

# **EXHIBIT 1**

## PROCEEDINGS

1  
2 have some value, not precedential, but certainly some value.  
3 This is an Article 77. I keep looking at it because I  
4 never had one of those before. I imagine maybe none of you  
5 have.

6 It says, as we know, "that any party to the  
7 proceeding, shall have a right to examine the Trustees under  
8 oath, either before or after filing an answer to an answer  
9 or objection as to any matter relating to their  
10 administration of the Trust."

11 You have got a lot of these settlement  
12 negotiations. I think your first meeting here was almost a  
13 year ago, if not to the date, certainly to the week.

14 MR. REILLY: Roughly.

15 THE COURT: Why don't you have a deposition of one  
16 or two people from the Trustee and ask them some of these  
17 questions, and see what they say. Then, we can see if there  
18 is something that really is an issue that has come up that  
19 needs to be, that needs to be discovered.

20 I think just to ask for all these settlement  
21 communications, and as we know, they have already produced  
22 the three-way communications, and that's a lot of  
23 documentation, and I really think you have got all the  
24 documents they relied upon and expert reports and all that.

25 I think it would be, I would be interested, I would  
26 like to see what the Trustees would say about their

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2 participation. What happened? Was it really the  
3 Institutional Investors? Did they come in with all kinds of  
4 guns blazing? Maybe they do it in Texas, let's go and --

5 MS. PATRICK: We do come in with guns blazing. You  
6 are exactly right, your Honor.

7 THE COURT: And let's negotiate and poor Mr. Ingber  
8 says oh, well, I better let her do this first. I don't know  
9 what went on.

10 But, I think you can ask some of those questions  
11 because you got enough to know what's going on here and some  
12 of the things that you might want may come out or they may  
13 not, but this, I just think that the request for all the  
14 settlement negotiations just -- I have listened to all of  
15 this. I have read it. I looked at the cases we talked  
16 about it. I can't write a decision on this because it will  
17 take too long and, I think, I think it's already a year. I  
18 am -- not my fault, but it's already a year.

19 I think you have to go to the next step. I really  
20 think that that would get us far along to doing that. If  
21 you come and decide, after you have one or two, and I am  
22 sure there could possibly be more than one person --

23 MR. REILLY: There could be more.

24 THE COURT: -- from Bank of New York, who has some  
25 knowledge, then you may come back and say there is some area  
26 where I think I really, really need more. You can ask them

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2 was a much higher number talked about. I think that there  
3 is, in somebody's report, I don't remember the names of all  
4 the experts, there was an indication that there was a range,  
5 a higher range and lower range. It got to this range.

6 They were considering a lot of different things,  
7 but if there is some outrageously higher number that was  
8 talked about or something, I think you can explore that  
9 without having to go through all these settlement  
10 negotiations.

11 Just, there is a certain kind of privilege, certain  
12 kind of rules that you learn here from day one. I can't say  
13 oh, I learned that I always ruled that way, but forget it, I  
14 will rule this way today.

15 That is what I really think should be the next  
16 step. I don't need a motion, a written motion the next time  
17 to tell me well, Judge, we found this and this. What we  
18 want, because mostly you people bring up the important  
19 points, the important issues, and as I probably said to you  
20 once before, a lot of these discovery issues where am I  
21 going to go to get the answer for this exact thing. Can I  
22 look at different cases? Apparently, I have written a few  
23 of them. I know the issues. We can go on.

24 That's really how I feel you need to go here. I  
25 think you will get some of the things, but I just, I read  
26 these papers, and I was skeptical, but I want to listen to

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2 everything you said, that you all said, and I really feel  
3 that's the next step, to get dates, to have some, pick the  
4 people. I don't know if you know who you want, or sit down  
5 with Mr. Ingber. I don't think he will, I don't think,  
6 could possibly know you can't depose a Trustee because  
7 that's the only thing that this Article 71 says certainly  
8 you can do that and see what you get from that. That's  
9 what I think should happen now.

10 I am not, I appreciate Mr. Madden speaking about  
11 the common interest privilege. I don't think we reach it at  
12 this point. We might, at some other point. The law, I am  
13 sure, won't change much between now and then.

14 What is the next thing you want to start talking  
15 about now?

16 The other people that flew in from the other part  
17 of the country are apparently going to fly back and are just  
18 not going to stick around, so what is the next, the next  
19 issue that you want to start with because we do have to  
20 close the courtroom at one.

21 MR. LOESER: The next issue --

22 THE COURT: But you could start.

23 MR. LOESER: First of all, I am Derrick Loeser. I  
24 represent the Federal Home Banks of Chicago and Boston and  
25 Indianapolis.

26 The next issue for the today is the fiduciary duty