintiffs identify pursuant to paragraph 53 above, the parties shall, within ten (10) days of identification of the employee, submit Discovery Dispute letters to the Special Master to review and make prompt recommendations.

54. Within seven (7) days of completion of a deposition, Plaintiffs shall identify any person who, as a result of information obtained in the deposition, Plaintiffs desire to depose. The Parties shall then confer and determine whether they are able to agree to the deposition and identify a date on which any such deposition shall take place. If the parties are unable to agree, the deposition may be noticed for a date less than fifteen (15) days after identification of the proposed deponent. If a Dispute Letter is submitted within ten (10) days after identification of such a proposed deponent, that deposition shall not proceed until the dispute has been resolved by agreement or Order.

55. In the event that Defendants contend that good cause does not exist for the deposition of any person that Plaintiffs identify pursuant to paragraph 54 above, Defendants shall notify Plaintiffs and the parties shall, within ten (10) days of receipt of such notice, submit Discovery Dispute letters to the Special Master to review and make prompt recommendations.

**ALL OTHER DEFENDANTS AND THIRD PARTIES**

56. The following provisions apply to all Defendants except to the extent they are inconsistent with the preceding provisions of this Order. The following provisions also apply to all high-level discovery sought from third parties.

57. Plaintiffs shall, within thirty (30) days of this Order, identify, with an offer of proof of the subject matter of the deposition and the time periods of the inquiry, such high-level employees of Defendants or Third Parties regarding whom Plaintiffs seek custodial file searches and document production, as well as the search terms Plaintiffs request be applied.

58. In the event that Defendants or Third Parties object to the search of custodial files of, and production of documents from, any identified high-level employee, such Defendant or



Third Party shall, within ten (10) days of receipt of such identification of high-level employees, submit Discovery Dispute letters to the Special Master to review and make prompt recommendations.

59. As to any identified high-level employee regarding whom a Discovery Dispute letter has not been timely submitted pursuant of paragraph 58 above, the Defendant or Third Party to whom the request was submitted shall, within forty-five (45) days of receipt of the request, perform searches using the search terms for requested high-level custodian files, and shall produce such documents as are within said Defendants' or Third Party's possession, or the possession of employees of said Defendants or Third Parties, in response to Plaintiffs' Request.

60. Plaintiffs shall, within twenty (20) days of receipt of documents produced pursuant to paragraph 59 above, identify any high-level employees for deposition with an offer of proof of the subject matter of the deposition and the time periods of the inquiry.. Plaintiffs shall be precluded from deposing any high-level employee who is not so identified, unless Plaintiffs demonstrate, based on information not previously in Plaintiff's possession, that the proposed deponent could not have been identified earlier.

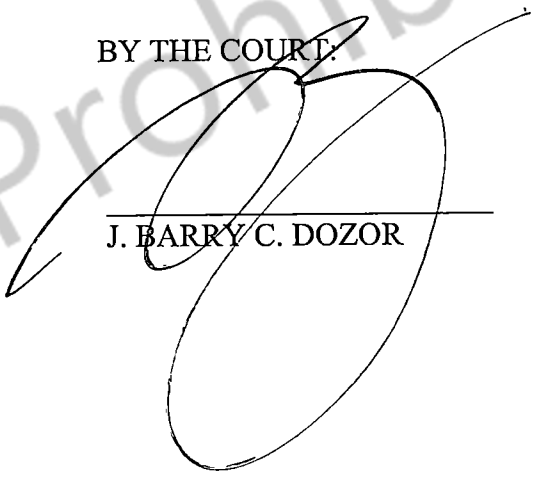
61. In the event that Defendants or a Third Party do not agree that good cause exists for the deposition of any employee that Plaintiffs identify pursuant to paragraph 61 above, the parties shall, within ten (10) days of identification of the employee, submit Discovery Dispute letters to the Special Master to review and make prompt recommendations.

62. Within seven (7) days of completion of a deposition, Plaintiffs shall identify any person who, as a result of information obtained in the deposition, Plaintiffs desire to depose. The Parties shall then confer and determine whether they are able to agree to the deposition and identify a date on which any such deposition shall take place. If the parties are unable to agree,

the deposition may be noticed for a date less than fifteen (15) days after identification of the proposed deponent. If a Dispute Letter is submitted within ten (10) days after identification of such a proposed deponent, that deposition shall not proceed until the dispute has been resolved by agreement or Order.

63. In the event that Defendants or Third Parties do not agree that good cause exists for the deposition of any person that Plaintiffs identify pursuant to paragraph 62 above, Defendants or the Third Parties shall notify Plaintiffs and the parties shall, within ten (10) days of receipt of such notice, submit Discovery Dispute letters to the Special Master to review and make prompt recommendations.

BY THE COURT:



J. BARRY C. DOZOR