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BY HAND DELIVERY

Admitted to Practice in
California, District of Columbia only

November 29, 2007

Cathy Catterson, Clerk
U.S. Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 91119

RE: In re Gilead Securities Litigation, No. 06-16185

Dear Ms. Catterson:

As provided by Federal Rule of Appellate Procedure 28(j), please advise the panel of the following decisions:

1) *Bell Atlantic Corp, et al., v. Twombly*, 127 S. Ct. 1955 (May 21, 2007): the Supreme Court dismissed a Sherman Act claim for failure to state a claim under Federal Rule of Civil Procedure 8(a). The Court's discussion of Rule 8(a) pleading standards is relevant to Gilead's argument that Rule 8 requires more than pleading a theory and that plaintiffs failed to adequately plead loss causation. See Appellee's Brief ("AB") 32-53.

2) *Tellabs, Inc. v. Makor Issues & Rights, LTD.*, 127 S. Ct. 2499 (June 21, 2007): the Supreme Court held that under the PSLRA a complaint will only survive a motion to dismiss "if a reasonable person would deem the inference of scienter cogent and at least as compelling as any opposing inference one could draw from the facts alleged." *Id.* at 2510. This is relevant to Gilead's argument that plaintiff failed to plead facts with particularity sufficient to create a strong inference of scienter. See AB 59-61.

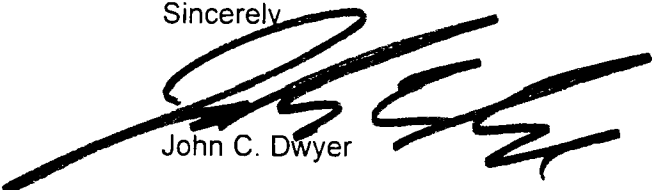
3) *Teachers' Retirement System of Louisiana v. Hunter*, 477 F.3d 162 (4th Cir. Feb. 20, 2007): the Fourth Circuit, citing *Dura Pharmaceuticals, Inc. v. Broudo*, 544 U.S. 336 (2005), stated that a strong case can be made that loss causation should be pleaded with particularity under Rule 9(b). The Fourth Circuit also concluded that loss causation must be pled with "sufficient specificity to enable the court to evaluate whether the necessary causal link exists." *Id.* at 186. This is relevant to Gilead's arguments that Rule 9(b) requires plaintiffs to plead loss causation with particularity and that plaintiffs failed to adequately plead loss causation. See AB 29-32 and 32-53.

4) *Tricontinental Industries, LTD v. PriceWaterhouseCoopers, LLP*, 475 F.3d 824 (7th Cir. Jan. 17, 2007): Plaintiff argued that *Dura* did not require a corrective disclosure to satisfy loss causation. The Seventh Circuit stated that it could not accept this interpretation of *Dura's* requirements. *Id.* at 843. This is relevant to Gilead's argument that plaintiffs failed to adequately plead loss causation. See AB 32-53.



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Sincerely


John C. Dwyer

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CERTIFICATE OF SERVICE

I certify that on November 29, 2007, a copy of the foregoing **RULE 28(J) LETTER** was served by FedEx overnight delivery on the following:


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I further certify pursuant to Federal Rule of Appellate Procedure 25(2)(A) that an original and 4 copies of the foregoing **RULE 28(J) LETTER** were dispatched on November 29, 2007, for delivery by Messenger Courier Service to the Clerk for the United States Court of Appeals for the Ninth Circuit to the following address:

Cathy Catterson, Clerk
United States Court of Appeals
for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103

Dated: November 29, 2007



Sandra L. Curry