

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

MASSACHUSETTS MUTUAL LIFE  
INSURANCE COMPANY,

Plaintiff,

v.

No. 11-cv-30285-MAP

MERRILL LYNCH, PIERCE, FENNER &  
SMITH, INC.; DEUTSCHE BANK  
SECURITIES INC.; GOLDMAN, SACHS &  
CO., INC.; J.P. MORGAN SECURITIES LLC;  
AND RBS SECURITIES, INC.,

Defendants.

**STIPULATION [AND PROPOSED ORDER] CONCERNING THE  
APPLICABILITY TO THIS ACTION OF MAGISTRATE JUDGE NEIMAN'S  
OCTOBER 17, 2012 ORDER REGARDING PLAINTIFF'S MOTION TO STRIKE  
CERTAIN DEFENSES**

WHEREAS, on April 26, 2012, Magistrate Judge Neiman recused himself from the above-captioned matter (the "Action") (Dkt. No. 43);

WHEREAS, on May 9, 2012, Plaintiff Massachusetts Mutual Life Insurance Company ("MassMutual") filed a Motion to Strike Certain Purported Defenses (the "Motion") (Dkt. No. 47) set forth in Defendants' respective April 25, 2012 Amended Answers in this Action (Dkt. Nos. 37-41);

WHEREAS, MassMutual filed similar motions to strike in nine other actions in this Court that are being overseen for discovery purposes by Magistrate Judge Neiman (*see* Dkt. No. 84 in the 3:11-cv-30035 action; Dkt. No. 66 in the 3:11-cv-30039 action; Dkt. No. 56 in the 3:11-cv-30044 action; Dkt. No. 60 in the 3:11-cv-30047 action;

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Dkt. No. 80 in the 3:11-cv-30048 action; Dkt. No. 119 in the 3:11-cv-30094 action;  
Dkt. No. 97 in the 3:11-cv-30126 action; Dkt. No. 43 in the 3:11-cv-30127 action; and  
Dkt. No. 44 in the 3:11-cv-30141 action);

WHEREAS, on June 27, 2012, this Court referred all motions to strike to  
Magistrate Judge Neiman for ruling “[t]o the extent Judge Neiman has not recused  
himself” (Dkt. No. 60, at 4);

WHEREAS, on October 17, 2012, Magistrate Judge Neiman issued a  
Memorandum and Order With Regard to Massachusetts Mutual Life Insurance  
Company’s Motions to Strike (the “October 17 Order”);

WHEREAS, on December 4, 2012, Magistrate Judge Neiman stated that  
the October 17 Order did not apply to this Action because he had previously recused  
himself from this Action, and proposed that the parties in this Action submit a stipulation  
to the Court agreeing that the October 17 Order will apply to the defenses asserted in  
Defendants’ Amended Answers in this Action;

IT IS HEREBY STIPULATED AND AGREED by and between  
MassMutual and Defendants, through their undersigned counsel, AND SO ORDERED  
BY THE COURT, as follows:

1. The holding of the October 17 Order shall apply fully to the  
defenses asserted in Defendants’ Amended Answers in this Action.
2. As a result, the October 17 Order shall apply to this Action as  
follows:

3. The Motion is allowed as to those portions of the Sixth, Eighth, Twelfth and Fourteenth Defenses of J.P. Morgan Securities LLC's ("J.P. Morgan") Amended Answer (Dkt. No. 38) that MassMutual challenged, and is otherwise denied as to J.P. Morgan;

4. The Motion is allowed as to those portions of the Fifth, Sixth and Twenty-Seventh Defenses of Merrill Lynch, Pierce, Fenner & Smith Inc.'s ("Merrill Lynch") Amended Answer (Dkt. No. 39) that MassMutual challenged, and is otherwise denied as to Merrill Lynch;

5. The Motion is allowed as to those portions of the Eleventh, Twelfth, Nineteenth and Twentieth Defenses of Deutsche Bank Securities Inc.'s ("Deutsche Bank") Amended Answer (Dkt. No. 40) that MassMutual challenged, and is otherwise denied as to Deutsche Bank;

6. The Motion is allowed as to those portions of the Eleventh, Twelfth, Nineteenth and Twentieth Defenses of RBS Securities Inc.'s ("RBS") Amended Answer (Dkt. No. 41) that MassMutual challenged, and is otherwise denied as to RBS;

7. The Motion is allowed as to those portions of the Tenth, Eighteenth and Twentieth Defenses of Goldman, Sachs & Co.'s ("Goldman Sachs") Amended Answer (Dkt. No. 37) that MassMutual challenged, and is otherwise denied as to Goldman Sachs.

8. The parties shall have the same rights to appeal, or to seek reconsideration or modification of, this Order as the October 17 Order and by stipulating to this Order the parties do not extinguish or modify any such rights.

SO ORDERED this 26<sup>th</sup> day of December, 2012



Honorable Michael A. Ponsor  
United States District Judge

Dated: December 20, 2012

By /s/ Jeffrey L. McCormick

Jeffrey L. McCormick (BBO #329740)  
ROBINSON DONOVAN, P.C.  
1500 Main Street, Suite 1600  
Springfield, Massachusetts 01115  
Telephone: (413) 732-2301  
Fax: (413) 785-4658  
jmccormick@robinsondonovan.com

Of Counsel:

Robert H. Baron (admitted *pro hac vice*)  
Karin A. DeMasi (admitted *pro hac vice*)  
J. Wesley Earnhardt (admitted *pro hac vice*)  
CRAVATH, SWAINE & MOORE LLP  
825 Eighth Avenue  
New York, NY 10019  
Telephone: (212) 474-1000  
Fax: (212) 474-3700  
rbaron@cravath.com  
kdemasi@cravath.com  
wearnhardt@cravath.com

*Counsel for Defendant J.P. Morgan Securities  
LLC*

By /s/ Andrea J. Robinson

Jeffrey B. Rudman (BBO #433380)  
Andrea J. Robinson (BBO #556337)  
Christopher B. Zimmerman (BBO #653854)  
WILMER CUTLER PICKERING HALE AND  
DORR LLP  
60 State Street  
Boston, MA 02109  
Phone (617) 526-6000  
Fax (617) 526-5000  
jeffrey.rudman@wilmerhale.com  
andrea.robinson@wilmerhale.com  
christoper.zimmerman@wilmerhale.com

*Counsel for Defendant Merrill Lynch, Pierce,  
Fenner & Smith Inc.*

By /s/ Kathy B. Weinman

Kathy B. Weinman (BBO #541993)  
Azure Abuirmeileh (BBO #670325)  
COLLORA LLP  
100 High Street, 20th Floor  
Boston, Massachusetts 02110  
Telephone: (617) 371-1000  
Fax: (617) 371-1037  
kweinman@collorallp.com  
aabuirmeileh@collorallp.com

Of Counsel:

Thomas C. Rice (admitted *pro hac vice*)  
David J. Woll (admitted *pro hac vice*)  
Alan Turner (admitted *pro hac vice*)  
SIMPSON THACHER & BARTLETT LLP  
425 Lexington Avenue  
New York, New York 10017  
Telephone: (212) 455-2000  
Fax: (212) 455-2502  
trice@stblaw.com  
dwooll@stblaw.com  
aturner@stblaw.com

*Counsel for Defendants Deutsche Bank Securities  
Inc. and RBS Securities Inc.*

By /s/ Mark A. Berthiaume

Mark A. Berthiaume (BBO #041715)  
GREENBERG TRAURIG, LLP  
One International Place  
Boston, Massachusetts 02110  
Telephone: (617) 310-6007  
Fax: (617) 310-6001  
berthiaumem@gtlaw.com

Of Counsel:

Richard H. Klapper (admitted *pro hac vice*)  
David M.J. Rein (admitted *pro hac vice*)  
SULLIVAN & CROMWELL LLP  
125 Broad Street  
New York, NY 10004-2498  
Telephone: (212) 558-4000  
Fax: (212) 558-3588  
klapperr@sullcrom.com  
reind@sullcrom.com

*Counsel for Defendant Goldman, Sachs & Co.*

By /s/ Edward J. McDonough Jr.

Edward J. McDonough Jr. (BBO #331590)  
Stephen E. Spelman (BBO #632089)  
EGAN, FLANAGAN AND COHEN, P.C.  
67 Market Street, P.O. Box 9035  
Springfield, Massachusetts 01102  
Telephone: (413) 737-0260  
Fax: (413) 737-0121  
ejm@efclaw.com; ses@efclaw.com

Of Counsel:

Philippe Z. Selendy (admitted *pro hac vice*)  
Jennifer J. Barrett (admitted *pro hac vice*)  
QUINN EMANUEL URQUHART &  
SULLIVAN LLP  
51 Madison Avenue, 22nd Floor  
New York, NY 10010  
Telephone: (212) 849-7000  
Fax: (212) 849-7100

A. William Urquhart (admitted *pro hac vice*)  
Harry A. Olivar, Jr. (admitted *pro hac vice*)  
Molly Stephens (admitted *pro hac vice*)  
QUINN EMANUEL URQUHART &  
SULLIVAN LLP  
865 South Figueroa Street, 10th Floor  
Los Angeles, CA 90017  
Telephone: (213) 443-3000  
Fax: (213) 443-3100

*Counsel for Plaintiff Massachusetts Mutual Life  
Insurance Company*

**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 20th day of December, 2012.

*/s/ Jeffrey L. McCormick*

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Jeffrey L. McCormick, Esq.