

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MARY ANN SIVOLELLA, for the use and benefit of the EQ/Common Stock Index Portfolio, the EQ/Equity Growth PLUS Portfolio, the EQ/Equity 500 Index Portfolio, the EQ/Large Cap Value PLUS Portfolio, the EQ/Global Multi-Sector Equity Portfolio, the EQ/Mid Cap Value PLUS Portfolio, the EQ/GAMCO Small Company Value, and the EQ/Intermediate Government Bond Index Portfolio,

Plaintiff,

vs.

AXA EQUITABLE LIFE INSURANCE COMPANY and AXA EQUITABLE FUNDS MANAGEMENT GROUP, LLC,

Defendants.

GLENN D. SANFORD, *et al.*,

Plaintiffs,

vs.

AXA EQUITABLE FUNDS MANAGEMENT GROUP, LLC

Defendant.

Civil Action No. 3:11-cv-04194
(PGS)

and

Civil Action No. 3:13-cv-00312
(PGS)

**NOTICE OF APPEAL OF
MAGISTRATE JUDGE'S
ORDER PRECLUDING
CERTAIN OF DEFENDANTS'
TRIAL EXHIBITS**

FILED ELECTRONICALLY

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TO: All Counsel on ECF Counsel List

PLEASE TAKE NOTICE that on February 16, 2016 at 9:00 am, or as soon thereafter as counsel may be heard, the undersigned counsel for Defendants will, and hereby do, bring an appeal before Hon. Peter G. Sheridan at the Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Trenton, New Jersey 08608, from the Memorandum Order of Magistrate Judge Douglas E. Arpert, dated January 5, 2016, insofar as that order precluded Defendants from relying on at trial certain publicly available documents filed with the U.S. Securities and Exchange Commission. Memorandum Order, dated Jan. 5, 2016 (*Sivolella* ECF No. 207, *Sanford* ECF No. 154) (“Order”).¹ This appeal is based upon Defendants’ Memorandum In Support of Appeal, dated January 19, 2016 and filed contemporaneously herewith, the Declaration of Andrea G. Hood (and the Exhibits attached thereto), dated January 19, 2016 and filed contemporaneously herewith, the record in this case, and such other matters upon which the Court may choose to rely. Oral argument is requested.

¹ Defendants objected on the record on January 6, 2015 to the entirety of Magistrate Judge Arpert’s Order. Defendants expressly reserve their right to object at trial to any of the other holdings in the Order.

Dated: January 19, 2016

BLANK ROME LLP

By: /s/ Jonathan M. Korn

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