

4/11/13

At Commercial Division Part 39 Supreme Court of the State of New York, held in and for the County of New York, at the Courthouse located at 60 Centre Street, New York, New York, on the 3rd day of April, 2013

PRESENT: **BARBARA R. KAPNICK**
J.S.C.
HONORABLE BARBARA R. KAPNICK, J.S.C.

~~MOTION SEQUENCE #~~ 034
No. 651786/2011

In the matter of the application of
THE BANK OF NEW YORK MELLON (as Trustee under various Pooling and Servicing Agreements and Indenture Trustee under various Indentures),

Petitioner,

for an order, pursuant to C.P.L.R. § 7701, seeking judicial instructions and approval of a proposed settlement.

Assigned to: Kapnick, J.
(Part 39)

**ORDER TO SHOW
CAUSE WHY THE
COURT SHOULD NOT
VACATE THE INSIDE
INSTITUTIONAL
INVESTORS'
DISCOVERY
DEMANDS**

UPON the annexed Affirmation of Daniel M. Reilly, dated April 1, 2013, the annexed Affirmation of Derek W. Loeser, dated April 1, 2013, the annexed Affirmation of John G. Moon, dated April 1, 2013, with exhibits attached thereto, the accompanying Memorandum of Law in Support of Order to Show Cause Why the Court Should Not Vacate the Inside Institutional Investors' Discovery Demands, dated April 1, 2013, and all pleadings and proceedings previously had herein,

SUFFICIENT CAUSE THEREFOR BEING ALLEGED, IT IS HEREBY

ORDERED that the Institutional Investors and their counsel, show cause before this Court at Commercial Division Part 39, to be held at 60 Centre Street, New York, New York, on

the 12th day of April 2013 at 10 a.m/p.m., or as soon as counsel may be heard, why an order should not be entered as follows:

[Handwritten signature]

- 1) Pursuant to CPLR § 3103, vacating in their entirety, ~~all~~ ^{or modifying} of the document requests and deposition notices served on Intervenor by the Institutional Investors on March 11, 2013; and
- 2) Awarding such other and further relief as the Court may deem just and proper.

SUFFICIENT REASON ^{Being closed} ~~APPEARING~~ THEREFOR, let service of a copy of this

Order, together with the papers upon which it was granted, upon counsel for the Institutional Investors, by electronic filing service, and a courtesy copy of the signed order by electronic mail on or before the 7th day of April 2013, be deemed good and sufficient service. ~~Any~~

~~answering papers shall be filed and served upon all counsel of record on or before [redacted], 2013, and reply papers shall be filed and served upon all counsel of record on or before [redacted], 2013.~~

~~Oral argument is requested on this motion.~~

~~Counsel submitting this Order to Show Cause has affirmed that a good faith effort has been made to resolve the issues raised in this Order to Show Cause with the Institutional Investors and their counsel.~~

~~**ORAL ARGUMENT DIRECTED**~~
J.S.C.

ENTER, *[Signature]*
J.S.C. **BARBARA R. KAPNICK**
J.S.C.

No opp papers to be served or filed. The Court will spend a few minutes discussing this issue during the appearance scheduled on April 12, 2013.

[Signature]
BARBARA R. KAPNICK
J.S.C.