

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID E. KAPLAN, ROXY D. SULLIVAN,
LINDSEY RANKIN, MICHAEL S. ALLEN,
GARY W. MUENSTERMAN, and CHI-PIN
HSU, Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

-against-

S.A.C. CAPITAL ADVISORS, L.P., S.A.C.
CAPITAL ADVISORS, INC., CR INTRINSIC
INVESTORS, LLC, STEVEN A. COHEN,
MATHEW MARTOMA, and SIDNEY
GILMAN,

Defendants.

No. 12-cv-9350 (VM) (KNF)
ECF Case

ORAL ARGUMENT REQUESTED

**DEFENDANT MATHEW MARTOMA'S OBJECTIONS TO THE MAGISTRATE
JUDGE'S ORDER GRANTING PLAINTIFFS' MOTION FOR RELIEF FROM PSLRA
DISCOVERY STAY AND REQUEST FOR STAY OF THAT ORDER**

GOODWIN PROCTER LLP

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Attorneys for Defendant Mathew Martoma

August 2, 2013

Defendant Mathew Martoma respectfully submits the following objections to the July 19, 2013 Order of the Magistrate Judge granting in part plaintiffs' motion for relief from the Private Securities Litigation Reform Act of 1995 (the "PSLRA") Discovery Stay (ECF. No. 84) (the "Order"). The Order granted plaintiffs "*all* document discovery now or hereafter produced" to Mr. Martoma by the Securities and Exchange Commission ("SEC") *and* the United States Attorney's Office for the Southern District of New York ("USAO") (Order at 1) (emphasis added).

Mr. Martoma objects to the Order and asks the Court to stay the Order pending its decision on defendants' objections for the following reasons:

1. The parties have not identified any case anywhere in the country that requires the production and sharing of criminal discovery to assist plaintiffs' counsel in a civil proceeding during a period in which civil discovery is intended to be stayed pursuant to the PSLRA, 15 U.S.C. § 78u-4(b)(3)(B). Indeed, the Order prejudices *both* the defendant, Mr. Martoma, and the Government in the pending criminal case, *United States v. Martoma*, No. 12 Cr. 973 (PGG);

2. The Order is inconsistent with the protective order issued by Judge Gardephe in the criminal case, *United States v. Martoma*, No. 12 Cr. 973 (PGG);

3. The Order failed to contemplate the broad scope of discovery that the Government has produced in the criminal case and, as a result, grants plaintiffs far greater discovery than they are entitled to under Rule 26 of the Federal Rules of Civil Procedure;

4. The Order and the continuing obligations imposed on Mr. Martoma — an individual criminal defendant facing trial on November 4, 2013 — prejudice him by forcing him to divert attention and resources away from the criminal case as trial approaches;

5. The Order and the continuing obligations it creates potentially interfere with the Government's ongoing investigations;

6. The Order is inconsistent with the discovery stay provision of the PSLRA, 15 U.S.C. § 78u-4(b)(3)(B); and

7. Mr. Martoma herein joins in and incorporates by reference the objections to the Order filed by S.A.C. Capital Advisors, L.P. and related S.A.C. entities.

Despite the foregoing objections, Mr. Martoma, the USAO, the SEC, and plaintiffs' counsel have reached an agreement regarding the scope of discovery in this case and have submitted that agreement to the Court. Once the Order is modified as set forth in the parties' proposed order, it will moot Mr. Martoma's objections and request for a stay. Out of an abundance of caution, Mr. Martoma submits these objections and motion to stay because the proposed order has not yet been entered. We file these objections merely to reserve Mr. Martoma's right to object to the Order.

For the foregoing reasons, Mr. Martoma respectfully requests that the Court set aside and reverse the Order, and that the Order be stayed pending this Court's review.

Dated: August 2, 2013
New York, NY

Respectfully submitted,

GOODWIN PROCTER LLP

By: /s/ Richard M. Strassberg

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CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2013, I caused a true and correct copy of the foregoing to be served by electronic means, via the Court's CM/ECF system, on all counsel registered to receive electronic notices. I also certify that I have caused copies of the aforementioned document to be served via first class mail, postage prepaid, upon all non-CM/ECF participants.

/s/ Richard M. Strassberg
Richard M. Strassberg (RS5141)