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**VIA HAND DELIVERY**

The Honorable Denise L. Cote  
United States District Judge  
Southern District of New York  
500 Pearl Street, Room 1610  
New York, NY 10007-1312

Re: *In re: Electronic Books Antitrust Litig.*, No. 11-md-02293-DLC;  
*United States v. Apple, Inc., et al.*, No. 12-md-02826-DLC; and  
*The State of Texas, et al. v. Penguin Group (USA) Inc., et al.*, No. 12-cv-  
00324-LY

Dear Judge Cote:

I represent HarperCollins Publishers, L.L.C. ("HarperCollins") in the above-captioned matter. I write in response to Your Honor's request for the submission of a Proposed Stay Order with respect to HarperCollins, Hachette Book Group, Inc. ("Hachette"), Simon & Schuster, Inc. and Simon & Schuster Digital Sales, Inc. (collectively "Simon & Schuster" and together with HarperCollins and Hachette, "Settling Defendants").

Enclosed herein please find a Proposed Stay Order for your consideration. The Defendants, the Department of Justice ("DOJ") and Plaintiff States have no objection to the entry of this Order as currently drafted with respect to HarperCollins and Hachette. While the DOJ has no objection to the entry of this order as to Simon & Schuster, we are informed that the Plaintiff States do not agree that the stay should apply to Simon & Schuster, which has yet to enter a Memorandum of Understanding settling with the Plaintiff States. As such, we have included Simon & Schuster in this Proposed Stay Order in brackets. To be clear, Plaintiff States have no objection to the Proposed Stay Order with respect to HarperCollins and Hachette.

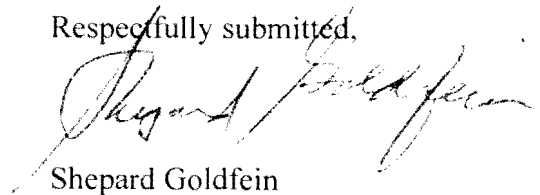
Further, the Settling Defendants have not been able to reach agreement with Class Plaintiffs, who have proposed that the stay should be limited to discovery and that notwithstanding the stay, within ten days of entry of a protective order by this Court, the Settling

Defendants should be required to produce to the Class Plaintiffs all documents, data, written discovery responses, and deposition transcripts that are in the possession of the DOJ or any state Attorney General relating to this action. The Settling Defendants believe the Class Plaintiffs' proposed changes are inconsistent with Your Honor's instructions during the April 18, 2012 status conference and would be counterproductive given the work facing the Settling Defendants over the next few months in attempting to reach a final agreement with the Plaintiff States and other state attorneys general. During the conference, Your Honor specifically stated that, during the stay period, Settling Defendants would not be "require[d] . . . to turn over to class counsel all of the documents they have produced to the Department of Justice." (Transcript of April 18, 2012 Status Conference ("Tr."), at 55:5-7.) Your Honor further indicated that, since the potential settlements represented a "major reconfiguration of the case," Your Honor did not want to order production of documents as the parties "sort the landscape out." (Tr. at 56:5-7.) In fact, Your Honor carved out the period from April 18, 2012 until the next status conference on June 22, 2012 "to set up a structure" for discovery. (Tr. At 56:9-10.)

To reiterate, a stay of these actions as to Settling Defendants is appropriate so that they may devote all their time and energy towards finalizing a settlement with Plaintiff States and submitting the requisite documents for this Court's approval of both that agreement and the Proposed Final Judgment filed by the DOJ. This stay should have no material impact on Class Plaintiffs because the Court has ordered the parties to determine a case management schedule prior to the next conference set for June 22, 2012 and the DOJ already has stated that, once a protective order is in place and discovery requests propounded, it intends to produce its Investigatory Materials as part of consolidated pretrial proceedings, which production will include the very same relevant, non-privileged materials relating to both settling and non-settling defendants as requested by Class Plaintiffs in their proposed stay order. Furthermore, should agreements with all fifty states and the DOJ's Proposed Final Judgment receive this Court's approval, Settling Defendants would become third parties in these cases, which would materially impact their discovery obligations.

For the reasons set forth above, the Settling Defendants respectfully request that Your Honor enter the enclosed Stay Order.

Respectfully submitted,



Shepard Goldfein

cc: All counsel of record (by email)