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November 27, 2007

VIA MESSENGER

Ms. Cathy Catterson, Clerk  
United States Court of Appeals  
For the Ninth Circuit  
95 Seventh Street  
San Francisco, CA 94119

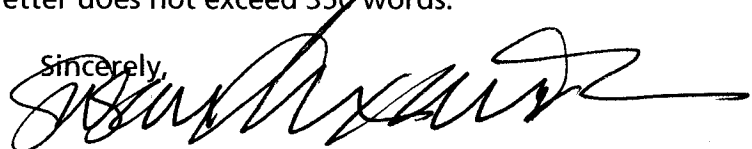
Re: *In re Gilead Sciences Securities Litigation*  
No. 06-16185

Dear Ms. Catterson:

Pursuant to Federal Rule of Appellate Procedure 28(j), please advise the panel of the following recent decision:

*Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, \_\_ U.S. \_\_, 127 S. Ct. 2499 (2007). Plaintiffs recognize that the Court is undoubtedly aware of *Tellabs*, but write to provide our understanding of the decision which we will be prepared to develop further at oral argument. *Tellabs* confirmed that all complaint allegations must be accepted "as true" and considered "collectively," and that scienter allegations must be "strong in light of other explanations" which are "rationally drawn from the facts alleged." 127 S. Ct. at 2504, 09-10; accord *Gompper v. VISX, Inc.*, 298 F.3d 893, 895 (9th Cir. 2002). But, contrary to *Gompper*, which controlled the district court's analysis when this case was dismissed, *Tellabs* emphasizes that an inference of scienter can be "strong" even if it is neither "irrefutable" nor even the "most plausible of competing inferences." 127 S. Ct. at 2510; compare *Gompper*, 298 F.3d at 897. The relevant question is whether plaintiff's scienter theory is "as likely as" and "as strong as" competing inferences which are grounded in the complaint. *Id.* at 2504, 2511, 2513. This analysis is relevant to plaintiffs' argument that scienter was amply pled here. AOB 45-49; ARB 25-28.

As prescribed by Rule 28(j), this letter does not exceed 350 words.

Sincerely,  
  
SUSAN K. ALEXANDER

SKA:tjl  
cc: Attached Service List

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Service List - 11/26/2007 (03-0361)

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