

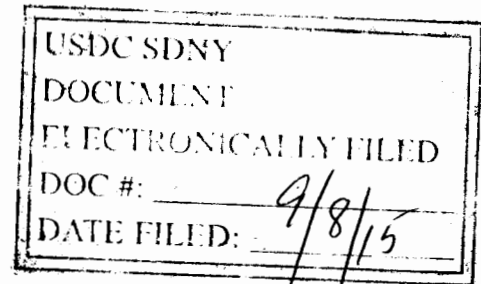
# THE BRODSKY LAW FIRM, PL

RICHARD E. BRODSKY, ATTORNEY AT LAW

August 31, 2015

**By Facsimile Transmission  
to (212) 805-6382**

Honorable Victor Marrero  
United States District Judge  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, New York 10007-1312



**Re: *Anwar, et al. v. Fairfield Greenwich Limited, et al.*  
*09-cv-118 (VM) (THK)*  
*Standard Chartered Cases***

Dear Judge Marrero:

I am the Liaison Counsel for the Standard Chartered Plaintiffs in the Standard Chartered Cases.

Given the Court's recent ruling on SLUSA in this matter, this is our renewed request that the Court (i) formally deny the Standard Chartered Defendants' request for leave to file a motion for summary judgment, and (ii) schedule a conference to discuss possible remand to the Judicial Panel on Multidistrict Litigation and disposition of these cases.

The status of the Standard Chartered Cases is as follows:

1. The first Standard Chartered Case was transferred to this Court for pretrial procedures in October 2009. (DE 281, October 24, 2009).
2. All fact discovery was concluded in May 2012.
3. All expert reports have been delivered and all expert discovery has been concluded. Expert discovery was significantly delayed by the November 2013 guilty plea to a felony by one of the Standard Chartered Defendant's proffered expert witnesses, which resulted in the Defendants' being permitted to engage a third expert, followed by new expert-discovery disputes, such that expert

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depositions were not completed until August 2014.

4. By letter dated August 29, 2014, the Standard Chartered Defendants requested a conference regarding their desire to file a motion for summary judgment. (DE 1314, Sept. 3, 2014).
5. By letter dated September 12, 2014, the Standard Chartered Plaintiffs opposed the request for leave to file for summary judgment on the ground that such a motion would be futile and a waste of party and judicial resources. (Sealed).
6. This Court held a hearing on September 29, 2014, on the request and ordered additional letter briefs. (Unnumbered paperless order, Sept. 29, 2014).
7. The Standard Chartered Defendants submitted a letter brief dated October 31, 2014. (DE 1333, November 5, 2014).
8. The Standard Chartered Plaintiffs submitted a letter brief dated November 17, 2014. (DE 1349, January 7, 2015).
9. After further separate full letter briefing, the Court held that SLUSA applies to the claims of the Standard Chartered Plaintiffs and clarified which claims were precluded by SLUSA and which were not. DE 1396 (July 29, 2015) ("Due Diligence Claims" not precluded). The Court denied the Standard Chartered Defendants' motion for reconsideration of the July 29, 2015 order as to the "Due Diligence Claims," DE 1403 (August 13, 2015), and, as to the claims of failure to disclose "investment risk," granted the motion and held that the claims were precluded. DE 1407 (August 28, 2015).

The only remaining pre-trial issue before this Court at this time is the Standard Chartered Defendants' request for leave to file a formal motion for summary judgment, which has not been separately addressed by the Court. The record reveals that there is absolutely no need for the Court to further consider that request. This Court should promptly deny it.

At the hearing on that request on September 29, 2014, the Court stated its preliminary view that the Standard Chartered Defendants' showing an entitlement to summary judgment on the Standard Chartered Plaintiffs' claims would be an "uphill battle." Transcr., 9/29/14 hrg., 47. That statement by the Court has proven correct: the Standard Chartered Defendants have not come close to climbing, not to mention surmounting,

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that hill.

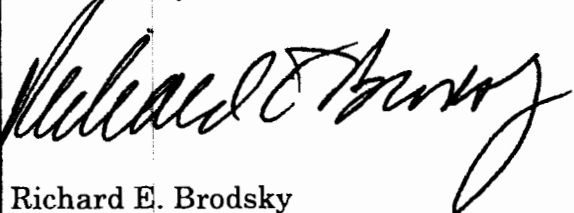
Instead, in our letter dated September 12, 2014, at the hearing on September 29, 2014, and in our letter dated November 17, 2014 (DE 1349), we have made a factual showing—one that the Standard Chartered Defendants have formally stated that they do not challenge—unquestionably demonstrating that a reasonable jury could return a verdict in any one of the Standard Chartered Plaintiffs' favor at trial of the Due Diligence Claims.<sup>1</sup> As we have amply demonstrated, therefore, there is, no need to go through the paces of a formalistic motion under Fed.R.Civ.P. 56; such a motion would be an exercise in futility would just add more delay to an already over-delayed situation. Elevating form over substance in this way would make no sense.

Therefore, we respectfully request that the Court (i) formally deny the Standard Chartered Defendants' request for leave to file a motion for summary judgment, and (ii) schedule a conference to discuss possible remand to the Judicial Panel on Multidistrict Litigation and disposition of these cases. Such steps would expedite this matter in accordance with the intent of Fed.R.Civ.P. 1 and practices and procedures in multi-district litigation.

Thank you for your careful consideration of this letter.

Sincerely yours,

The Brodsky Law Firm, PL



Richard E. Brodsky

The Clerk of Court is directed to enter into the public record of this action the letter above submitted to the Court by	
<u>Standard Chartered Plaintiffs</u>	
<b>SO ORDERED.</b>	
<u>9-8-15</u>	<u>[Signature]</u>
DATE	VICTOR MARRERO, U.S.D.J.

cc: SC Plaintiffs' Counsel  
SC Defendants' Counsel

<sup>1</sup> We have also shown that the Standard Chartered Defendants have waived their right to assert a limitations defense because they failed to assert limitations as an affirmative defense in any answer to any of the large number of complaints against them. DE 1349, at 2-3. It would be severely prejudicial to the Standard Chartered Plaintiffs were the Standard Chartered Defendants permitted to raise this afterthought, for the first time, long after the pleadings had closed and all discovery completed.