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August 15, 2014

VIA ECF

Honorable Douglas E. Arpert
United States Magistrate Judge
United States District Court, District of New Jersey
Clarkson S. Fisher Federal Building and U.S. Courthouse
402 East State Street, Room 2020
Trenton, New Jersey 08608

Re: Sivoilella v. AXA Equitable Life Ins., Co., D.N.J. No. 3:11-cv-04194;
Sanford v. AXA Equitable Funds Mgmt. Group, LLC, D.N.J. No. 3:13-cv-00312

Dear Judge Arpert:

On behalf of Plaintiffs, I am writing to request a three-week extension of the deadline for service of Plaintiffs' rebuttal expert reports.

On June 11, 2014, Plaintiffs served four expert reports. On August 8, 2014, Defendants served four rebuttal expert reports. The current deadline for Plaintiffs to serve rebuttal reports responsive to Defendants' reports is August 29, 2014. (Dkt. 89). Plaintiffs respectfully request that this deadline be extended to September 19, 2014.

Plaintiffs request the extension for three reasons. First, the expert reports Defendants served on August 8th are extensive, totaling over 200 pages, with an additional 2000 pages of appendices and exhibits. Additional time beyond what was initially allotted is needed for Plaintiffs' experts to examine these reports and prepare their responses. Second, two of

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Plaintiffs' experts have scheduling conflicts related to other engagements that will substantially limit the time they have available before August 29th to dedicate to the preparation of their rebuttal reports.¹ Third, certain of Defendants' reports rely on facts and information that was not previously disclosed in discovery or produced when Defendants' expert reports were served on August 8th. Yesterday (August 14th), Plaintiffs requested these reliance materials from Defendants. It is not yet known when Defendants will provide this information, but once that occurs, additional time will be needed on Plaintiffs' end to review these materials and, if warranted, for Plaintiffs' experts to address them in rebuttal.

I have contacted opposing counsel in an effort to gain Defendants' consent to the Plaintiffs' proposed three-week extension. In response, I was advised that Defendants' take no position with respect to the request. Defendants' counsel requested that I state the following in this letter:

Defendants have communicated to me that they take no position with respect to Plaintiffs' request for an extension to file expert rebuttal reports and have indicated that they, instead, defer to Your Honor on whether an extension is appropriate under the circumstances. Defendants request, however, that any extension of Plaintiffs' time for serving expert rebuttal reports leave sufficient time for the nine expert depositions that will need to be conducted prior to the deadline for the completion of expert discovery.

Plaintiffs agree with Defendants that sufficient time should be provided for expert depositions, but we note that the Court has not yet established a schedule for the completion of expert depositions, expert discovery or dispositive motions (Dkt. 89). I understand that this will be a topic for discussion during the Court's August 26th conference call with the parties. (*Id.*)

For the above reasons, Plaintiffs respectfully request that the deadline for service of Plaintiffs' rebuttal expert reports be extended to September 19, 2014.

¹During the week of August 18th, one of Plaintiffs' experts, Steve Pomerantz, will be preparing to offer expert testimony in an upcoming trial and will not be able to work on his rebuttal report during this time. Dr. Pomerantz undertook this engagement recently, on short notice, after the previously-retained expert passed away unexpectedly. Separately, another of Plaintiffs' experts, Kent Barrett, has advised counsel that he is presently working under several other deadlines that will delay his work in this matter, and that he expects to testify as an expert witness in a trial set to commence the week of September 1st, which is likely to limit his availability during the prior week – the week Plaintiffs' rebuttals are currently due.

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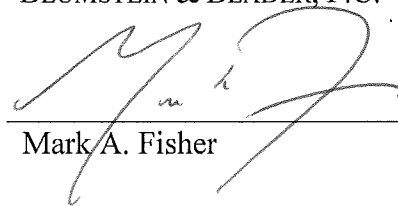
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Thank you.

Respectfully submitted,

SZAFERMAN, LAKIND,
BLUMSTEIN & BLADER, P.C.



Mark A. Fisher

cc: Robert Hora, Esq. (*Via ECF*)