Dennis J. Block
Gary D. Ticoll
Michele L. Angell
CADWALADER, WICKERSHAM & TAFT LLP
One World Financial Center
New York, New York 10281
Telephone: (212) 504-6000
Facsimile: (212) 504-6666

Bruce R. Zirinsky
John H. Bae
GREENBERG TRAURIG, LLP
MetLife Building
200 Park Avenue
New York, New York 10166
Telephone: (212) 801-9200
Facsimile: (212) 801-6400

Attorneys for Pfizer Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re	:	
QUIGLEY COMPANY, INC.,	:	Chapter 11
Debtor.	:	Case No. 04-15739 (SMB)
AD HOC COMMITTEE OF TORT VICTIMS,	:	Civil Action No. 1:09-cv-00117 (CM) (DFE)
Plaintiff,	:	
v.	:	
QUIGLEY COMPANY, INC.,	:	
Defendant.	:	

JOINDER AND RESPONSE OF PFIZER INC. TO MOTION OF THE AHC OF TORT VICTIMS FOR AN ORDER PARTIALLY WITHDRAWING THE REFERENCE FOR PURPOSES OF THE CONFIRMATION HEARING ON QUIGLEY COMPANY INC.'S FOURTH AMENDED AND RESTATED PLAN OF REORGANIZATION

Pfizer Inc. ("Pfizer") hereby joins in the objection (the "Objection") of Quigley Company, Inc. ("Quigley") to the motion (the "Motion") filed by the Ad Hoc Committee of Tort Victims (the "AHC")[1] for an order partially withdrawing the reference for purposes of the confirmation hearing on Quigley's Fourth Amended and Restated Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, as modified as of March 28, 2008 (the "Plan"), and further responds as follows:

The AHC Has Failed to Show Cause for Withdrawal of the Reference

1. While the AHC's Motion seeks entry of an order partially withdrawing the reference from the Bankruptcy Court, the primary focus of the Motion is not on establishing the requisite cause for the relief it seeks. Rather, the Motion is entirely focused on casting baseless attacks on the good faith of Pfizer and Quigley in their efforts to seek confirmation of Quigley's Plan, which has been overwhelmingly accepted by the creditors of Quigley's estate. Such baseless attacks are irrelevant to the issue the AHC has asked the Court to decide – whether there is sufficient cause for partially withdrawing the reference.

2. For the reasons set forth in Quigley's Objection and below, the AHC has failed to establish cause under 28 U.S.C. § 157(d) to warrant withdrawal of the reference. The Second Circuit in *Orion Pictures Corp. v. Showtime Networks (In re Orion Pictures Corp.)*

[1] The members of the AHC are the law firms Weitz & Luxenberg, P.C. ("Weitz"), Cooney & Conway ("Cooney"), and the Law Offices of Peter G. Angelos, P.C. ("Angelos").

established a two part test to determine whether a party has shown "cause" to warrant withdrawal of the reference:

> [1] A district court considering whether to withdraw the reference should first evaluate whether the claim is core or non-core, since it is upon this issue that questions of efficiency and uniformity will turn. For example, the fact that a bankruptcy court's determination on non-core matters is subject to de novo review by the district court could lead the latter to conclude that in a given case unnecessary costs could be avoided by a single proceeding in the district court. Conversely, hearing core matters in a district court could be an inefficient allocation of judicial resources given that the bankruptcy court generally will be more familiar with the facts and issues.
>
> [2] Thus once a district court makes the core/non-core determination, it should weigh questions of efficient use of judicial resources, delay and costs to the parties, uniformity of bankruptcy administration, the prevention of forum shopping, and other related factors.

4 F.3d 1095, 1101 (2d Cir. 1993).

3. Here, the AHC has failed to establish that the matters for which it seeks to withdraw the reference are non-core. While the AHC correctly notes that an injunction must be "issued or affirmed" by the District Court, the confirmation of Quigley's Plan unquestionably is a core matter under 28 U.S.C. § 157(b)(2)(L) ("confirmations of plans" are core). Of note, the AHC is not asking this Court to withdraw the reference to address the singular issue of whether the channeling injunction should be issued or affirmed by this Court. Rather, the AHC is asking this Court to withdraw the reference to consider confirmation of the Plan, which plainly is a core matter that appropriately should be addressed, in the first instance, by the Bankruptcy Court.

4. The second part of the Second Circuit's test also requires denial of the Motion. For the past four years, the AHC's stated goal has been to derail Quigley's chapter 11

case. Every step of the way, the AHC has asked the Bankruptcy Court to consider the AHC's numerous objections intended to torpedo Quigley's Plan – the same objections the AHC would have this Court decide. At the urging of the AHC, the Bankruptcy Court already has been asked to decide critical core issues, such as (i) whether the class of asbestos claims were properly classified under Quigley's Plan; (ii) whether Quigley's Plan unfairly discriminates against certain claimants; and (iii) whether Quigley was required to seek the appointment of a separate representative to represent the future demand holders against Pfizer. The AHC already has filed its objections to the Plan that seek to relitigate these same core issues that go to the confirmation of Quigley's Plan. That the Bankruptcy Court already has ruled against the AHC on these and other issues, and has advised the parties that it will not permit the AHC to relitigate these issues at confirmation does not provide an appropriate basis for the AHC to now seek a partial withdrawal of the reference.[2] The Motion is an unabashed attempt by the AHC to forum shop, and should not be permitted.

5. After four years of litigation before the Bankruptcy Court where the AHC has raised and the Bankruptcy Court has decided a whole host of significant issues, and where the parties are mere months away from completing discovery and presenting their respective cases at the confirmation trial, which could occur as early as March of 2009, no judicial economy or the economic interests of the parties will be served by withdrawing the reference now. Indeed, the very question of whether reference should be withdrawn with respect to the channeling injunction contemplated under section 524(g) of the Bankruptcy Code previously was raised eight months ago, where the parties and the Bankruptcy Court agreed that the Bankruptcy

[2] *In re Quigley Co., Inc.*, 377 B.R. 110 (Bankr. S.D.N.Y. 2007) (attached hereto as Exhibit A); Tr. Hr'g Dec. 18, 2008, at 5:16-28:17 (relevant portions attached hereto as Exhibit B).

Court alone should preside over the confirmation hearing, and that the parties will seek affirmance of the Bankruptcy Court's order before the District Court.

6. At a conference held on May 23, 2008 with all the principal parties in interest present, including the AHC, the Bankruptcy Court stated: "It just sounds like the easiest thing may be for me to try everything and then you can argue about what's subject [to the] clearly erroneous [rule] and what's *de novo* up to the district court." Tr. Hr'g May 23, 2008, at 14:13-16 (relevant portions attached hereto as Exhibit C). Pfizer, Quigley, and all the other parties in interest have been proceeding on this basis – the AHC should not be permitted to disrupt the plan confirmation process and take a second bite of the apple simply because it is not satisfied with the plan-related decisions the Bankruptcy Court has issued to date.

7. For these reasons, and all the reasons set forth in Quigley's Objection, Pfizer respectfully requests the Court deny the Motion in all respects.

The Court Should Disregard the AHC's Baseless Attacks on Pfizer and Quigley

8. The AHC's Motion is replete with baseless assertions and misrepresentations regarding the Plan process and the role Pfizer played in this case. Indeed, only 4 of the 19 pages of the Motion are devoted to arguing the merits of withdrawal of the reference. The remainder is dedicated to a regurgitation of baseless allegations that the AHC has been espousing before the Bankruptcy Court. While completely irrelevant to the relief the AHC seeks by its Motion, Pfizer unfortunately cannot allow these assertions to go unanswered.

9. Quigley's chapter 11 case was prompted by having to defend an overwhelming number of asbestos claims throughout the United States. Although Quigley had ceased manufacturing asbestos products for decades, it was an active defendant in hundreds of

thousands of asbestos claims. Prior to the commencement of its chapter 11 case, Quigley's primary business was defending against asbestos claims in the tort system, while managing its only remaining asset – insurance coverage it shares with Pfizer. Although Pfizer itself never participated in the manufacture or sale of Quigley's asbestos products, it often was named as a codefendant with Quigley, presumably based on the fact that Quigley is a wholly owned subsidiary of Pfizer.

10. So long as Quigley remained in the tort system, its sole remaining asset – the insurance it shares with Pfizer – would be completely eroded, rewarding only those claimants who won the race to the court house, and leaving nothing for other claimants and future demand holders. Quigley's chapter 11 case was intended to address this concern and to be a part of a global resolution of the present and future asbestos claims against Quigley and claims against Pfizer that are derivative of Quigley. Pfizer agreed to relinquish its rights to the insurance it shares with Quigley and agreed to contribute significant other cash and assets to a trust to be established under section 524(g) of the Bankruptcy Code. Quigley's Plan contemplates that those assets will be used to pay present and future claims against Quigley. The claims against Pfizer were to be addressed by settlements that Pfizer entered into, where Pfizer would receive a release of any and all asbestos claims against Pfizer in return for payments Pfizer would make from its own assets having no relation to Quigley.

11. The members of the AHC were among the plaintiffs' law firms with which Pfizer negotiated in an effort to achieve a settlement of the claims against Pfizer. No settlement was ever attained, because the members of the AHC demanded that they be paid more than what Pfizer had agreed to pay other claimants. Indeed, Perry Weitz, whose firm is a member of the AHC, shamelessly advised Pfizer's counsel that he will take not a penny less than $250 million,

and that no one would care if he were to be paid more, so long as he stopped objecting. E-mail from Perry Weitz to Michael Rozen (Oct. 27, 2004, 12:41:25 EST); E-mail from Perry Weitz to Michael Rozen (Oct. 27, 2004, 13:27:29 EST) (email chain attached hereto as Exhibit D); E-mail from Perry Weitz to Michael Rozen (Dec. 20, 2005, 08:50:00 EST) (attached hereto as Exhibit E). Pfizer refused to accede to such extortion tactics, and this Motion as well as the AHC's ongoing objections to the confirmation of Quigley's Plan reflect the AHC's stated goal of continuing to object to the Plan until its members succeed in extorting money from Pfizer. As counsel for the Ad Hoc Committee explained in open Court, "[t]his case, from the perspective of the dissenting members, is all about the view . . . that there wasn't enough money offered in settlement by Pfizer for my clients to be willing to accept it . . . . In terms of a dynamic that's ever going to suggest to Pfizer that Pfizer ought to re-think whether or not it wants to consider resolution with my constituency . . . Pfizer has to be told for once in the last three years it's not going to get its way . . . " Tr. Hr'g Jun. 12, 2007, at 76:4-25 (relevant portions attached hereto as Exhibit F).

12. While the members of the AHC insist on receiving a greater payment from Pfizer than what other claimants received, they have no legitimate basis to be treated differently. Upon information and belief, the vast majority of the claimants represented by Weitz and Angelos have no illness whatsoever, and they are precluded from prosecuting any claim against Quigley or Pfizer, until such time as they are able to demonstrate an actual illness. Moreover, members of the AHC candidly admitted at their deposition that they are still developing and "fine tuning" a basis to assert claims against Pfizer. Tr. Deposition of Charles Ferguson, at 13:25-14:19 (Jun. 26, 2007) (relevant portions attached hereto as Exhibit G). Of course, none of this precluded the members of the AHC from asserting claims against Pfizer in the tort system.

Indeed, although Angelos did not historically name Pfizer as a defendant, prior to the commencement of Quigley's chapter 11 case, Angelos began naming Pfizer as a defendant in a number of cases where Pfizer was not previously named.

13. Against this backdrop, the AHC's efforts to attack the merits of the claims Pfizer settled are curious at best. The members of the AHC have made an art of prosecuting baseless claims against deep pocket corporations.

14. There is no merit to the AHC's assertions, and the Court should disregard them. At the confirmation hearing, Pfizer intends on addressing each of the AHC's baseless attacks once and for all. The AHC's Motion for withdrawal of the reference is not the proper place to litigate these side issues, and Pfizer reserves all rights to respond in the proper forum.

WHEREFORE, for all of the foregoing reasons and the reasons set forth in Quigley's Objection, Pfizer respectfully requests the Court deny the AHC's Motion, and grant to Pfizer such other and further relief as is proper.

Dated: New York, New York
January 21, 2009

/s/ John H. Bae

GREENBERG TRAURIG, LLP
Bruce R. Zirinsky
John H. Bae
Met Life Building
200 Park Avenue
New York, New York 10166
Telephone: (212) 801-9200
Facsimile: (212) 801-6400
zirinskyb@gtlaw.com
baej@gtlaw.com

CADWALADER, WICKERSHAM & TAFT LLP
Dennis J. Block
Gary D. Ticoll
Michele L. Angell
One World Financial Center
New York, New York 10281
Telephone: (212) 504-6000
Facsimile: (212) 504-6666
dennis.block@cwt.com
gary.ticoll@cwt.com
michele.angell@cwt.com

Attorneys for Pfizer Inc.