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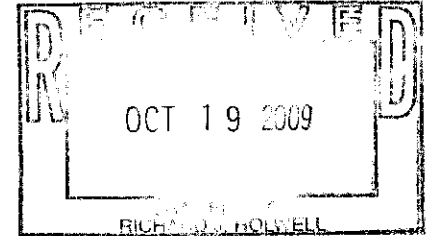
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October 19, 2009

VIA HAND DELIVERY

The Honorable Richard J. Holwell
United States District Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 2210
New York, NY 10007



**RE: In re Quigley Company, Inc. ("Quigley"), Case No. 04-15739 (SMB),
Adv. Proc. No. 04-04262 (SMB)**

Dear Judge Holwell:

We represent the Ad Hoc Committee of Tort Victims (the "Ad Hoc Committee") in the above-mentioned chapter 11 case and related adversary proceeding. We also represent the Law Offices of Peter G. Angelos, P.C. (the "Angelos Firm"), which is a member of the Ad Hoc Committee, in connection with the *Motion of the Law Offices of Peter G. Angelos, P.C. for Leave to Appeal to the District Court from the Bankruptcy Court's May 15, 2008 Order Clarifying Amended Injunction* [Docket No. 267] (the "Motion"). We are writing to respond to the October 14, 2009 letter to this Court from counsel to Pfizer Inc. ("Pfizer").

As set forth in more detail in the *Memorandum of Law in Support of Motion for Leave to Appeal Memorandum Opinion and Order Clarifying Amended Injunction* [Docket No. 268] (the "Memorandum"),¹ the Clarifying Order issued by the Honorable Chief Judge Bernstein of the Bankruptcy Court for the Southern District of New York on May 15, 2008 is a final, appealable order because the order conclusively determined that the Angelos Firm's "apparent manufacturer" claims are within the scope of the Amended Injunction, thereby barring the Angelos Firm from pursuing such claims. As Judge Marrero recognized in his April 8, 2005 decision denying leave to appeal the Preliminary Injunction, an order granting or denying relief from the injunction – such as the Clarifying Order – **would be** final and appealable. See *Quigley Co. v. A.C. Coleman (In re Quigley)*, 323 B.R. 70, 74 (S.D.N.Y. 2005) ("Nonetheless, the Court concludes that the Preliminary Injunction is interlocutory because it **does not** conclusively determine whether any individual action against Pfizer

¹ All capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Memorandum.

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should be stayed for the duration of Quigley's insolvency proceeding.") (emphasis added). As the Clarifying Order conclusively determined – albeit incorrectly – that the “apparent manufacturer” claims fell within the Amended Injunction, it constitutes a final, appealable order. Alternatively, even if the Clarifying Order is viewed as interlocutory, leave to appeal the order should be granted under these circumstances because Judge Bernstein erred on a controlling question of law as to which there is substantial ground for difference of opinion, and immediate appeal from the Clarifying Order would materially advance the ultimate termination of the litigation.²

Without further explanation, Pfizer contends that “[g]iven the ongoing proceedings in the Bankruptcy Court and the previous ruling of this Court in April 2005,” the Court should deny the Motion. Although an evidentiary hearing on the confirmation of Quigley's proposed plan is currently being presided over by Judge Bernstein, the Angelos Firm believes that a resolution by the District Court of the legal issues raised in the Motion would materially assist the parties to this proceeding. It is presently unclear when the confirmation proceedings will be completed and, beyond that, when Judge Bernstein will issue a decision with respect to Quigley's plan. Moreover, Judge Bernstein indicated at the commencement of the confirmation proceedings that he would not be making any decisions with respect to the scope of any 524(g)-based injunction that may issue from the confirmation hearing; rather, the scope would have to be determined later. See In re Quigley Co., Inc., Case No. 04-15739, Transcript of Confirmation Hearing, September 23, 2009, A.M. Session (“Transcript”), p. 15.³ In other words, the confirmation hearing *will not* result in a legal ruling from the Bankruptcy Court further defining the Clarifying Order. Thus, the issue is ripe.

In light of the fact that the Clarifying Order is appealable as-of-right under applicable law, as well as overwhelming importance of a final determination on the proper scope of the injunction, this Court should grant the Motion. At the very least, the Angelos Firm respectfully requests that this Court schedule oral arguments and permit the Angelos Firm to be heard with respect to the Motion.

² The Angelos Firm incorporates by reference the arguments set forth in the Memorandum.

³ In addition, in connection with a motion *in limine* brought by the Ad Hoc Committee at the confirmation hearing to preclude the introduction of certain evidence, Judge Bernstein specifically held that it would not take testimony on Pfizer's role in the manufacture of Insulag, Panelag or Damit. See Transcript, pp. 15, 18.



We are available to answer any questions the Court may have.

Very truly yours,

BROWN RUDNICK LLP



Gregory T. Arnold

- cc: Gregory Zipes, Esq. (via e-mail)
- John H. Bae, Esq. (via e-mail)
- Michael Cook, Esq. (via e-mail)
- Richard Milin, Esq. (via e-mail)
- Rita Tobin, Esq. (via e-mail)
- David Killalea, Esq. (via e-mail)
- Sharla Frost, Esq. (via e-mail)
- Deborah Greenspan, Esq. (via e-mail)
- Gary Ticoll, Esq. (via e-mail)
- Scott E. Ratner, Esq. (via e-mail)
- Ronald E. Reinsel, Esq. (via e-mail)
- Edward S. Weisfelner, Esq. (via e-mail)
- Jeffrey L. Jonas, Esq. (via e-mail)
- James W. Stoll, Esq. (via e-mail)

Argument shall
be heard on
January 15, 2010
at 10:30.

SO ORDERED



USDJ

10/26/09