

LAWYERS

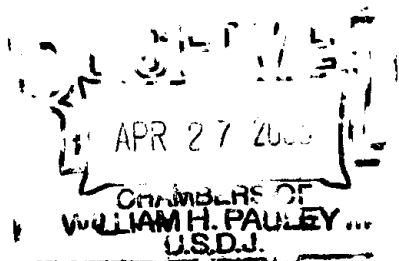


## Davis Wright Tremaine LLP

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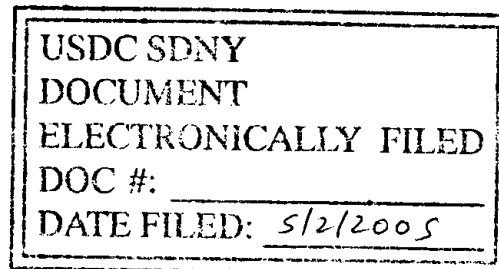


### MEMORANDUM ENDORSED

April 26, 2005

#### BY HAND DELIVERY

Hon. William H. Pauley  
United States District Judge  
United States Courthouse  
Room 2210  
500 Pearl Street  
New York, New York 10007-1581



Re: Vargas, et al. v. Pfizer, Inc., et al. (04 CV 9772) (WHP)

Dear Judge Pauley:

I write to inform the Court of certain developments in the above-entitled matter since the March 18, 2005, status conference.

First, Davis Wright Tremaine ("DWT") today filed a Notice of Appearance on behalf of both defendant East West Communications, Inc. ("East West") and defendant Brian Transeau, a courtesy copy of which is enclosed. As noted both during the status conference and in my subsequent letter to the Court, there was some question as to whether DWT would be representing one or both of these defendants in this action. These issues now have been resolved, and we will be representing Mr. Transeau and East West jointly.

Second, on behalf of all defendants, I am advising the Court that several defense motions discussed at the March 18 conference are now unnecessary. At the conference, although I appeared on behalf of East West, I raised the possibility that Mr. Transeau, a resident of California, might seek permission to move to dismiss the action against him on jurisdictional grounds. Further, counsel for defendant Pfizer, Inc. ("Pfizer") requested permission to file a motion to transfer venue to California. Accordingly, the Court ordered the parties to proceed



MEMORANDUM ENDORSED

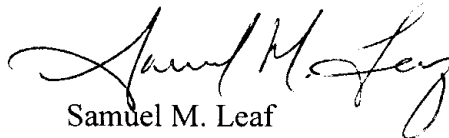
with certain discovery relating solely to venue and jurisdiction. Upon further investigation and reflection, Mr. Transeau (who at the time of the conference had not yet been served with the complaint and was not yet represented by litigation counsel) has decided not to move to dismiss on jurisdictional grounds, and the defendants who were planning to file the venue motion acknowledge that it is now moot, as is plaintiffs' pending discovery concerning jurisdiction and venue.

One other potential defense motion – to dismiss plaintiffs' Lanham Act and state unfair competition claims – is close to being resolved by stipulation. The parties expect to file that stipulation with the Court shortly.

Finally, in light of these developments, all defendants respectfully request that the Court schedule a status conference to set a timetable for discovery and briefing of dispositive motions that address the merits of the case. Defendants had conferred previously with plaintiffs' counsel, Mr. Chin, on this subject, but the parties have been unable to agree on a mutually acceptable discovery and briefing schedule.

We have advised Mr. Chin of the foregoing developments, and he agrees that the discovery is now moot and a status conference is advisable.

Respectfully,



Samuel M. Leaf

Enclosure

cc: (via facsimile, w/o encl.)  
Paul A. Chin, Esq.  
Bruce P. Keller, Esq.  
Edward P. Kelly, Esq.  
Sara L. Edelman, Esq.  
Eric Stahl, Esq.

Application Granted. A conference is scheduled for 5/24/2005 at 10:00 a.m. Parties may participate by telephone. Oral argument scheduled for 6/24/2005 is cancelled.  
**SO ORDERED:**



**WILLIAM H. PAULEY III U.S.D.J.**