

E-filed 6/7/06

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18 Co-Lead Counsel for Lead Plaintiff Mercury Pension
19 Fund Group and the Class

20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA
22 SAN JOSE DIVISION

23 ARCHDIOCESE OF MILWAUKEE
24 SUPPORTING FUND, INC., On Behalf of All
25 Others Similarly Situated,

26 Plaintiff,

27 vs.

28 MERCURY INTERACTIVE CORPORATION,
AMNON LANDAN, DOUGLAS P. SMITH,
ANTHONY ZINGALE, SUSAN J. SKAER, BRAD
BOSTON, IGAL KOHAVI, CLYDE OSTLER,
GIORA YARON, YAIR SHAMIR, DAVID JAMES
MURPHY III, YUVAL SCARLAT and BRYAN
LEBLANC,

Defendants.

Civil Action No.: 5:05-CV-3395-JF

CLASS ACTION

Honorable Jeremy Fogel

**STIPULATION AND [PROPOSED] ORDER RE CONSOLIDATED ACTIONS AND
SCHEDULE FOR FILING OF THE CONSOLIDATED COMPLAINT AND BRIEFING
CERTAIN MOTIONS**

1 WHEREAS, by Order dated December 8, 2005, the Court consolidated with this action
2 four other related securities class action lawsuits commenced on behalf of the stockholders of
3 Mercury Interactive Corporation (“Mercury”), pending in this District;

4 WHEREAS, by Order dated May 5, 2006, the Court appointed the Mercury Pension Fund
5 Group as Lead Plaintiff and appointed as Co-Lead Counsel the Mercury Pension Fund Group’s
6 selection of Labaton Sucharow & Rudoff LLP and Glancy Binkow & Goldberg LLP;

7 WHEREAS, counsel for the parties have met and conferred and have agreed to a schedule for
8 filing the Consolidated Complaint for Violations of the Federal Securities Laws (the
9 “Consolidated Complaint” or “Consolidated Action”), for briefing any motion to dismiss filed by
10 defendants, and for briefing plaintiffs’ anticipated motion for class certification;

11 WHEREAS, in a March 17, 2006 press release, Defendant Mercury Interactive
12 announced that “it currently expects to complete its restated financial statements and file its
13 amended 2004 Form 10-K and Q1 ’05 Form 10-Q with the U.S. Securities and Exchange
14 Commission (“SEC”) in Q2 ’06,” which quarter ends on June 30, 2006; and

15 WHEREAS, the schedule agreed upon is not for the purpose of delay, promotes judicial
16 efficiency, and will not cause prejudice to the respective parties;

17 THE PARTIES, THROUGH THEIR COUNSEL OF RECORD, HEREBY STIPULATE
18 TO AN ORDER AS FOLLOWS:

19 **IT IS HEREBY ORDERED** that:

20 **Consolidating Related Actions**

21 1. The parties shall file a Notice of Related Cases pursuant to Civil L.R. 3-12 whenever
22 a case which should be consolidated into this Consolidated Action is filed in, or transferred to, this
23 District. If the Court determines that the case is related, the Clerk shall:

- 24 a) File a copy of this Order in the separate file for such action;
25 b) Mail a copy of this Order to the attorneys for the plaintiff(s) in the newly-filed or
26 transferred case and to any new defendant(s) in the newly-filed or transferred case; and
27 c) Make the appropriate entry in the Master Docket for the Consolidated Action.

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1 Any other actions now pending or hereafter filed in this District which arise out of, in whole or
2 in part, the facts and/or claims as alleged in any of these related captioned actions shall be
3 consolidated for all purposes with this Consolidated Action and this Order shall apply thereto,
4 unless a party objects to consolidation, as provided for herein, or any provision of this Order,
5 within 10 days after the date upon which a copy of this Order is served on counsel for such party,
6 by filing an application for relief and this Court deems it appropriate to grant such application.
7 Nothing in the foregoing shall be construed as a waiver of the defendants' right to object to
8 consolidation of any subsequently-filed or transferred related action.

9 2. Every pleading filed in the consolidated actions, or in any separate action
10 included herein, shall bear the following caption:

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 IN RE MERCURY INTERACTIVE	}	Master File No. 5:05-CV-3395 (Consolidated with 3:05-cv-3864; 3:05- cv-4031; and 3:05-cv-4036)
15 SECURITIES LITIGATION,		
16 This Document relates to:		
17		
18	}	

19 3. When a pleading is intended to apply to all actions governed by this Order, the
20 words "All Actions" shall appear immediately after the words "This Document Relates to:" in
21 the caption set out above. When a pleading is intended to apply only to some, but not all of the
22 consolidated actions, this Court's docket number for each individual action to which the paper is
23 intended to be applicable and the last name of the first-named plaintiff in said action shall appear
24 immediately after the words "This Document Relates to:" in the caption described above;

25 **Duties of Lead Counsel**

26 4. Court appointed Co-Lead Counsel, Labaton Sucharow & Rudoff LLP and Glancy
27 Binkow & Goldberg LLP, shall have the following responsibilities:

28 a. to brief and argue motions;

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7. If Defendants move to dismiss the Consolidated Complaint, Lead Plaintiff's opposition papers shall be filed within forty-five (45) days of filing and service of the motion to dismiss;

8. Defendants' reply papers shall be filed within thirty (30) days of service of Lead Plaintiff's opposition papers;

9. Lead Plaintiff's motion for class certification, filed pursuant to Federal Rules of Civil Procedure 23, shall be due within ninety (90) days of Defendants' filing of an answer to the Consolidated Complaint; and

10. The parties shall effect service of papers filed with the Court on opposing counsel in accordance with Northern District Local Rules, including by ECF, overnight mail service, hand delivery or facsimile, unless otherwise agreed. Defendants may serve all plaintiffs' counsel who are not appointed as lead counsel by regular mail.

Dated: May 26 2006

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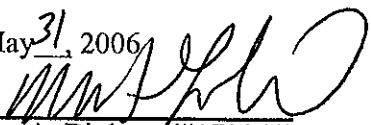
Dated: May 24, 2006

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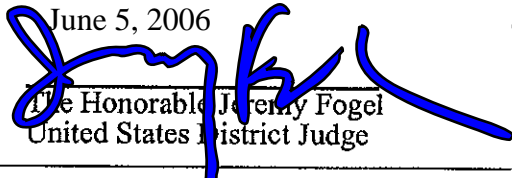
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40 *Counsel for the Mercury Pension Fund Group*

41 SO ORDERED:

42 Dated: May __, 2006
43 June 5, 2006

44 By: 
45 The Honorable Jeremy Fogel
46 United States District Judge

