

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: TARGET CORPORATION
CUSTOMER DATA SECURITY
BREACH LITIGATION

Case No. : 0:14-md-2522-PAM

TRANSCRIPT
OF
PROCEEDINGS
(STATUS CONFERENCE)

The above-entitled matter came on for STATUS CONFERENCE before Senior Judge Paul A. Magnuson and Magistrate Judge Jeffrey J. Keyes, on June 25th, 2014, at the United States District Courthouse, Courtroom 7D, 316 N. Robert Street, St. Paul, Minnesota 55101, commencing at approximately 10:00 a.m.

Reported by: RONALD J. MOEN, OFFICIAL COURT REPORTER, CSR, RMR.

CALIFORNIA CSR NO. : 8674

ILLINOIS CSR NO. : 084-004202

IOWA CSR NO. : 495

RMR NO. : 065111

APPEARANCES

CHESTNUT, CAMBRONNE, PA, 17 Washington Avenue North, Suite 300, Minneapolis, Minnesota 55401-2048, by KARL L. CAMBRONNE, JEFFREY D. BORES, and BRYAN L. BLEICHER, Attorneys at Law, appeared as counsel on behalf of the Banking Institution Plaintiffs.

REINHARDT, WENDORF & BLANCHFIELD, 332 Minnesota Street, Suite E-1250, St. Paul, Minnesota 55101, by GARRETT D. BLANCHFIELD, JR., Attorney at Law, appeared as Overall Liaison Counsel.

HEINS, MILLS & OLSON, PLC, 310 Clifton Avenue, Minneapolis, Minnesota 55403, by VINCENT J. ESADES, Attorney at Law; and

STUEVE, SIEGEL, HANSON, 550 West C Street, Suite 1750, San Diego, California 92101, by NORMAN E. SIEGEL, Attorney at Law; and

MILBERG, LLP, One Pennsylvania Plaza, 49th Floor, New York, Ny, 10119, by ARIANA J. TADLER, Attorney at Law, appeared as counsel on behalf of Consumer Class.

NICHOLS, KASTER, PLLP, 80 South Eighth Street, Suite 4600, Minneapolis, Minnesota 55402-2242, by E. MICHELLE DRAKE, Attorney at Law, appeared as Consumer Liaison Counsel.

1 ZIMMERMAN, REED, PLLP, 1100 IDS Center, 80 South
2 Eighth Street, Minneapolis, Minnesota, by CHARLES S.
3 ZIMMERMAN, GORDON RUDD, BRIAN C. GUDMUNDSON, Attorneys at
4 Law, appeared as counsel on behalf of Financial
5 Institutions/Banking Plaintiffs.

6 LOCKRIDGE, GRINDAL, NAUEN, PLLP, 100 Washington
7 Avenue South, Suite 2200, Minneapolis, Minnesota 55401-2179,
8 by KAREN HANSON RIEBEL, Attorney at Law, appeared as Bank
9 Liaison Counsel.

10 ROBBINS, ARROYO, LLP, 600 B Suite 1900, San Diego,
11 California 92101, by FELIPE J. ARROYO, Attorney at Law,
12 appeared as counsel on behalf of Shareholder Derivative
13 Plaintiffs.

14 FAEGRE, BAKER, DANIELS, LLP, 90 South Seventh
15 Street, Suite 2200, Minneapolis, Minnesota 55402-3901, by
16 WENDY J. WILDUNG, Attorney at Law, appeared as counsel on
17 behalf of Defendants Target and the Target affiliates in the
18 Consumer Class Actions and the Bank Class Actions, and
19 appeared as counsel on behalf of Defendants Target and the
20 individual defendants in the Shareholder Derivative Actions.

21 MORRISON & FOERSTER, LLP, 425 Market Street, 32nd
22 Floor, San Francisco, California 94105-2482, by HAROLD J.
23 McELHINNY and REBEKAH KAUFMAN, Attorneys at Law, appeared as
24 counsel on behalf of Defendant Target in the Consumer Cases.

25

1 THE COURT: We welcome you to this status
2 conference. I think you have, and I have, an agenda and
3 we'll probably more or less follow it.

4 Just for the sake of getting to know one another a
5 little bit better, I'm going to ask lawyers to identify
6 themselves and advise us who you represent.

7 Mr. Cambronne, do you want to lead off.

8 MR. CAMBRONNE: Good morning, your Honor. Karl
9 Cambronne appearing on behalf of the banking institution
10 plaintiffs in this case.

11 MR. ZIMMERMAN: Good morning, your Honor. Bucky
12 Zimmerman on behalf of the financial institutions/banking
13 plaintiffs.

14 MR. ESADES: Good morning, your Honor. Vincent
15 Esades, from Heins, Mills & Olson, on behalf of the consumer
16 class.

17 MR. ARROYO: Good morning, your Honor. Felipe
18 Arroyo, of Robbins, Arroyo, here for the shareholder
19 derivative plaintiffs.

20 THE COURT: Okay. Thank you.

21 MS. WILDUNG: Good morning, your Honor. Wendy
22 Wildung, from Faegre, Baker, Daniels. I represent the party
23 defendants in the MDL cases, and I represent Target and the
24 individual defendants in the derivative cases.

25 THE COURT: Okay. Very well.

1 MR. McELHINNY: Good morning, your Honor. Harold
2 McElhinny, from Morrison & Foerster, in San Francisco. I
3 represent Target in the consumer cases.

4 THE COURT: Thank you.

5 MS. KAUFMAN: Good morning, your Honor. Rebekah
6 Kaufman, also from Morrison & Foerster, representing Target
7 in the consumer cases.

8 THE COURT: Okay. Thank you. Anybody else wish to
9 identify themselves? Thank you.

10 Counsel, I think as we go into this morning, we'll
11 probably lead off as the agenda says -- because it's the easy
12 part -- and that's to talk about the shareholder cases a
13 little bit. The shareholder cases have been stayed up until
14 December of this year, if that long is needed, while the
15 committee does their thing at Target. So unless there's
16 something else that comes along with that, I think we'll just
17 leave it at that place. I'm not sure that there will be
18 anything else needed right now. The one thing I can say is I
19 do understand that there will be a Consolidated Complaint
20 coming forward on the shareholder cases at some point.

21 MR. ARROYO: That's right, your Honor.

22 THE COURT: And we'll look forward to that. Okay.

23 Now, Scheduling Orders. Excuse me. You were not
24 given copies of the agenda?

25 MR. CAMBRONNE: We got it via ECF yesterday, your

1 Honor.

2 THE COURT: Okay. I thought so. But the reason I
3 raised it is because suddenly I realized I had a whole
4 handful of agendas here. My gosh, if you don't have it, why
5 -- but I think they're the same, so I'll just set that over
6 here.

7 Scheduling Orders. Let me say to you, one, that
8 it's my view -- and Judge Keyes and I have talked about
9 this -- that once the disclosures have been made, the stay of
10 discovery will be lifted. I think we've got to get forward
11 with the discovery on it. We've got an ambitious schedule.
12 We've got good lawyers. You folks can work it out as to
13 who's what. But I do think that we need to move forward with
14 that. Now, any proposed Scheduling Orders -- first of all,
15 thank you for your submissions -- and this is in both the
16 bank cases and the consumer actions -- thank you for your
17 submissions on this. The reality is your differences are
18 pretty minimal and for that I thank you. Secondly, there's
19 some arbitrary action on my part that's gone into this. And
20 there are two pieces of arbitrariness, one, is a few dates
21 have been changed or compromised, or whatever you want to
22 call it, a little bit. Hopefully it doesn't upset any apple
23 carts. The second thing is that, with the exception of some
24 of the dates that you've stipulated to, the other dates
25 you'll see on here are the 1st of the month. And when I woke

1 up this morning, I got to thinking, "Why do we use that 1st
2 of the month?" And then I remembered why we use the 1st of
3 the month. It's because we use to live under paper. And
4 when you're piling paper up this high, if you use the 2nd,
5 the 5th, the 9th, et cetera, the paper would pile up. So if
6 you went to the 1st of the month, why, then you would have
7 filed the paper on one day out of the month. Of course,
8 there's no more paper, but we still use the 1st of the month.
9 That's what will be involved.

10 Ms. Terry, if you'd pass that out. Those are the
11 consumer cases. These are the bank cases. And while you're
12 passing, I'll talk.

13 First of all, these Orders have not been docketed
14 yet. Because if there's something in here that we have to
15 deal with, we will. The second thing, and probably the more
16 important thing, is that -- again, it's an executive decision
17 on my part -- but we have set the bank cases to be tried
18 first and the consumer cases to be tried second when we get
19 to April and March of 2016. The other thing on this is that
20 there was some internal discussion that we had about when we
21 get to the Consolidated Complaints how they be filed, and
22 it's been determined within our Clerk's Office that you
23 actually file it all in the MDL file, the 14-MD-2522.
24 And then just note that if it applies to consumers, it
25 applies to the bank cases. And with that, we can handle the

1 internal filing. At one time I thought there was maybe a
2 need for opening of a master file that, again, in paper days
3 we used to do. But we don't need to do that anymore. Okay.

4 With respect to Scheduling Orders, is there
5 anything else that would need to be discussed?

6 Ms. Wildung.

7 MS. WILDUNG: Thank you, your Honor. As the Court
8 noted, the parties were able to reach agreement on the vast
9 majority of issues that you put before us between the last
10 conference and this one.

11 THE COURT: Right.

12 MS. WILDUNG: But there were two issues out there
13 that were of concern to Target, one was the start of
14 discovery, and the other was the coordination of discovery.
15 I've taken a quick look at these. It looks to me like your
16 Honor has solved that coordination-of-discovery problem by
17 putting us pretty much on the same track. So we appreciate
18 that.

19 The other issue has to do with the start of
20 discovery. And I don't want to retread old ground, but I do
21 want to note Target's view that we expect this discovery will
22 be very burdensome and expensive for both sides, and for
23 nonparties who will be involved in the discovery process.
24 And there are threshold issues in this case that could
25 appropriately be decided before the start of discovery and

1 that we believe will eliminate and narrow issues and perhaps
2 dispose of the cases.

3 In consumer cases that have been brought across the
4 country, the vast majority of them have been dismissed
5 because plaintiffs in these kinds of cases have a difficult
6 time meeting Article III standing. The kinds of injury they
7 claim is really the threat or risk of future harm and courts
8 have pretty universally found that to be insufficient for
9 Article III standing. So Target believes there's a threshold
10 issue there to be addressed.

11 In financial institution cases, these are financial
12 institutions that have no business relationship with Target,
13 Target has no contracts with them and, so, there's a
14 threshold duty question. Target has wished to present to the
15 Court those issues and arguments, but we obviously can't do
16 that without a Complaint. At the same time, the plaintiffs
17 are entitled to have as much time as they need to put
18 together the best Complaints they can for their clients.
19 So we agreed to the dates that they requested for when
20 they're Consolidated Complaints were due. But the upshot of
21 all that is we don't even have a position to respond to
22 Complaints until sometime in the fall and, therefore, we
23 can't make what we think are our significant issues until
24 really later on, when discovery may start.

25 So what we would be requesting today is the

1 opportunity for Target to file a formal motion within the
2 next short period of time to stay discovery pending briefing
3 on motions to dismiss. We would give your Honor a preview of
4 our arguments for dismissal. We think that motion can be
5 briefed and submitted in July. So it wouldn't interfere with
6 the remainder of the schedule, should the Court decide to
7 deny the motion. And we think it would be a good idea to
8 consider Target's authorities before we have to embark on any
9 discovery. As I said, it's not our intention that such a
10 motion would delay anything else in the case, should the
11 Court decide to deny the motion. We are certainly prepared
12 to proceed with the e-Discovery processes that we have in our
13 proposed e-Discovery protocol.

14 We also want to inform the Court that we have
15 discussed with the plaintiffs in the consumer cases the
16 possibility of an early case resolution. The parties have
17 agreed on a mediator, Magistrate Judge Boylan. And we have
18 reserved a date for an early mediation in the consumer cases,
19 August 11th. So we are moving forward. But, as I mentioned,
20 we think these threshold issues are ones that the Court
21 should consider. So that would be our request, your Honor.

22 THE COURT: Okay. Thank you.

23 Mr. Zimmerman.

24 MR. ZIMMERMAN: If it please the Court, your Honor,
25 I learned a lesson a long time ago when the Court has ruled

1 in your favor, shut up. I'm going to shut up. I will say,
2 however, only one thing, that the breach occurred in December
3 of last year. We're into almost July. It's time to find out
4 what the facts are. And I don't think that I want to push
5 against an open door any further. But if the Court wants to
6 hear some argument, I know that Vince would like to say
7 something on behalf of consumers that may be more pinpointed.
8 But I just don't want to belabor this any further.

9 THE COURT: Okay. Thank you.

10 Do you want to make any comments on behalf of
11 consumers?

12 MR. ESADES: Good morning, your Honor. Just
13 briefly, the issues that were raised, the threshold issues of
14 standing and duty, you know, this case has been going on for
15 a long time. We're ready to see the disclosures, we're ready
16 to see the documents that are relevant. They've gathered
17 these documents up for the Government and for other agencies,
18 and produced them. The fact that the Complaint isn't drafted
19 isn't going to change what the essential facts are and the
20 essential discovery in the case. So we'd simply like to get
21 the case moving and go forward.

22 But unless the Court has any other questions, I
23 don't have anything else to add.

24 MAGISTRATE JUDGE KEYES: I'd like to ask a question
25 of Ms. Wildung. Are you proposing a stay in both the

1 consumer cases and the financial institution cases? Because
2 I didn't read your 26(f) report as seeking a stay of
3 discovery in the consumer litigation.

4 MS. WILDUNG: And I think if a stay were granted,
5 it would make sense to apply to both of the cases so that we
6 would end up with discovery on the same track. And I think
7 the briefing schedule is such that it's likely the motions to
8 dismiss would be decided in a similar time frame.

9 THE COURT: Okay. Thank you.

10 MR. ESADES: Thank you.

11 THE COURT: Counsel, I think a matter of this kind
12 -- while Mr. Zimmerman may have hit the nail on the head,
13 because you certainly have my view at this exact moment --
14 but there are things that I may not have taken into
15 consideration in suggesting that there be no stay. I'm going
16 to authorize you to bring such a motion. I'm going to ask
17 the parties to work out a briefing schedule so that we get
18 the matter expeditiously before us. And that in the event of
19 a denial, we do not delay anything else in this. And we'll
20 deal with it. But I do think you should have the opportunity
21 to proceed forward.

22 As to the time-passage comments that you've given
23 -- I don't blame you for saying them -- but I think
24 considering what goes on to get a case through the
25 MDL process, I think we're pretty prompt. So I'm not feeling

1 badly at all about it at this point in time, because there
2 was a substantial amount of time that really was completely
3 out of our control.

4 With that, let's move on to a Protective Order --

5 MR. McELHINNY: Excuse me.

6 THE COURT: Yes. Proceed.

7 MR. McELHINNY: Harold McElhinny again for Target,
8 your Honor. First of all, thank you for your words. We did
9 work pretty carefully in order to get agreed Orders on large
10 of this. And we took Minnesota nice to heart. And we will
11 take Minnesota nice to heart. That's the way we intend to do
12 the case. Because the schedules are not -- and there's a
13 meet and confer coming forward -- and this may get resolved
14 in the meet and confer. But because the schedules are not
15 exactly the same, and because we've broken this into two
16 separate cases, bank and issuer cases, and we're filing
17 separate Complaints, from Target's position we would like to
18 make clear our view, and we hope the Court's view, that
19 discovery in this case will continue to be coordinated and
20 consolidated, that we don't have multiple depositions of the
21 same witnesses or non-coordinated document requests; we don't
22 anticipate that yet. But the fact that we couldn't agree on
23 a schedule, and the fact that we have slightly different
24 schedules now, leaves that issue open for meet and confer,
25 where we hope it gets resolved.

1 THE COURT: I thank you for the comment.

2 MR. CAMBRONNE: Karl Cambronne, your Honor. In my
3 role as the overall lead counsel, I assure Mr. McElhinny and
4 the defendants that in every possible respect we are going to
5 coordinate with joint document requests, and that sort of
6 thing. Now, there may be some things that consumers desire
7 or banks desire that are going to be separate. But obviously
8 depositions, and that type of thing, and, hopefully, written
9 discovery, is all going to be one shot.

10 THE COURT: Okay. Well, I think there's unanimity
11 of agreement on that. From the Court's perspective, we fully
12 expect that it be absolutely coordinated. And, of course, I
13 think we do recognize that there may be individual
14 circumstances that come up that become applicable to only one
15 of the cases -- well, as a matter of fact, I know there will
16 be. There will be probably banking matters that will come up
17 that will have probably nothing to do with the consumer side.
18 But, nevertheless, I fully expect that there would be a
19 coordinated process.

20 Protective Order. Again, we have a proposed
21 Protective Order from you. The Protective Order that we're
22 handing out to you is really your Order, with one exception,
23 and that has to do with -- the problem that we get into
24 oftentimes is that counsel will drop everything under seal
25 and it turns out that there's a lot of this that has nothing

1 to do with any kind of need for under seal. Now, at the same
2 token, there will be an incredibly large number of matters in
3 this case that will be sealed. We know that. But we've put
4 some language in here to protect that, and have put the
5 monkey on your back so that we are dealing with sealed
6 matters appropriately and matters that don't have any reason
7 to be sealed, not be sealed, and that we won't be coming
8 around six months or a year later trying to sort out
9 wholesale sealed files. That's the one addition that you do
10 see with respect to it.

11 With that, are there any questions or concepts or
12 ideas with respect to the Protective Order.

13 MR. ZIMMERMAN: Your Honor, was there an additional
14 paragraph or part that I can look at specifically?

15 THE COURT: Yes. I can't remember where it is.

16 MS. TERRY: 4B (sic).

17 THE COURT: 4B.

18 MR. ZIMMERMAN: 4B. Thank you.

19 MR. CAMBRONNE: We don't have a 4B.

20 MS. TERRY: 6B.

21 MR. ZIMMERMAN: Your Honor, I don't see a 4B.

22 THE COURT: It's 6B.

23 MR. ZIMMERMAN: 6B. Sorry.

24 THE COURT: 6B.

25 MR. ZIMMERMAN: Thank you.

1 THE COURT: Okay. Anything else that we need to
2 discuss with respect to the Protective Order? If not, it
3 will be filed.

4 Electronic filing. You've indicated by the end of
5 July that you'll get a final plan in place. I do encourage
6 that. And I commend you if you can get that done because
7 it's not necessarily easy, but it's also essential. And, so,
8 hopefully that will come into play. If there are any
9 questions, difficulties or anything else with respect to it,
10 bring it to our attention. Follow that with a document
11 repository, which will probably be one great big imaging
12 project.

13 MR. ARROYO: Your Honor, if I may, Felipe Arroyo,
14 for the shareholder derivative plaintiffs.

15 I don't have a point of contention, your Honor.
16 It's more for convenience. As the ESI protocols are
17 negotiated, it made sense to us, first, as to at least be
18 copied on them, even though we're stayed. And the reason we
19 say that is because in the event that the stay is lifted --
20 well, at any time that the stay is lifted, the ESI protocols
21 will directly relate to whatever electronic stuff we
22 ultimately want. And just for the sake of sort of
23 convenience, and maybe even for the sake of chiming in for
24 sensibilities, it made sense to us to be involved. On the
25 other hand, I note that the defendants have made a point

1 about excluding us. I just thought I'd bring that to your
2 attention, your Honor. It's a without prejudice situation
3 for us. We recognize that the defendants will defend against
4 our case and will bring all these good solid arguments that I
5 know Ms. Wildung probably has prepared. But it just seems
6 sensible, in light of the fact that the parties are going to
7 put a lot of time into this -- and once it's done --
8 electronic discovery is sort of a weird animal, as we're all
9 learning from the core aspects of the case. Once you get
10 going, it's hard to undo it. And once technology is invested
11 in, it's sort of hard to undo. So those are my thoughts.
12 I'd invite Ms. Wildung to give her thoughts. And that
13 whatever your Honor decides, I'm with that.

14 THE COURT: Okay. Thank you. Any comments about
15 that?

16 MS. WILDUNG: Your Honor, I don't think I have any
17 objection to keep Mr. Arroyo informed. Our view about it was
18 that I don't feel I have authority, and I'm not sure he has
19 authority, to actually to agree on anything on behalf of
20 perspective clients, because we don't know if the derivative
21 cases will proceed; if they do, I'm sure I won't be involved
22 because Target will be suing the individual defendants who
23 are also my clients. And I don't know whether Mr. Arroyo
24 will be involved, because Target or the committee will choose
25 who they want to proceed. So it seems to me insofar as

1 trying to participate in an agreement or enter an Order, that
2 made no sense. To inform him, that's fine.

3 THE COURT: Well, there's a comity among counsel.
4 Yes, I would strongly encourage that, as you work out the
5 process of the electronic discovery, you be copied on it.
6 And, frankly, I'd also encourage -- if there are thoughts and
7 suggestions and concepts that come from that kind of quote,
8 unquote, unfiled derivative, that, you know, we'll take it
9 into consideration. Because what was said is absolutely
10 true, once you've got it in place, then to put the genie back
11 in the bottle, and try to undo or redo, is very, very
12 difficult. So if everybody kind of knows where the process
13 is, and then if it comes into play, fine. If it doesn't come
14 into play, fine. But, you know, a cc on an e-mail is real
15 easy.

16 MS. WILDUNG: Thank you, your Honor.

17 THE COURT: So let's do it.

18 MS. WILDUNG: Very good. Thanks.

19 THE COURT: Okay. The document repository thing, I
20 guess it's on here. I assume that that's just going to be a
21 lot of imaging that will go on. By the same token, if you
22 put together some formal repository someplace, that's fine
23 with me.

24 MR. CAMBRONNE: Just as a matter of information --
25 Karl Cambronne, your Honor -- the plaintiffs are interviewing

1 various companies that gather together, hold the information,
2 secure it, that sort of thing, and allow it to be searched.
3 And this is, frankly, a bidding process that is under way
4 right now. No selection has been made. But it's the
5 intention to hire a third party to host documents for access
6 by people, and making sure that everything is secure and
7 confidential, as a course of paramount importance, and that's
8 what we intend to do.

9 THE COURT: Okay. That's fine. Let's go on to the
10 time/billing submissions. Now you're dealing with me under
11 predilection, I guess. The first thing I'm going to hand out
12 to you is a sheet that's been put together by people in the
13 Clerk's Office that shows you how to file in the case an
14 ex parte submission COURT'S EYES ONLY document. We're doing
15 this for the purpose of getting to the next set of documents
16 that will be coming to you. You can read the directions on
17 this. We think by the time the hearing is over today that
18 this will be up and on the site. If it's not by then, it
19 certainly will be by the end of today.

20 That leads, then, to the next series of documents.
21 In that series of documents -- and this is really kind of a
22 follow-up of our first status conference -- I'm going to ask
23 all parties, plaintiff and defendant, to monthly submit a
24 time submission statement to the Court, so that by the 15th
25 of every month, whoever is working on this case will submit

1 to the Court a list of who the attorney is -- if you're a
2 senior partner or whatever -- with the name and the number of
3 hours expended. Now, on the plaintiffs' side, Mr. Cambronne
4 will be collecting much more data. He'll be collecting kind
5 of like he's the client and is getting a bill from you. For
6 my purposes, I don't need that, and don't want it, at this
7 point in time. But I do want a submission from all parties
8 as to how much time is being spent each month with respect to
9 this case. As a practical matter, in administration of a
10 case like this, I think it's very important that we get it.

11 The next thing is a one-time submission document
12 and that is that I'm going to ask all parties to submit to
13 the Court -- by the 15th of July here -- the firm, who the
14 person is that's working on the case, their title -- and this
15 goes all the way down through the paralegals and everyone
16 else that's doing hourly work -- and the hourly rate of that
17 person. Now, you only submit this once, and you only need to
18 submit it with this ex parte concept to the Court. I don't
19 even know that there's any reason I necessarily would even be
20 looking at it for quite awhile, but I want to have it in case
21 something comes up that I need it.

22 And, then, the third one is a one-time submission
23 -- and this has to do with the case up to this point. I'm
24 going to ask that all parties, again, submit, one time to me,
25 a list of the names, their title, and the total hours

1 expended on this matter up until June 1. Again, it's a
2 reference point to know where the matter has been pending up
3 until this point. Why am I saying June 1? Because by the
4 15th of July, you'll be submitting a monthly time record with
5 respect to that. Now, all of that can be done on this
6 COURT'S EYES ONLY in the monthly process. And, again, as I
7 say, it's an administrative tool, but it's something that I
8 sort of anticipate I may never have to look at. But,
9 nevertheless, it's good to have in case we do need it.

10 MR. CAMBRONNE: Your Honor, if I may -- Karl
11 Cambronne -- what we intend to do on the plaintiffs' side of
12 this matter, because these cases involve lawyers from all
13 around the country, is to really adopt what has become the
14 jurisprudence of this jurisdiction that local hourly rates
15 apply. So we're going to harmonize rates going forward.
16 That hasn't been accomplished quite yet, but it will be done,
17 obviously, in time for the first submission. Then the
18 liaison counsel who you have appointed can speak to the issue
19 of this submission that you requested -- which we're willing
20 to do. I think the bottom line is -- and they can explain
21 this in more detail than me -- we are able to submit a
22 submission to you that slices and dices the way you want it
23 done -- you know, law firm by law firm -- but I'm assuming
24 you don't need every law firm to submit directly to you. Can
25 we not consolidate it and submit it to you?

1 THE COURT: Mr. Cambronne, how it's done I don't
2 care.

3 MR. CAMBRONNE: Got it.

4 THE COURT: What the end result is on here, I do
5 want the blanks filled out.

6 MR. CAMBRONNE: All right. Well, I can assure you
7 that the liaison counsel have already put a lot of thought
8 into how we can do this. And what we intend to give you is a
9 comprehensive report. But, one, YOUR EYES ONLY, ECF, not,
10 you know, 50.

11 THE COURT: Sure.

12 MR. CAMBRONNE: Okay.

13 THE COURT: Okay. Just so I have that basic
14 information. And, as I say, I don't necessarily want all the
15 information that you will be getting, because you'll be
16 getting a lot of stuff.

17 MR. CAMBRONNE: Right.

18 THE COURT: Yes.

19 MS. RIEBEL: Good morning, your Honor.

20 THE COURT: Good morning.

21 MS. RIEBEL: I'm Karen Riebel, from Lockridge,
22 Grindal, Naun, and I'm liaison counsel for the financial
23 institutions.

24 MS. DRAKE: Michelle Drake, from Nichols, Kaster,
25 liaison counsel for the consumer plaintiffs.

1 MS. RIEBEL: We have been working on gathering time
2 from our respective co-counsel. And we will be happy to
3 submit this to you. We think the easiest way to do it is if
4 we break it into the three case categories and there's one
5 submission to the Court, which I believe I just heard the
6 Court tell Mr. Cambronne would be fine. Michelle and I would
7 like to request that we do it by August 1st, simply because
8 we're gathering so much data from so many different people.

9 THE COURT: You just won an argument. That's fine.

10 MS. RIEBEL: Okay.

11 MS. DRAKE: And just to be clear, your Honor, the
12 Court wants -- we can slice and dice the time, based on how
13 we're collecting it, in any way that the Court would like.
14 But it sounds like the level of detail that the Court wants
15 is not just hours expended by firm but hours expended for
16 each individual timekeeper within that firm.

17 THE COURT: Yes.

18 MS. DRAKE: In light of what Mr. Cambronne
19 indicated about harmonizing rates, would the Court still like
20 us to submit a separate document with each timekeeper's
21 proposed rates?

22 THE COURT: I think the answer to that is "Yes."

23 MS. DRAKE: Okay.

24 THE COURT: The reason I raised that in that way is
25 if, in fact, there ends up being a harmonized rate, that's

1 fine. Then we all know it. But I saw the submissions that
2 came before me -- however many weeks ago that we were
3 together -- and the tremendous disparity of rates exist on
4 that. So when I started looking back to what occurred before
5 June 1st in this case, I think it's good for me to have that
6 information in case it's needed. I'll be very candid, I hope
7 I never have to look at it, and I hope you're spending all
8 this time wasting time. But, you know, we're foolish not to
9 have that basic information available in case it's needed.

10 MS. DRAKE: I think in terms of formatting, it
11 might be easiest if we make a single submission, then, to the
12 Court which shows the firm, each timekeeper for the firm,
13 that timekeeper's rate, and their number of hours.

14 THE COURT: As I say, how you do that internally --

15 MS. DRAKE: Great.

16 THE COURT: -- whatever we can do that comes down
17 to simpler.

18 MAGISTRATE JUDGE KEYES: We were asked to remind
19 you that all of these forms are on the Target MDL website
20 under the Forms & Instructions tab.

21 THE COURT: Okay. Mr. Arroyo, a little bit ago I
22 saw you stand up.

23 MS. ARROYO: I just noted that we weren't quite
24 part of that dialog, but I just want to assure you that we're
25 going to keep working with lead and liaison counsels' good

1 offices and make your life as easy as possible.

2 THE COURT: Okay. Very good. Thank you.

3 (At this time a discussion was had off the record
4 between Judge Magnuson and Magistrate Judge Keyes).

5 THE COURT: You maybe heard what we were whispering
6 about, but I'll say it out loud. On the request for a stay,
7 we will not set a hearing date at this point. We'll get your
8 submissions. We'll decide if we need a hearing; if we do,
9 we'll bring in just the people that are necessary for a
10 hearing on it, at a convenient date.

11 Incidentally, I gave you the 1st of August on all
12 this. But later on, I'm going to ask for these submissions
13 again to come by the 15th of the month rather than a month
14 later. But that's fine. I'm kind of winding down here, I
15 guess.

16 Future Status Conferences. These dates are,
17 candidly, kind of arbitrary and always subject to discussion.
18 But we've put down Thursday, the 14th of August, at 3:00 in
19 the afternoon. I think I said before it was going to be the
20 14th of August, but we ended up getting a lot of motions set
21 that date and, so, I can't do it until 3:00 in the afternoon.
22 And, then, Thursday, September 25th, at ten a.m., for a
23 September time frame. Now, with that, the last item on here,
24 it certainly is our desire that motions, to the extent that
25 they can be taken up at these status conferences so that we

1 do the whole business in one day -- sometimes that's not
2 possible. Judge Keyes and I have talked about that --
3 particularly once you get into discovery -- there will be a
4 number of things that we'll try to do to expedite decisions
5 on matters so that difficulties can be progressed and moved
6 forward.

7 Mr. Zimmerman, Mr. Cambronne.

8 MR. ZIMMERMAN: I'm probably one of the most
9 appropriate to make this. I think September 25 is Rosh
10 Hashanah. So that's why I jumped in ahead of Karl.

11 THE COURT: You've got a right to jump in in front
12 of Karl on that one.

13 MR. ZIMMERMAN: I'm not the best on these calendar
14 dates, but I know that people at my household may have
15 something to say about that. So maybe we could check that.
16 And, then, the other thing was we did have one tentatively
17 set for July. Is the Court, by this schedule, excluding the
18 one that we had set for, I think, July 25th?

19 MR. ESADES: 24th.

20 MR. ZIMMERMAN: 24th.

21 THE COURT: I'm here without a calendar now. I'm
22 also here without a memory. Let me look at my computer over
23 here. I'm going try to slide over and see if I can't get at
24 something here. I think full disclosure is appropriate in
25 this world. I think on the July date, that that was missing

1 with a fishing trip. And guess who's going to come in second
2 on that operation?

3 MR. ZIMMERMAN: Right. Well, after the fish, I
4 guess. But we could find any date in July, first of all.

5 MR. CAMBRONNE: Well, frankly, I don't even know if
6 it's necessary. The first things that we're going to be
7 doing are August 1st. And now that you've given us those
8 dates, I don't think it's necessary, unless my colleagues
9 here....

10 THE COURT: Okay. That's fine. Now, I did look at
11 the calendar in between time, and we did have a July date on
12 it. We just forgot to put it on here. Let's say we're not
13 going to have a status conference in July, but I will leave
14 the date available. In case something does come up that
15 suggests that there should be something, we'll have that time
16 available. We'll just leave it at that. There will not be a
17 session. Now I've got to look at the machine again. You
18 know, I would wish that this nonsectarian government that I
19 work for, on their calendars would put on days like Rosh
20 Hashanah and Easter, and things like that.

21 MR. ZIMMERMAN: You can get back to us by e-mail,
22 or something, with a date, if I'm right about Rosh Hashanah.
23 These holidays start on the evening, but we do have travel
24 and....

25 THE COURT: Yes, we do have travel. I think what

1 we would probably want to do is move it back to Tuesday, the
2 23rd, and that would give people time to travel, if they need
3 to. So let's -- if that's okay with you.

4 MR. ZIMMERMAN: Yes.

5 THE COURT: Let's tentatively go back to Tuesday,
6 the 23rd of September.

7 MR. CAMBRONNE: At 3:00 that day?

8 MR. ZIMMERMAN: We could do that earlier unless the
9 Court --

10 THE COURT: Well, let's do it earlier in the day.
11 No. No. That's at ten o'clock in the morning.

12 MR. CAMBRONNE: Okay.

13 MAGISTRATE JUDGE KEYES: Ten o'clock in the morning
14 on the 23rd?

15 THE COURT: Yes.

16 MR. ZIMMERMAN: Thank you, your Honor.

17 THE COURT: Okay. Anything else, for the good of
18 the order?

19 Judge Keyes, do you want to straighten everything
20 out?

21 MAGISTRATE JUDGE KEYES: I think we're straight.

22 THE COURT: Okay. Well, to all of you, we thank
23 you very much for coming in this morning, and thank you for
24 being with us, and wish you the best as you proceed forward.
25 And have a good 4th of July.

1 (Court stood in recess at approximately 10:55 a.m. ,
2 on June 25th, 2014).
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CERTIFICATE PAGE

I, Ronald J. Moen, an Official Court Reporter for the District of Minnesota, CSR, RMR, and a Notary Public in and for the County of Hennepin, in the State of Minnesota, do hereby certify:

That the said STATUS CONFERENCE was taken before me as an Official Court Reporter for the District of Minnesota, CSR, RMR, and a Notary Public at the said time and place and was taken down in shorthand writing by me;

That said STATUS CONFERENCE was thereafter under my direction transcribed into computer-assisted transcription, and that the foregoing transcript constitutes a full, true and correct report of the STATUS CONFERENCE which then and there took place;

That I am a disinterested third person to the said action;

That the cost of the original has been charged to the Plaintiffs and Defendants equally.

That I reported pages 1 through 30.

IN WITNESS THEREOF, I have hereto subscribed my hand this 26th day of June, 2014.

s/Ronald J. Moen
Ronald J. Moen,
Official Court Reporter,
CSR, RMR, NP