

# **EXHIBIT 1**

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**From:** Bish, Dale  
**Sent:** Wednesday, October 12, 2011 2:41 PM  
**To:** 'Jack Fitzgerald'  
**Subject:** RE: Ferrero Cert Motion

Jack,

As a general matter, we are happy to stipulate to modest extensions of page limits – and would do so here if you were seeking something in the range of 5 additional pages. However, we do not believe the context warrants filing a reply brief that exceeds the number of pages allowed for opening briefs and opposition briefs. Plaintiffs cannot offer new evidence, raise new issues, or otherwise satisfy their burden under Rule 23 in this submission, and it seems that plaintiffs ought to be able to respond to a 25-page submission in 10 or 15 pages.

Dale

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**From:** Jack Fitzgerald [<mailto:jack@westonfirm.com>]  
**Sent:** Wednesday, October 12, 2011 10:48 AM  
**To:** Bish, Dale  
**Subject:** Ferrero Cert Motion

Hi, Dale –

I left a vm yesterday, but I wanted to ask if you will stipulate to allowing us additional pages for our reply. The Southern District allows only 10 pages on reply by default, but given the breadth and complexity of the issues, we would request a stipulation that would allow us up to 30 pages, though we would do our best to keep it to the usual 25.

Thanks, Dale.  
Jack

**Jack Fitzgerald**  
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