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November 10, 2003

**By Hand**

The Honorable Denise L. Cote  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1040  
New York, New York 10007

Re: In re WorldCom, Inc. Securities Litigation, Master File No. 02 Civ. 3288 (DLC)  
(Issue: *Depositions*)

Dear Judge Cote:

On behalf of Lead Plaintiff New York State Common Retirement Fund and Co-Lead Counsel Barrack, Rodos & Bacine, we respectfully submit this letter to address what we understand will be a proposal by Defendants to modify significantly the proposed plan for deposition discovery outlined by the Court at the October 30, 2003 hearing.

By conference call last Friday afternoon, we were advised that, among other things, Defendants will ask the Court to grant them one hundred deposition days (while limiting Plaintiffs to sixty) and permit Defendants two days of cross-examination for each day of direct examination by Plaintiffs (though limiting Plaintiffs to a single day of cross for every day of Defendants' direct). These proposals are patently unfair and should be rejected.

Defendants should not be entitled to take any more deposition testimony than Plaintiffs, let alone one hundred days more, which is the result their proposal would codify. First, Defendants already enjoy a hefty advantage in deposition days because, under Lead Plaintiff's proposal, the ten days of depositions they took of the class representatives and their investment advisors over the summer do not count against their allotment.<sup>1</sup> Second, to the extent Defendants may contend that their deposition planning and cross-examination needs must satisfy many different defendant constituencies, that challenge is surmountable and not unique to them; the plaintiffs' side must (and will) accommodate the interests of

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<sup>1</sup> In contrast, Lead Plaintiff would exclude from its total only two Rule 30(b)(6) depositions of Salomon and J.P. Morgan. Those depositions are essentially non-substantive and have been noticed largely to address areas where cooperation in document and e-discovery discovery has been less than ideal.



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class, individual, ERISA, and GOALS, and perhaps even holder, plaintiffs.<sup>2</sup> Third, we respectfully submit that, despite the number of Defendants, there will be such substantial overlap among the issues pertaining to them that Defendants can readily complete their questioning as efficiently as Plaintiffs. Indeed, in most if not all of the depositions, Defendants will have the same objective – to show that the deponent knew some aspect of the fraud at WorldCom and did not share that knowledge with one or more of the Defendants. In short, there is no reasoned basis to give Defendants any more deposition days than Plaintiffs (let alone 67% more) and twice as much cross-examination opportunity.

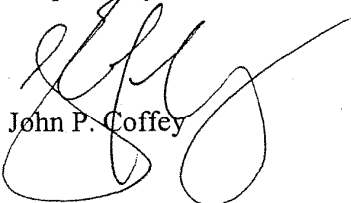
As to other aspects of what we understand will be Defendants' proposals regarding depositions:

- We understand that Defendants now concur with our October 24th request that each deposition day be eight hours, not counting breaks.
- Other than the two Rule 30(b)(6) depositions described in footnote 1 above, we have no objection to Defendants' proposal that Rule 30(b)(6) depositions should count against each side's allotment.
- We agree that expert depositions should not count against either side's allotment.
- Lead Plaintiff does not object to Defendants' depositions of individual plaintiffs being excluded from their 60 day allotment.

Finally, we concur with Mr. Sarko's view that it is premature to estimate what effect, if any, that settlement with one or more Defendants may have on the number of requested deposition days. We support his suggestion that the parties inform the Court if and when they believe the number of depositions should change based on any settlement.

Thank you for your consideration of the foregoing points.

Respectfully submitted,



John P. Coffey

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<sup>2</sup> Lead Plaintiff believes that the holder litigation should be consolidated with this matter in the same manner as the GOALS litigation.

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Cc (by fax):

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