

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE WORLDCOM, INC. SECURITIES
LITIGATION

MASTER FILE
02 Civ. 3288 (DLC)

This Document Relates to:

02 Civ. 3288	02 Civ. 4990	02 Civ. 9514
02 Civ. 3416	02 Civ. 5057	02 Civ. 9515
02 Civ. 3419	02 Civ. 5071	02 Civ. 9516
02 Civ. 3508	02 Civ. 5087	02 Civ. 9519
02 Civ. 3537	02 Civ. 5108	02 Civ. 9521
02 Civ. 3647	02 Civ. 5224	02 Civ. 2841
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02 Civ. 3771	02 Civ. 8226	03 Civ. 6229
02 Civ. 4719	02 Civ. 8228	03 Civ. 7298
02 Civ. 4945	02 Civ. 8229	03 Civ. 7299
02 Civ. 4946	02 Civ. 8230	
02 Civ. 4958	02 Civ. 8234	
02 Civ. 4973	02 Civ. 9513	

**LEAD PLAINTIFF’S RESPONSE TO DEFENDANT BERT C.
ROBERTS, JR.’S REQUESTED JURY INSTRUCTIONS AND
JURY INTERROGATORIES**

Lead Plaintiff, by and through its counsel, respectfully submits this Response to the jury instructions and jury interrogatories requested by Defendant Bert C. Roberts, Jr. (“Roberts”).

Lead Plaintiff is submitting this day responses to the requested jury instructions and jury interrogatories of the Underwriter Defendants and of Arthur Andersen LLP. As stated in such responses, Lead Plaintiff submits that its proposed jury instructions and jury interrogatories are appropriate, sufficient and in accordance with governing law. In this connection, Lead Plaintiff respectfully reserves the right to continue its review and analysis of the holdings in the Order and Opinion entered January 18, 2005, denying Andersen’s motion for summary judgment, and to propose and serve any additional or

modified jury instructions as may be required or appropriate pursuant to that Order and Opinion.

Roberts has submitted voluminous proposed jury instructions, jury interrogatories and forms of verdict. The instructions and interrogatories are largely duplicative of the submissions of Lead Plaintiff and the other Defendants. For this reason, Lead Plaintiff respectfully submits that a detailed response to the Roberts' submission would be highly duplicative of other submissions to the Court. Further, many of the proposed instructions are matters of general law, which are well-known to the Court and inclusive of the same types of instructions proposed by Lead Plaintiff.

As a result, we note Lead Plaintiff's specific responses to only certain of Roberts' proposed jury instructions and jury interrogatories.

Robert's Proposed Jury Instructions

No. 8 ("reasonable reliance" on expert opinion) – Lead Plaintiff objects to the extent this proposed instruction does not differentiate between the audited financial statements and the unaudited financial statements.

Nos. 12, 75 (affirmative defense of knowledge of plaintiff) - Lead Plaintiff objects to these proposed instructions on the ground that there is no basis in fact for any such instruction to be given in this case.

No. 25 (attorney interviews of witnesses) – Lead Plaintiff objects as unnecessary.

No. 31 (inference from Fifth Amendment assertion) – Lead Plaintiff refers the Court to Lead Plaintiff's motion *in limine* on this matter, and its response to the Andersen proposed jury instruction on this point.

Nos. 36 – 38 (party contentions regarding “control person” liability) – Lead Plaintiff respectfully submits that its proposed jury instruction concerning Roberts’ “control person” status is more appropriate, and that specific instructions concerning Roberts’ defenses are not appropriate for jury instructions.

No. 40 (proof of misstatements) – Lead Plaintiff objects to this instruction as contrary to law, in that cumulative misstatements may be considered by a jury in determining that a registration statement was materially false or misleading.

No. 45 (duty of disclosure) – Lead Plaintiff objects as argumentative and, in certain respects, as contrary to law.

No. 46 (risk factors) - Lead Plaintiff objects as argumentative and, in certain respects, as contrary to law.

No. 52 (reliance of certain 2000 bond purchasers) - Lead Plaintiff objects as argumentative and as contrary to law, pursuant to the Court’s Opinion and Order of October 24, 2003 (class certification ruling).

Nos. 55-56, 63 (control person status and liability pursuant to Section 20(a)) – Lead Plaintiff submits that its proposed instruction is more appropriate, and that the instruction is not inserted into the proper order in Roberts’ submission.

No. 58 (defendants not insurers) – Lead Plaintiff objects as argumentative.

Nos. 64-65, 68-69, 72, 74 (due diligence defense) - Lead Plaintiff objects as argumentative and, in certain respects, as contrary to law.

Nos. 77-83 (damages) - Lead Plaintiff submits that its proposed instructions pertaining to damages are appropriate and in accord with governing law, and objects to

these proposed interrogatories as argumentative and, in certain respects, as contrary to law.

Roberts' Proposed Jury Interrogatories

Lead Plaintiff submits that its proposed Jury Interrogatories are more appropriate than Roberts' proposals, and further incorporates its objections to the Jury Interrogatories proposed by the Underwriter Defendants and Andersen. Lead Plaintiff further notes that Roberts' proposed Jury Interrogatories pertain only to the Securities Act claims, and do not provide any questions with respect to the control person allegations against Roberts.

Dated: January 21, 2005

Respectfully submitted,

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