

1 GORDON SILVER  
 ERIC D. HONE (NV Bar No. 8499)  
 2 ehone@gordonsilver.com  
 JOEL Z. SCHWARZ (NV Bar No. 9181)  
 3 jschwarz@gordonsilver.com  
 3960 Howard Hughes Parkway, 9th Floor  
 4 Las Vegas, NV 89169  
 Telephone: (702) 796-5555  
 5 Facsimile: (702) 369-2666  
*Attorneys for Defendant Haeberling*  
 6  
 7

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 MORGAN STANLEY HIGH YIELD  
 SECURITIES INC.; MORGAN STANLEY  
 11 DEAN WITTER HIGH INCOME  
 ADVANTAGE TRUST; MORGAN STANLEY  
 12 DEAN WITTER HIGH INCOME  
 ADVANTAGE TRUST II; MORGAN  
 13 STANLEY DEAN WITTER HIGH INCOME  
 ADVANTAGE TRUST III; MORGAN  
 14 STANLEY VARIABLE INVESTMENT  
 SERIES; MORGAN STANLEY DIVERSIFIED  
 15 INCOME TRUST; and MORGAN STANLEY  
 SELECT DIMENSIONS INVESTMENT  
 16 SERIES,

17 Plaintiff,

18 vs.

19 HANS JECKLIN; CHRISTIANE JECKLIN;  
 GEORGE HAEBERLING; JOHN TIPTON;  
 20 SWISS LEISURE GROUP AG; and JPC  
 HOLDING AG,  
 21

22 Defendants.

CASE NO. 2:05-cv-01364-LDG-VCF

**DEFENDANTS' JOINT REQUEST TO  
 VACATE SETTLEMENT CONFERENCE**

23  
 24 Defendants Hans Jecklin, Christiane Jecklin, George Haeberling, John Tipton, Swiss  
 25 Leisure Group AG and JPC Holding AG, by and through their respective counsel, hereby request  
 26 that the Court vacate the pending Settlement Conference scheduled to commence at 10:00 a.m.,  
 27 June 17, 2013, pursuant to the Court's Order [Dkt #365]. For the following reasons, defendants  
 28 do not believe that a settlement conference is logistically feasible nor that such a settlement

1 conference would be productive at this point:

2 1. All but one of the four individual defendants, including the principals for the  
3 business entity defendants, reside in Switzerland and are unable to travel to the United States and  
4 Las Vegas on the proposed date. One of the Swiss defendants, George Haeberling, presently has  
5 pending a motion to dismiss for lack of personal jurisdiction based on, among other things, his  
6 limited contact with the forum in particular, and the United States in general [Dkt #237].

7 2. All parties have long-pending motions for summary judgment. Each of the  
8 defendants filed separate motions for summary judgment on February 17, 2010 [Dkt ## 231,  
9 236, and 239]. Plaintiffs moved for an extended period of time to file their own motion for  
10 summary judgment, which was granted on September 15, 2010 [Dkt # 311]. Briefing has been  
11 completed on all of the motions for summary judgment since March 31, 2011, more than two  
12 years ago. Defendant George Haeberling's renewed motion to dismiss for lack of personal  
13 jurisdiction was filed February 17, 2010 [Dkt #237]. Briefing on that motion was completed on  
14 June 23, 2010.

15 3. The parties have previously, on several occasions, discussed the potential for  
16 settlement. None of these discussions have resulted in positive movement towards resolution.  
17 Generally, none of the parties have been willing to compromise on terms during the pendency of  
18 the cross-motions for summary judgment. Nor, given the extremely large amount of damages  
19 sought, have the parties been within any reasonable range of resolution on monetary terms.  
20 Plaintiffs' claims are, in essence, claims to pierce the corporate veil and to hold the individual  
21 and corporate defendants responsible for a \$38,489,055 judgment already in place against Seven  
22 Circle Gaming Corporation entered in favor of the Morgan Stanley plaintiffs on December 18,  
23 2003, in the United States District Court for the Southern District of New York.

24 ///

25 ///

26 ///

27 ///

28 ///

1 For these reasons, including (i) the unavailability of the Swiss defendants, (ii) the  
2 pendency of the motions for summary judgment and motion to dismiss, and (iii) the inability to  
3 make settlement progress during prior settlement discussions, the defense parties respectfully  
4 request the Court vacate the settlement conference set for June 17, 2013, at 10:00 a.m.

5 DATED this 12<sup>th</sup> day of April 2013

DATED this 12<sup>th</sup> day of April 2013

6 BROWNSTEIN HYATT FARBER  
SCHRECK, LLP

GORDON SILVER

7  
8 /s/ Tamara Beatty Peterson  
TAMARA BEATTY PETERSON, ESQ.  
9 Nevada Bar No. 5218  
10 100 North City Parkway  
Suite 1600  
11 Las Vegas, Nevada 89106  
Telephone: 702.382.2101  
12 Facsimile: 702.382.8135  
Email: tpeterson@bhfs.com  
13 *Attorneys for Hans Jecklin, Christiane Jecklin,  
Swiss Leisure Group AG, and JPC Holding AG*

/s/ Eric D. Hone  
ERIC D. HONE (NV Bar No. 8499)  
ehone@gordonsilver.com  
14 JOEL Z. SCHWARZ (NV Bar No. 9181)  
jschwarz@gordonsilver.com  
15 3960 Howard Hughes Parkway, 9th Floor  
Las Vegas, NV 89169  
16 Telephone: (702) 796-5555  
Facsimile: (702) 369-2666  
17 *Attorneys for Defendant Haeberling*

14 DATED this 12<sup>th</sup> day of April 2013

15 KLEINBARD BELL & BRECKER

16  
17 /s/ Steven J. Engelmyer  
Steven J. Engelmyer  
18 Eric J. Schreiner  
19 1900 Market Street, Suite 700  
Philadelphia, Pennsylvania 19103

20 McDONALD CARANO WILSON LLP  
21 2300 West Sahara Avenue, Suite 1200  
Las Vegas, Nevada 89102  
22 Telephone: (702) 873-4100  
Facsimile: (702) 873-9966  
23 *Attorneys for Defendant John Tipton*

24 **IT IS SO ORDERED.**

25 

26 **UNITED STATES MAGISTRATE JUDGE**  
27 **DATED:** 4-15-2013