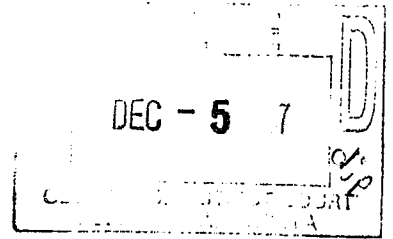


UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



IN RE THE MILLS CORPORATION)
SECURITIES LITIGATION)
)
)
)
THIS DOCUMENT RELATES TO:)
1:06-cv-00077)
1:06-cv-00247)
1:06-cv-00265)
1:06-cv-00304)
1:06-cv-01446)
1:07-cv-00296)

Civil Action No. 1:06-cv-00077

cs

ORDER

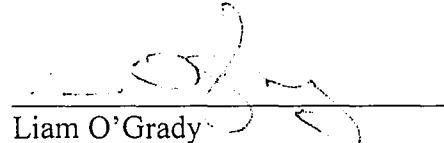
Before the Court are Defendants' Motions to Dismiss, specifically: Motion to Dismiss Consolidated Class Action Complaint by Mark D. Ettenger (Dkt. no. 109); Motion to Dismiss Consolidated Class Action Complaint by Nicholas McDonough (Dkt. no. 112); Motion to Dismiss by Simon Property Group, Inc., Farallon Capital Management, LLC, SPG-FCM Ventures LLC, The Mills Corporation, The Mills Limited Partnership (Dkt. no. 115); Motion to Dismiss Consolidated Action Complaint by Ernst & Young LLP (Dkt. no. 118); Motion to Dismiss Pursuant to FRCP 12(b)(6) by James A. Napoli (Dkt. no. 121); Motion to Dismiss Pursuant to FRCP 12(b)(6) by Gregory Neeb (Dkt. no. 123); Dismiss Pursuant to FRCP 12(b)(6) by James F. Dausch (Dkt. no. 125); Motion to Dismiss by Kenneth R. Parent (Dkt. no. 127); Motion to Dismiss by Lawrence C. Siegel (Dkt. no. 130); Motion to Dismiss by Merrill Lynch et al. (Dkt. no. 160); Motion to Dismiss the Consolidated Amended Complaint by Dietrich von Boetticher, James C. Braithwaite, KanAm Group, KanAm USA, KanAm Int'l., KanAm Grund,

Franz Freiherr von Perfall (Dkt. no. 163); Motion to Dismiss the Consolidated Class Action Complaint by Mary Jane Morrow (Dkt. no. 166); and Motion to Dismiss by Colombe M. Nicholas, S. Joseph Bruno, John M. Ingram, Joseph B. Gildenhorn, Harry H. Nick, Robert P. Pincus, Charles R. Black, Jr., Christina L. Rose (Dkt. no. 169). Upon consideration of the above motions, Plaintiffs' Memorandum (Omnibus Brief) in Opposition (Dkt. no. 184), and Defendants' Reply Memoranda (Dkt. nos. 191, 193, 194, 195, 197, 198, 199, 200, 201, 203, 204, 205, 206), and for good cause shown, it is hereby

ORDERED that Defendants' Motions to Dismiss (Dkt. nos. 109, 112, 115, 118, 121, 123, 125, 127, 130, 160, 163, 166, 169) are GRANTED and the Plaintiffs' Consolidated Class Action Complaint (Dkt. no. 94) is DISMISSED WITHOUT PREJUDICE. Plaintiffs' Complaint fails to plead scienter with requisite particularity as required by the Supreme Court's decision in *Tellabs, Inc. et. al. v. Makor Issues & Rights Ltd., et. al.*, 127 S.Ct. 2499 (2007). Specifically, the Complaint relies heavily on group pleading and the allegations of confidential witnesses, which preclude the Court and the Defendants from fairly assessing the allegations lodged within the Complaint. Further, it is hereby

ORDERED that the Plaintiffs file any amended complaint in this matter by January 18, 2008. Defendants shall file any responsive pleadings by February 22, 2008. If such responsive pleading requires opposition, the opposition shall be filed by March 21, 2008, and any replies to such opposition shall be filed by April 4, 2008. In addition, the parties are directed to confer with each other and the Court to find a mutually agreeable date during the last ten (10) days of April for any oral argument in this matter.

ENTERED on this 5th day of December, 2007.



Liam O'Grady
United States District Judge

Alexandria, Virginia