



actions transferred to this Court. Additional plaintiffs from various states who have sought to file an action in this MDL have also joined the Consolidated Complaint.

**III. Discovery:**

A. Defendants will make available to Plaintiffs any documents that they produce in the Direct Purchaser Action. Such documents will be made available for a reasonable period of time for inspection by Plaintiffs at the office of outside counsel where those documents are located or at another reasonable location. If Plaintiffs would prefer to have a set of the documents, Plaintiffs agree to pay reasonable costs of reproducing and shipping such documents.

For the period from the inception of the Direct Purchaser Action until the conclusion of the Direct Purchaser Action as defined in Section IV below, Defendants will serve on Plaintiffs' designated counsel copies of all document indices (if any) and privilege logs that were or are produced to plaintiffs in the Direct Purchaser Action.

From the date of entry of this Order, each Defendant will serve on Plaintiffs' designated counsel copies of: (1) all written discovery, including any document requests, interrogatories, requests for admissions, deposition notices and subpoenas generated by or against that Defendant in the Direct Purchaser Action; (2) all responses and objections to the discovery described in (1) above; and (3) all motions and supporting papers filed or served in the Direct Purchaser Action concerning motions to compel discovery, for protective orders, or otherwise affecting the scope of the discovery described in (1) above that are not electronically filed via the Court's CM/ECF system. Plaintiffs in the Indirect Purchaser Publication Paper Case are not entitled to participate in any negotiations or object to any motions filed by the defendants in the Direct Purchaser Action concerning motions to compel discovery, for protective orders, or otherwise affecting the scope of discovery.

However, Plaintiffs are not waiving their rights and may revisit such discovery issues once the Direct Purchaser Action is resolved.

The written discovery, including any document requests, interrogatories, requests for admissions, deposition notices and subpoenas served on the Defendants by plaintiffs in the Direct Purchaser Action will be treated as if propounded and responded to in the Indirect Purchaser Publication Paper Case.

B. All depositions taken in the Direct Purchaser Action shall be deemed taken in the Indirect Purchaser Publication Paper Case. All objections made at the depositions in the Direct Purchaser Action shall be preserved in the Indirect Purchaser Publication Paper Case. Plaintiffs may attend the depositions of witnesses deposed in the Direct Purchaser Action and, after completion of examination by counsel for the parties to the Direct Purchaser Action, may examine the witness on any issue relevant to the Indirect Purchaser Publication Paper Case, subject to the Federal Rules of Civil Procedure and local rules of the District of Connecticut. Any Defendant's counsel that serves or receives a notice of deposition in the Direct Purchaser Action shall simultaneously serve Plaintiffs' designated counsel in the Indirect Purchaser Publication Paper Case. Plaintiffs in the Indirect Purchaser Publication Paper Case are responsible for obtaining transcripts of the depositions taken in the Direct Purchaser Action at their expense.

C. No former or current officer, director, or employee of any Defendant named in the Direct Purchaser Action who is deposed in the Direct Purchaser Action shall be deposed again in the Indirect Purchaser Publication Paper Case, absent an application to this Court and a showing of good cause. Failure to attend a deposition in the Direct Purchaser Action as to which Plaintiff has had adequate notice shall not, by itself, constitute good cause. Subject

to paragraphs D & E below, the parties shall be free to take the deposition of individuals not noticed in the Direct Purchaser Action, provided that any party shall be free to object and/or seek protective orders with regard to such depositions, including on grounds that such depositions unreasonably duplicate discovery taken in the Direct Purchaser Action.

D. The parties shall be provided a period of time, dates to be determined at a future case management conference, that shall be scheduled in accordance with Section IV below, to conduct discovery specific to the Indirect Purchaser Publication Paper Case related to indirect purchaser and/or state specific issues, as permitted by the Court. Plaintiffs shall not serve any Defendant with requests for the production of documents that relate to the conspiracy alleged in the Direct Purchaser Action if said defendant either: 1) obtained dismissal of, or final judgment in, the Direct Purchaser Action against it on the ground that there was insufficient evidence that it participated in a conspiracy, or 2) produced or made available documents in the Direct Purchaser Action pursuant to a request for conspiracy-related documents.

E. In the Indirect Purchaser Publication Paper Case, no party shall propound any discovery, take depositions, or brief class certification issues until after the case management conference that shall be scheduled in accordance with Section IV, below. In addition, Defendants need not respond to the Consolidated Complaint until after the date set during the case management conference that shall be scheduled in accordance with Section IV, below. Notwithstanding the foregoing, the parties may serve third-party subpoenas for document production and may participate in discovery in the Direct Purchaser Action as provided in paragraphs A & B, above.

**IV. Further Discovery and Case Management Conference:**

Defendants shall promptly serve Plaintiffs with any order that represents the final judgment concluding the Direct Purchaser Action. Within thirty days of such service, Plaintiffs will ask the Court to set a further case management conference to determine a schedule for discovery in accordance with paragraph III D, above, and briefing of issues in the Indirect Purchaser Publication Paper Case. Prior to such case management conference, Plaintiffs in the Indirect Purchaser Publication Paper Case shall not propound any discovery against any party without first meeting and conferring with the defendants and: 1) obtaining the consent of the defendants, or 2) by order of the Court for good cause shown.

Plaintiffs and/or Defendants may at any time request a case management conference and/or seek to modify or amend this Order upon a showing of good cause. However, the parties must first meet and confer ten days prior to moving the Court for a case management conference and/or to modify or amend the Order.

**V. Applicability to Add-On and Consolidated Cases:**

This Order shall also apply to any cases brought on behalf of indirect purchasers of publication paper transferred to this Court by the Judicial Panel on Multidistrict Litigation, originally filed in this Court, or removed to this Court. Any such case shall be treated the same as the Indirect Purchaser Publication Paper Case for purposes of this Order.

Plaintiffs shall not contest the application of this Order to any subsequently served defendants in the Indirect Purchaser Publication Paper Case as now constituted, as constituted in any amended complaint, or as constituted in any add-on or consolidated cases.

**VI. Prejudice:**

This Order shall be without prejudice to any defenses that any Defendant may raise in the Indirect Purchaser Publication Paper Case, including the defense of lack of personal jurisdiction.

**VII. Continuing Jurisdiction:**

This Court reserves jurisdiction to modify or amend this Order as it deems necessary or appropriate under the developing circumstances of the litigation.

So ordered at Bridgeport, Connecticut this 16<sup>th</sup> day of February, 2006.

/s/ Stefan R. Underhill  
Stefan R. Underhill  
United States District Judge