

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PATRICK L. GEARREN and JAN DEPERRY, on  
behalf of themselves and a class of persons similarly  
situated,

Plaintiffs,

-v-

THE MCGRAW-HILL COMPANIES, INC., *et al.*,

Defendants.

No. 08 Civ. 7890 (RJS)  
ORDER

HARVEY SULLIVAN, MARY SULLIVAN, and  
CYNTHIA DAVIS, individually and on behalf of all  
others similarly situated,

Plaintiffs,

-v-

THE MCGRAW-HILL COMPANIES, INC., *et al.*,

Defendants.

No. 09 Civ. 5450 (RJS)  
ORDER

RICHARD J. SULLIVAN, District Judge:

On September 10, 2008, Plaintiffs Patrick L. Gearren and Jan DePerry commenced the putative class action docketed as No. 08 Civ. 7890 ("*Gearren*"), and they filed an Amended Complaint on January 5, 2009. The Amended Complaint contains claims pursuant to sections 502(a)(2) and 502(a)(3) of ERISA. The *Gearren* Defendants filed a motion to dismiss the Amended Complaint on March 5, 2009, which was fully briefed on April 27, 2009.

On June 12, 2009, Plaintiffs Harvey Sullivan, Mary Sullivan, and Cynthia Davis commenced the action docketed as No. 09 Civ. 5450 ("*Sullivan*"). The *Sullivan* Complaint also

contains claims under sections 502(a)(2) and 502(a)(3) of ERISA against a group of Defendants similar to those named in *Gearren*. On June 18, 2009, *Sullivan* was designated as related to *Gearren* and assigned to the undersigned.

Pursuant to this Court's authority to manage its docket and in the interests of judicial economy, IT IS HEREBY ORDERED THAT, by August 21, 2009, the *Sullivan* Plaintiffs shall serve the Complaint and a copy of this Order on the *Sullivan* Defendants in a manner consistent with the Federal Rules of Civil Procedure. If service is not effected by that deadline, Plaintiffs' counsel shall submit a letter to the Court on August 21, 2009 explaining the reason for the failure to do so.

IT IS FURTHER ORDERED THAT, by September 11, 2009, the *Sullivan* Defendants shall answer or otherwise respond to the Complaint. If Defendants submit pre-motion letters to the Court pursuant to Rule 2(A) of my Individual Practices, the *Sullivan* Plaintiffs' responses are due within three business days of any such submission.

IT IS FURTHER ORDERED THAT, if the *Sullivan* Defendants do not submit pre-motion letters, the *Sullivan* parties shall jointly submit a proposed case management plan and scheduling order by September 16, 2009. A template for the submission is available at [http://www1.nysd.uscourts.gov/cases/show.php?db=judge\\_info&id=347](http://www1.nysd.uscourts.gov/cases/show.php?db=judge_info&id=347).

IT IS FURTHER ORDERED that, by September 16, 2009, irrespective of whether pre-motion letters are submitted, the *Sullivan* parties shall submit a joint status letter, not to exceed five (5) pages, providing the following information in separate paragraphs:

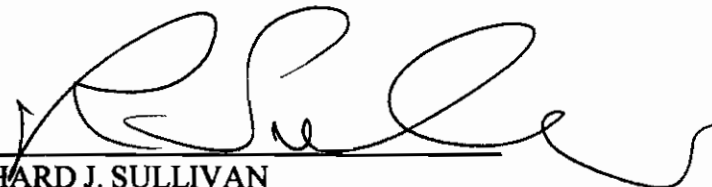
- (1) A brief statement of the nature of the action, the principal defenses thereto, and the differences between the *Sullivan* and *Gearren* pleadings;

- (2) A brief description of all contemplated motions and requests to file motions;
- (3) A brief description of the amount of discovery that is necessary for the parties to engage in meaningful settlement negotiations;
- (4) A list of all prior settlement discussions, including the date, the parties involved, and the approximate duration of any such discussions;
- (5) The estimated length of trial;
- (6) Any other information that you believe may assist this Court in resolving the *Sullivan* action.

IT IS FURTHER ORDERED THAT the Court will conduct a status conference regarding the *Sullivan* and *Gearren* actions on September 24, 2009 at 11:30 a.m. Counsel for all parties in both of the above-captioned actions are directed to appear.

SO ORDERED.

Dated: August 8, 2009  
New York, New York



RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE