

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

CASE NO.: 06-21748-CIV-MARTINEZ-BANDSTRA

MARK J. GAINOR and ELYSE GAINOR,

Plaintiffs,

v.

SIDLEY AUSTIN LLP, a Delaware limited liability  
Partnership, f/k/a SIDLEY AUSTIN  
BROWN & WOOD, f/k/a BROWN & WOOD,  
R. J. RUBLE, an individual, ARTHUR  
ANDERSEN, LLP, an Illinois limited liability  
partnership, MICHAEL S. MARX, an individual,  
P. ANTHONY NISSLEY, an individual,  
MERRILL LYNCH & CO., INC., a Delaware  
corporation, and MARK C. KLOPFENSTEIN,  
an individual,

Defendants.

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**AGREED MOTION TO ALLOW EXCEPTION TO ORDER  
REQUIRING PARTIES TO MEET IN PERSON**

Plaintiffs, Mark J. Gainor and Elyse Gainor, respectfully request leave of the Court to hold counsels' scheduling conference by telephone as allowed by SDLR 16 B.1, rather than in person as required by the Court's Orders issued July 21, 2006 and March 22, 2007. The grounds for this motion are as follows:

1. The Court's Orders direct the parties to meet and file a Joint Scheduling Report.
2. Counsel for Plaintiffs is located in Tampa, Florida. Counsel for Defendant, Sidley Austin is located in Los Angeles, California with local counsel in Miami, Florida. Counsel for Defendants, Arthur Anderson, Michael S. Marx and P. Anthony Nissley is located in Chicago,

Illinois. Counsel for Defendant, Merrill Lynch & Co., Inc. is located in Miramar, Florida, and counsel for Defendant, Mark C. Klopfenstein is located in Atlanta, Georgia and Miami, Florida.

3. Because of the various locations of counsel and counsels' schedules, it is in the best economic interests of the parties for counsel to have the scheduling meeting occur by telephone on May 17, 2007 at 2 p.m. (EST) subject to approval by this Court.

4. Counsel for Plaintiffs is authorized to represent to the Court that all parties have agreed to the relief sought in this motion.

WHEREFORE, the undersigned counsel for Plaintiffs respectfully requests this Court for leave to hold the parties' scheduling conference by telephone.

s/ Richard Benjamin Wilkes  
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Florida Bar No. 267163  
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Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 11<sup>th</sup> day of May, 2007, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic

Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ Richard Benjamin Wilkes  
Richard Benjamin Wilkes

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