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April 18, 2014

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**VIA ECF**

The Honorable Douglas E. Arpert  
United States District Court, District of New Jersey  
402 East State Street, Chambers 600  
Trenton, NJ 08608-1507

Re: *Sivolella v. AXA Equitable Life Ins. Co.*, No. 11-4194 (D.N.J.)  
*Sanford v. AXA Equitable Funds Mgmt. Grp., LLC*, No. 13-0312 (D.N.J.)

Dear Judge Arpert:

We write on behalf of Defendants AXA Equitable Life Insurance Company and AXA Equitable Funds Management Group, LLC, to request an amendment to the Court's Pretrial Scheduling Order dated April 9, 2014 (the "Order"). In consenting to Plaintiffs' request to extend the period for Plaintiffs to file expert disclosures and reports by 30 days at the April 4, 2014 status conference, Defendants had understood that the Court would be extending all expert deadlines by 30 days to preserve the previously allotted expert timeframes. Although the Order extends Plaintiffs' deadline to serve expert disclosures and reports from May 6, 2014 to June 4, 2014, it does not similarly extend the deadline for Defendants to serve rebuttal disclosures and reports. Thus, under the Order, Defendants now have only 30 days to serve rebuttal expert disclosures and reports instead of the previously allotted 60 days.

Given the number of anticipated expert issues in this matter and in order to bring the expert discovery deadlines in line with the previously allotted timeframes and the parties' agreement prior to the conference, Defendants respectfully request that Your Honor amend the Order to extend the deadline for Defendants to serve rebuttal expert disclosures and reports by roughly 30 days from July 4, 2014 to August 4, 2014. For the same reasons, Defendants further request that Your Honor extend the deadline for expert depositions by roughly 30 days from September 5, 2014 to October 6, 2014.

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Although Plaintiffs had agreed to these timeframes both prior to and during the April 4, 2014 status conference, Defendants asked Plaintiffs to consent to the requests in this letter. Plaintiffs have conditioned their consent on Defendants' agreement to allow Plaintiffs to file a rebuttal expert report. The existing schedule does not provide for a rebuttal report by Plaintiffs. Defendants oppose Plaintiffs' request in the interests of efficiency and judicial economy. *See Eckelkamp v. Beste*, 315 F.3d 863, 872 (8th Cir. 2002) (affirming district court's decision to deny the filing of a rebuttal expert report under Rule 26(a)(2) because "[t]he district court's case order set its management requirements and did not provide for rebuttal experts, and the court was entitled to hold the parties to that order."). If, however, the Court allows Plaintiffs to file a rebuttal report, Defendants respectfully request the right to file a response to that report.

Should the Court have any questions, we are available to discuss these requests further at the Court's convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert C. Hora", written in a cursive style.

Robert C. Hora