

U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:01-cv-05143-SAS

Cacheflow, Inc. IPO, et al v. Cacheflow Inc., et al

Assigned to: Judge Shira A. Scheindlin

Demand: \$0

Lead case: [1:01-cv-05143-SAS](#)

Member cases:

[1:01-cv-05814-SAS](#)

[1:01-cv-05962-SAS](#)

[1:01-cv-06184-SAS](#)

[1:01-cv-06635-SAS](#)

Related Case: [1:21-mc-00092-SAS](#)

Cause: 15:77 Securities Fraud

Date Filed: 06/08/2001

Jury Demand: Plaintiff

Nature of Suit: 850

Securities/Commodities

Jurisdiction: Federal Question

Plaintiff

Colbert Birnet, L.P.

On Behalf of Itself and All Others

Similarly Situated

TERMINATED: 04/19/2002

represented by **Mel E. Lifshitz**

Bernstein, Liebhard & Lifshitz, L.L.P.

10 East 40th Street

New York, NY 10016

(212) 779-1414

Email: lifshitz@bernlieb.com

TERMINATED: 04/19/2002

LEAD ATTORNEY

Plaintiff

Greg Frick

represented by **Melvyn I. Weiss**

Milberg Weiss Bershad & Schulman LLP

(NYC)

One Pennsylvania Plaza

New York, NY 10119

212 594 5300

Fax: 212 868 1229

Email: mweiss@milberg.com

LEAD ATTORNEY

Stanley D Bernstein

Bernstein Liebhard & Lifshitz, LLP

10 East 40th Street

New York, NY 10016

(212) 779-1414

Fax: (212) 779-3218

Email: bernstein@bernlieb.com

LEAD ATTORNEY

Plaintiff

Eric Egelman

represented by **Melvyn I. Weiss**
(See above for address)
LEAD ATTORNEY

Stanley D Bernstein
(See above for address)
LEAD ATTORNEY

Plaintiff

Kenneth L. Schmid

represented by **Melvyn I. Weiss**
(See above for address)
LEAD ATTORNEY

Stanley D Bernstein
(See above for address)
LEAD ATTORNEY

V.

Defendant

Cacheflow Inc.

Defendant

Credit Suisse First Boston Corporation

Defendant

Brian M. NeSmith
TERMINATED: 10/15/2002

Defendant

Michael J. Johnson
TERMINATED: 10/15/2002

Defendant

Robertson Stephens, Inc.

represented by **Andrew Jay Frackman**
O'Melveny & Myers LLP
Times Square Tower
7 Times Square
New York, NY 10036

212-326-2000
Fax: 212-326-2061
Email: afrackman@omm.com
LEAD ATTORNEY

Brendan Joseph Dowd
O'Melveny & Myers LLP
Times Square Tower
7 Times Square
New York, NY 10036
212-326-2000
Fax: 212-326-2061
Email: bdowd@omm.com
LEAD ATTORNEY

Defendant

Hambrecht & Quist

Plaintiff

Val Kay
Lead Pltff

represented by **Frederick Taylor Isquith, Sr**
Wolf, Haldenstein, Adler, Freeman &
Herz, L.L.P.
270 Madison Avenue
New York, NY 10016
(212) 545-4600
Email: isquith@whafh.com
LEAD ATTORNEY

Joseph R. Seidman, Jr
Bernstein Liebhard & Lifshitz, LLP
10 East 40th Street
New York, NY 10016
(212)-779-1414
Fax: (212)-779-3218
Email: seidman@bernlieb.com
LEAD ATTORNEY

Melvyn I. Weiss
(See above for address)
LEAD ATTORNEY

Samuel Howard Rudman
Lerach, Coughlin, Stoia, Geller, Rudman
& Robbins, LLP(LLIs)
58 South Service Road
Suite 200
Melville, NY 11747
631-367-7100

Fax: 631-367-1173
Email: srudman@lerachlaw.com
LEAD ATTORNEY

Sandy A Liebhard
Bernstein Liebhard & Lifshitz, LLP
10 East 40th Street
New York, NY 10016
(212) 779-1414
Fax: (212) 779-3218
Email: liebhard@bernlieb.com
LEAD ATTORNEY

Stanley D Bernstein
(See above for address)
LEAD ATTORNEY

V.

Consolidated Plaintiff

Alan Karahalis
TERMINATED: 04/19/2002

represented by **Frederick Taylor Isquith, Sr**
Wolf, Haldenstein, Adler, Freeman &
Herz LLP
270 Madison Avenue
New York, NY 10016
(212) 545-4600
Email: isquith@whafh.com
TERMINATED: 04/19/2002
LEAD ATTORNEY

Joseph R. Seidman, Jr
(See above for address)
TERMINATED: 04/19/2002
LEAD ATTORNEY

Samuel Howard Rudman
(See above for address)
TERMINATED: 04/19/2002
LEAD ATTORNEY

Sandy A Liebhard
(See above for address)
TERMINATED: 04/19/2002
LEAD ATTORNEY

Consolidated Plaintiff

Leonard Cohen
TERMINATED: 04/19/2002

represented by **Frederick Taylor Isquith, Sr**
(See above for address)

TERMINATED: 04/19/2002
LEAD ATTORNEY

Joseph R. Seidman, Jr
(See above for address)
TERMINATED: 04/19/2002
LEAD ATTORNEY

Samuel Howard Rudman
(See above for address)
TERMINATED: 04/19/2002
LEAD ATTORNEY

Sandy A Liebhard
(See above for address)
TERMINATED: 04/19/2002
LEAD ATTORNEY

Consolidated Plaintiff

Estelle Cohen
TERMINATED: 04/19/2002

represented by **Frederick Taylor Isquith, Sr**
(See above for address)
TERMINATED: 04/19/2002
LEAD ATTORNEY

Joseph R. Seidman, Jr
(See above for address)
TERMINATED: 04/19/2002
LEAD ATTORNEY

Samuel Howard Rudman
(See above for address)
TERMINATED: 04/19/2002
LEAD ATTORNEY

Sandy A Liebhard
(See above for address)
TERMINATED: 04/19/2002
LEAD ATTORNEY

Consolidated Plaintiff

Kenneth A. Restivo
TERMINATED: 04/19/2002

represented by **Aaron Lee Brody**
Stull Stull & Brody
6 East 45th Street, 5th Floor
New York, NY 10017
212-687-7230
Fax: 212-4902022
Email: ssbny@aol.com
TERMINATED: 04/19/2002

LEAD ATTORNEY

Consolidated Plaintiff

Don R. Powell

TERMINATED: 04/19/2002

Consolidated Plaintiff

Victor Wesley, Jr.

TERMINATED: 04/19/2002

Consolidated Plaintiff

Michael Atlas

TERMINATED: 04/19/2002

Consolidated Plaintiff

Tzvi M. Follman

TERMINATED: 04/19/2002

V.

Consolidated Defendant

Morgan Stanley & Co., Inc.

represented by **Andrew Brian Clubok**
Kirkland and Ellis LLP
153 East 53rd Street
New York, NY 10022
(202) 879-5173
Fax: 202-879-5200
Email: aclubok@kirkland.com
LEAD ATTORNEY

Consolidated Defendant

BancBoston robertson, Stephens, Inc.

Consolidated Defendant

Citigroup Global Markets, Inc.

Consolidated Defendant

Michael Malcolm

TERMINATED: 10/15/2002

Consolidated Defendant

Dain Rauscher, Inc.

represented by **Stewart D. Aaron**
Arnold & Porter LLP
399 Park Avenue
New York, NY 10022
(212)715-1000
LEAD ATTORNEY

Stewart David Aaron
Dorsey & Whitney LLP
250 Park Avenue
NY, NY 10177
(212) 715-1000
Fax: 212-715-1399
Email: stewart_aaron@aporter.com
LEAD ATTORNEY

Consolidated Defendant

Robertson Stephens, Inc.

TERMINATED: 04/19/2002

Consolidated Defendant

J.P. Morgan Sec.

represented by **Joseph Michael McLaughlin**
Simpson Thacher & Bartlett LLP (NY)
425 Lexington Avenue
New York, NY 10017
212-455-2000
Fax: 212-455-2502
Email: jmclaughlin@stblaw.com
LEAD ATTORNEY

| Date Filed | # | Docket Text |
|-------------------|----------|--|
| 06/08/2001 | 1 | CLASS ACTION COMPLAINT filed. Summons issued and Notice pursuant to 28 U.S.C. 636(c). FILING FEE \$ 150.00 RECEIPT # 408356. (moc) (Entered: 06/12/2001) |
| 06/08/2001 | | Magistrate Judge Kevin N. Fox is so designated. (moc) (Entered: 06/12/2001) |
| 06/08/2001 | 2 | RULE 1.9 CERTIFICATE filed by Colbert Birnet, L.P. (moc) (Entered: 06/12/2001) |
| 08/02/2001 | 3 | STIPULATION and ORDER, that defendants' time to answer, move or otherwise respond to the complaint in this action is extended through and including the later of 60 days after the (i) the assignment of lead plaintiffs' counsel; or (ii) the filing of |

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| | | an amended complaint in this action . (signed by Judge Miriam Goldman Cedarbaum) (ae) (Entered: 08/03/2001) |
| 08/07/2001 | 4 | NOTICE OF MOTION by Alan Karahalıs, Val Kay, Leonard Cohen, Estelle Cohen purs. to F.R.C.P. 42(c) and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. Sec. 78u-4, for an order consolidating actions 01 cv 5143, 01 cv 5814, 01 cv 5962, 01 cv 6184, and 01 cv 6635 into one action for all purposes ; appointing movants to serve as lead plttfs ; and approving movants' selection of counsel for the Class . No return date indicated. Proposed order attached. (Rec'd in night deposit box 8/7/01 5:37 PM) (sn) (Entered: 08/10/2001) |
| 08/07/2001 | 5 | AFFIDAVIT of Joseph R. Seidman, Jr. by Alan Karahalıs, Val Kay, Leonard Cohen, Estelle Cohen in support of [4-1] motion purs. to F.R.C.P. 42(c) and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. Sec. 78u-4, for an order consolidating actions 01 cv 5143, 01 cv 5814, 01 cv 5962, 01 cv 6184, and 01 cv 6635 into one action for all purposes, [4-2] motion appointing movants to serve as lead plttfs, [4-3] motion approving movants' selection of counsel for the Class. (Rec'd in night deposit box 8/7/01 5:38 PM) (sn) (Entered: 08/10/2001) |
| 08/07/2001 | 6 | MEMORANDUM OF LAW by Alan Karahalıs, Val Kay, Leonard Cohen, Estelle Cohen in support of [4-1] motion purs. to F.R.C.P. 42(c) and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. Sec. 78u-4, for an order consolidating actions 01 cv 5143, 01 cv 5814, 01 cv 5962, 01 cv 6184, and 01 cv 6635 into one action for all purposes, [4-2] motion appointing movants to serve as lead plttfs, [4-3] motion approving movants' selection of counsel for the Class. (Rec'd in night deposit box 8/7/01 5:38 PM) (sn) (Entered: 08/10/2001) |
| 08/07/2001 | 7 | NOTICE OF MOTION (FILED ON SERVICE DATE) by Kenneth A. Restivo, for an order consolidating cases 01 civ. 5143, 01 civ. 5814, 01 civ. 5962, 01 civ. 6184, and 01 civ. 6635 ; for an order appointing Kenneth A. Restivo to serve as lead plaintiff in the action pursuant to Section 27(a)(3)(B) of the Securities Act of 1933 and Section 21D(a)(3)(B) of the Securities Exchange Act of 1934 ; for an order approving Kenneth A. Restivo's choice of Lead Counsel . No return date. (Received in the night deposit box on 8/7/01 at 10:08 p.m.) (kw) Modified on 10/31/2001 (Entered: 08/14/2001) |
| 08/07/2001 | 8 | DECLARATION of Aaron L. Brody by Kenneth A. Restivo in support Re: [7-1] motion for an order consolidating cases 01 civ. 5143, 01 civ. 5814, 01 civ. 5962, 01 civ. 6184, and 01 civ. 6635, [7-2] motion for an order appointing Kenneth A. Restivo to serve as lead plaintiff in the action pursuant to Section 27(a)(3)(B) of the Securities Act of 1933 and Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, [7-3] motion for an order approving Kenneth A. Restivo's choice of Lead Counsel. (Received in the night deposit box on 8/7/01 at 10:08 p.m.) (kw) Modified on 10/31/2001 (Entered: 08/14/2001) |
| 08/07/2001 | 9 | MEMORANDUM OF LAW by Kenneth A. Restivo in support of [7-1] motion for an order consolidating cases 01 civ. 5143, 01 civ. 5814, 01 civ. 5962, 01 civ. 6184, and 01 civ. 6635, [7-2] motion for an order appointing Kenneth A. Restivo to serve as lead plaintiff in the action pursuant to Section 27(a)(3)(B) of the Securities Act of 1933 and Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, [7-3] motion for an order approving Kenneth A. Restivo's choice of Lead Counsel. (Received in the night deposit box on 8/7/01 at 10:08 p.m.) (kw) Modified on |

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| | | 10/31/2001 (Entered: 08/14/2001) |
| 08/09/2001 | 10 | Notice of Case Reassignment to Judge Shira A. Scheindlin. Copy of notice mailed to Attorney(s) of record. Pursuant to the Order of Chief Judge Mukasey dated August 8, 2001, the above entitled action is reassigned to the calendar of Judge Shira A. Scheindlin for inclusion in the coordinated pretrial proceedings being conducted by that judge. Two originals of all future documents submitted in this action are to be presented in the Clerk's Office for filing. One original is to be filed in this docket number and one original is to be filed in the miscellaneous case number 21mc92 (SAS). Each shall bear the original assigned judge's () initials after the original docket number. Attached is a copy of Judge Mukasey's ORDER re: coordinating the proceedings before Judge Scheindlin. Also attached is a copy of Judge Scheindlin's ORDER re: set initial PTC 09/07/01 and directing all counsel to comply with Judge Scheindlin's requirements. [Original Orders docketed in 21mc92 (SAS) as documents numbers 1 and 2] (dcap) Modified on 10/31/2001 (Entered: 08/10/2001) |
| 08/09/2001 | | Pretrial Conference set at 4:30 9/7/01 before Judge Shira A. Scheindlin. (dcap) (Entered: 08/10/2001) |
| 08/20/2001 | 11 | RULE 1.9 CERTIFICATE filed by Cacheflow Inc., Brian M. NeSmith, Michael J. Johnson. (sac) (Entered: 08/27/2001) |
| 08/22/2001 | 12 | MEMORANDUM OF LAW by Kenneth A. Restivo in opposition to [4-1] motion purs. to F.R.C.P. 42(c) and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. Sec. 78u-4, for an order consolidating actions 01 cv 5143, 01 cv 5814, 01 cv 5962, 01 cv 6184, and 01 cv 6635 into one action for all purposes, [4-2] motion appointing movants to serve as lead plttfs, [4-3] motion approving movants' selection of counsel for the Class. (rec'd in the night deposit box on 8/22/01 at 11:12 p.m.) (sac) (Entered: 08/28/2001) |
| 08/24/2001 | 13 | MEMORANDUM OF LAW by Alan Karahalidis, Val Kay, Leonard Cohen, Estelle Cohen in opposition to [7-1] motion for an order consolidating cases 01 civ. 5143, 01 civ. 5814, 01 civ. 5962, 01 civ. 6184, and 01 civ. 6635, [7-2] motion for an order appointing Kenneth A. Restivo to serve as lead plaintiff in the action pursuant to Section 27(a)(3)(B) of the Securities Act of 1933 and Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, [7-3] motion for an order approving Kenneth A. Restivo's choice of Lead Counsel; in further support of [4-1] motion purs. to F.R.C.P. 42(c) and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. Sec. 78u-4, for an order consolidating actions 01 cv 5143, 01 cv 5814, 01 cv 5962, 01 cv 6184, and 01 cv 6635 into one action for all purposes, [4-2] motion appointing movants to serve as lead plttfs, [4-3] motion approving movants' selection of counsel for the Class. (sac) Modified on 10/31/2001 (Entered: 08/28/2001) |
| 08/30/2001 | 14 | AMENDED RULE 1.9 CERTIFICATE filed by Cacheflow Inc., Brian M. NeSmith, Michael J. Johnson. (dcap) (Entered: 10/31/2001) |
| 08/31/2001 | 15 | REPLY MEMORANDUM by Alan Karahalidis, Val Kay, Leonard Cohen, Estelle Cohen re: in further support of [4-1] motion purs. to F.R.C.P. 42(c) and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. Sec. 78u-4, for an order consolidating actions 01 cv 5143, 01 cv 5814, 01 cv 5962, 01 cv 6184, and 01 cv |

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| | | 6635 into one action for all purposes, [4-2] motion appointing movants to serve as lead plttfs, [4-3] motion approving movants' selection of counsel for the Class and in opposition to [7-1] motion for an order consolidating cases 01 civ. 5143, 01 civ. 5814, 01 civ. 5962, 01 civ. 6184, and 01 civ. 6635, [7-2] motion for an order appointing Kenneth A. Restivo to serve as lead plaintiff in the action pursuant to Section 27(a)(3)(B) of the Act of 1933 and Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, [7-3] motion for an order approving Kenneth A. Restivo's choice of Lead Counsel. [Received in the Night Deposit Box on 08-31-01 at 5:25 P.M.] [Original filed in 1:01-cv-05143 Document No. 15. Document Docketed in 1:01-cv-05814; 1:01-cv-05962; 1:01-cv-06184; 1:01-cv-06635] (dcap) (Entered: 10/31/2001) |
| 09/04/2001 | 16 | ORDER, that all cases against Cacheflow in this IPO Securities Litigation, as set forth in the attached Rider (1:01-cv-5814, 1:01-cv-5962, 1:01-cv-6184, 1:01-cv-6635) shall be consolidated into case number 01 Civ. 5143. The Clerk of the Court is ordered to consolidate any future cases filed against Cacheflow Inc. subsequent to the date of this Order into Lead case number 01 Civ. 5143. The Clerk of the Court is further ordered to close all cases that have consolidated, subject to re-opening at a later date on proper application by a party. (signed by Judge Shira A. Scheindlin); Copies mailed. (sac) Modified on 10/31/2001 (Entered: 09/19/2001) |
| 09/04/2001 | | Consolidated Lead Case. (sac) (Entered: 09/19/2001) |
| 09/04/2001 | 17 | STIPULATION and ORDER,.. That the time for Defendants Credit Suisse First Boston Corporation to answer, move or otherwise respond to the Complaint in this action be extended through and including the later of forty-five (45) days after (i) the assignment of lead plaintiffs' counsel; or (ii) the filing of an amended complaint in this action. There has been no previous request for an extension of time . (signed by Judge Shira A. Scheindlin) (dcap) (Entered: 10/31/2001) |
| 09/05/2001 | | REPLY MEMORANDUM by Kenneth A. Restivo, Alan Karahalis, Estelle Cohen in further support of [4-1] motion purs. to F.R.C.P. 42(c) and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. Sec. 78u-4, for an order consolidating actions 01 cv 5143, 01 cv 5814, 01 cv 5962, 01 cv 6184, and 01 cv 6635 into one action for all purposes, [4-2] motion appointing movants to serve as lead plttfs, [4-3] motion approving movants' selection of counsel for the Class. (Filed dated 9/5/01).... rec'd in the night deposit box on 9/5/01 at 11:22 p.m. (sac) (Entered: 06/25/2002) |
| 09/07/2001 | 18 | RULE 1.9 CERTIFICATE filed by Salomon Smith Barney, Inc. (sac) Modified on 10/31/2001 (Entered: 10/03/2001) |
| 09/10/2001 | 19 | RULE 1.9 CERTIFICATE filed by Dain Rauscher, Inc. (sac) Modified on 10/31/2001 (Entered: 10/03/2001) |
| 09/10/2001 | 20 | AFFIDAVIT OF SERVICE of S&C as to Michael Malcolm by Stephen Wang on 8/10/01. (sac) Modified on 10/31/2001 (Entered: 10/03/2001) |
| 09/10/2001 | 21 | AFFIDAVIT OF SERVICE of S&C as to Brian M. NeSmith by Stephen Wang on 8/10/01. (sac) Modified on 10/31/2001 (Entered: 10/03/2001) |
| 09/10/2001 | 22 | AFFIDAVIT OF SERVICE of S&C as to Michael J. Johnson by Stephen Wang on 8/10/01. (sac) Modified on 10/31/2001 (Entered: 10/03/2001) |

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| 09/10/2001 | 23 | AFFIDAVIT OF SERVICE of S&C as to Cacheflow Inc. by Stephen Wang on 8/10/01. (sac) Modified on 10/31/2001 (Entered: 10/03/2001) |
| 09/21/2001 | 24 | RULE 1.9 CERTIFICATE filed by Credit Suisse First Boston Corp. (sac) Modified on 10/31/2001 (Entered: 10/03/2001) |
| 09/21/2001 | 25 | RULE 1.9 CERTIFICATE filed by J.P. Morgan Chase & Co. (sac) Modified on 10/31/2001 (Entered: 10/03/2001) |
| 09/21/2001 | 26 | RULE 1.9 CERTIFICATE filed by Morgan Stanley Dean Witter & Co. (sac) Modified on 10/31/2001 (Entered: 10/03/2001) |
| 01/07/2002 | 27 | RULE 1.9 CERTIFICATE filed by Robertson Stephens. (sac) (Entered: 02/05/2002) |
| 04/19/2002 | | OMNIBUS ORDER, Val Kay is hereby appointed as lead plttf and her selection of the Executive Committee to serve as Lead Counsel is approved. All other motions to be appointed lead plttf and for approval counsel are hereby denied. (signed by Judge Shira A. Scheindlin); Copies mailed. (orig. filed in 21 mc 92, doc. #4319) (sac) (Entered: 05/28/2002) |
| 04/19/2002 | 28 | AMENDED COMPLAINT by Val Kay, Greg Frick, Eric Egelman, Kenneth L. Schmid amending [1-1] complaint ; Summons issued. (ac) (Entered: 07/11/2002) |
| 04/19/2002 | | MASTER ALLEGATIONS by Val Kay, Greg Frick, Eric Egelman, Kenneth L. Schmid RE: Amended Complaint, doc.# 28, Filed on April 19, 2002. (ac) (Entered: 08/07/2002) |
| 05/17/2002 | 29 | AFFIDAVIT OF SERVICE of S&C as to Credit Suisse First by Tracy Del Duca, managing agent, on 4/25/02. (sac) (Entered: 07/22/2002) |
| 10/15/2002 | | (UNSIGNED) STIPULATION OF DISMISSAL; this action purs. to Stipulation and Order entered in 21 mc 92, doc. #5059, hereby dismisses without prejudice and without costs as to defts Michael J. Johnson, Micheal Malcolm, and Brian M. Nesmith. (Orig. filed and signed by Judge Scheindlin in 21 mc 92.) (sac) (Entered: 03/06/2003) |
| 07/17/2003 | 30 | ANSWER by Dain Rauscher, Inc. to [28-1] amended complaint . (Attorney Andrew J. Frackman from the Firm: Dorsey & Whitney, LLP)... rec'd in the night deposit box on 7/17/03 at 6:40 p.m. (sac) (Entered: 07/23/2003) |
| 07/21/2003 | 31 | ANSWER by J.P. Morgan Sec. to [28-1] amended complaint. (Attorney Andrew J. Frackman from the Simpson, Thacher & Bartlett, LLP)... rec'd in the night deposit box on 7/21/03 at 6:31 p.m.). (sac) (Entered: 08/12/2003) |
| 07/21/2003 | 32 | ANSWER by Robertson Stephens to [28-1] amended complaint. (Attorney Brendan Joseph Dowd from the O'Melveny & Myers, LLP)... rec'd in the night deposit box on 7/25/03 at 7:24 p.m. (sac) (Entered: 08/20/2003) |
| 07/29/2003 | 33 | ANSWER by Morgan Stanley & Co. to [28-1] amended complaint. (Attorney Andrew B. Clubok in the Firm of Kirkland & Ellis, LLP) (sac) (Entered: 10/20/2003) |
| 08/13/2003 | 34 | ANSWER to Consolidated Amended Class Action Complaint. Document filed by Credit Suisse First Boston Corporation. Related document: [28] Amended |

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| | | Complaint filed by Val Kay, Greg Frick, Eric Egelman, Kenneth L. Schmid.(sac,) (Entered: 03/29/2004) |
| 08/13/2003 | 35 | ANSWER to Consolidated Amended Class Action Complaint. Document filed by Credit Suisse First Boston Corporation.(sac,) (Entered: 03/29/2004) |
| 08/13/2003 | 36 | ANSWER to Consolidate Amended Class Action Complaint. Document filed by Citigroup Global Markets, Inc.. Related document: [28] Amended Complaint filed by Val Kay, Greg Frick, Eric Egelman, Kenneth L. Schmid.(sac,) (Entered: 03/29/2004) |
| 03/31/2005 | | ORDER; that Arnold & Porter LLP be substituted in the place and stead of Dorsey & Whitney LLP as the attorneys of record for defendant, RBC Dain Rauscher, Inc. in this action. Original Document filed in 21-mc-92, Doc#5427. (Signed by Judge Shira A. Scheindlin on 3/31/05) This Document Relates to: 01cv6000; 01cv9742; 01cv9982; 01cv6275; 01cv9422; 01cv5446; 01cv10827; 01cv6241; 01cv6613; 01cv5143; 01cv5072; 01cv10988; 01cv5937; 01cv6222; 01cv11234; 01cv10686; 01cv6542; 01cv6887; 01cv7355; 02cv9699; 01cv8404; 01cv5911; 01cv9800; 01cv10684; 01cv6143; 01cv7055; 01cv7048; 01cv5039; 01cv10834; 01cv6084; 01cv9917; 01cv10899; 01cv4147; 01cv6661; 01cv11000; 01cv6757; 01cv6627; 01cv11230; 01cv9675; 01cv5332; 01cv7035; 01cv11239; 01cv6004; 01cv7280; 01cv7344; 01cv4778; 01cv10185; 01cv10797; 01cv7270; 01cv11201; 01cv6090; 01cv10140; 01cv11245; 01cv4941; 01cv10596; 01cv6821; 01cv6001; 01cv6492; 01cv9981; 01cv9563; 01cv5241; 01cv6906; 01cv9514; 01cv10833; 01cv10053; 01cv10830; 01cv6365; 01cv4779; 01cv5074. (sac,) (Entered: 04/13/2005) |

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