

EXHIBIT 5

From: Richard E. Brodsky <rbrodsky@thebrodskylawfirm.com>
Sent: Friday, January 25, 2013 11:13 AM
To: McGimsey, Diane L.
Cc: Nelles, Sharon L.; Smith, Bradley P.; Berarducci, Patrick B.; Finn, Andrew J.; HEL-H. Eugene Lindsey III (hel@katzbarron.com)
Subject: Re: SC Cases: depositions of experts

let's put this on hold until the judge rules on our letters.

On Jan 22, 2013, at 10:32 AM, "McGimsey, Diane L." <mcgimseyd@sullcrom.com> wrote:

Richard,

Plaintiffs were given the opportunity to file rebuttal reports and they can elect not to, but if plaintiffs' experts intend to offer any opinions on the topic of reliance on third parties beyond what is set forth in their reports they should comply with Rule 26.

As far as timing, we agree that we will depose your experts first. Assuming that you agree that plaintiffs' experts will not offer any additional opinions on third party reliance, or any additional bases or reasons for the opinions already set forth in the opening reports, we propose that all parties agree to serve subpoenas by January 25 and then meet and confer shortly thereafter to select dates for the deposition. We will agree to accept service of the subpoenas on behalf of our clients' experts, but we believe that our experts, who are located in New York, should be deposed in New York. We will travel to wherever is convenient for plaintiffs' experts.

Finally, the trigger date for the 90-day period should be February 8, the day plaintiffs' rebuttal reports are due, but so long as your experts do not intend to file rebuttal reports, we are fine using January 16, the date you told us plaintiffs do not intend to file reports, as a fair time to start running the clock.

Diane

From: Richard E. Brodsky [<mailto:rbrodsky@thebrodskylawfirm.com>]
Sent: Wednesday, January 16, 2013 8:21 AM
To: Nelles, Sharon L.; McGimsey, Diane L.; Smith, Bradley P.; Berarducci, Patrick B.
Subject: SC Cases: depositions of experts

Counsel,

Now that the Court has ruled on our motion, it is time to confer concerning the procedure for depositions.

We will not be submitting rebuttal reports. Our experts can be deposed concerning their comments, if any, on your experts' reports.

We suggest that, as is customary, you depose our experts first, and then we will depose your experts. I think we have agreed that because the holidays came right after your expert reports were delivered, the 90 days set forth in the order expire March 31, 2013. We propose that you take your depositions by February 15 and we will do ours after that date. We suggest that we immediately find out from our respective witnesses the dates that they

will be available for deposition during the respective periods, and promptly let the other side know of those dates. We suggest that we agree to accept service of subpoenas duces tecum on behalf of our clients' experts.

As to the location of the depositions, we want to depose your experts in Miami and will pay their airfare and accommodations here. Mr. Picard is located in the Greater New York area and can easily come to the City for his deposition. Mr. Martin is located in Amherst, Massachusetts. We assume he can come to New York if his travel is taken care of.

As to fees under Rule 26(b)(4)(E), we propose that we each submit the proposed bill to the other side after the conclusion of all of the depositions, and if there is a disagreement, the dispute will go to the Magistrate Judge.

Please give us your reaction as promptly as possible.

Thank you.

Best,

Richard

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