

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: PROCESSED EGG PRODUCTS	:	
ANTITRUST LITIGATION	:	
	:	MDL No. 2002
	:	08-md-02002
<hr style="border: 0.5px solid black;"/>		
	:	
THIS DOCUMENT APPLIES TO:	:	
ALL ACTIONS	:	

ORDER

AND NOW, this 8th day of February, 2012, upon consideration of the various written materials submitted to the Court and two telephone conferences that addressed a discovery dispute concerning the possible need to preserve the testimony of a third-party witness to this litigation, namely, Mr. Irving Isaacson, while the stay of discovery set forth in Case Management Order No. 1 at ¶ 8.B. (Doc. No. 3)¹ remains in effect,²

AND FURTHERMORE, the Court determining that, in light of Mr. Isaacson’s current age (he is 96 years old) and the various accounts of his health, there exists the possibility that Mr. Isaacson may not be available to testify at such time as the stay of discovery in this litigation is

¹ CMO No. 1 has been modified by the Court’s April 20, 2010 Order (Doc. No. 320) and Case Management Order No. 16 (Doc. No. 604), which direct the parties to engage in certain delineated discovery matters.

² This discovery issue concerning the preservation of Mr. Isaacson’s testimony was first raised, among other issues, in connection with the Direct Purchaser Plaintiffs’ Motion for Further Lifting of Discovery (Doc. No. 522). The Court denied that motion without prejudice in a November 14, 2011 Order (Doc. No. 589).

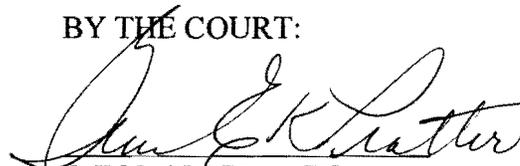
The Direct Purchaser Plaintiffs raised this particular discovery issue again in a January 24, 2012 letter submitted by their Liaison Counsel, seeking the Court’s assistance in resolving the issue. The Court held two conference calls on January 24, 2012 and February 7, 2012, with participants including Direct Purchaser Plaintiffs’ Liaison Counsel, the Defendants’ Liaison Counsel, and a law partner of Mr. Isaacson, Mr. Kevin Haley. The Court also received letters and materials submitted by the parties’ Liaison Counsel and Mr. Haley, dated February 2, 3, and 6, 2012, respectively.

fully lifted,

AND FINALLY, notwithstanding the proposal of several alternative compromises for resolving the various competing issues amicably without resort to formal proceedings, **IT IS HEREBY ORDERED** that the stay of discovery as set forth in Case Management Order No. 1 at ¶ 8.B. (Doc. No. 3) is lifted only for the limited purpose of permitting Direct Purchaser Plaintiffs, Indirect Purchaser Plaintiffs, and Direct Action Plaintiffs to initiate such conventional proceedings as may be available to preserve Mr. Isaacson's testimony, insofar that Mr. Isaacson might be capable of providing such testimony at this time, pursuant to Fed. R. Civ. P. 45 by oral or written deposition or otherwise. In all other respects, the stay of discovery shall remain in full force and effect.

In the event that any party renders notice to Mr. Isaacson (including Mr. Isaacson's counsel or other agreed-upon designee) for such discovery, a copy shall be provided to the Court, and Liaison Counsel for Direct Purchaser Plaintiffs are **HEREBY ORDERED** to keep the Court promptly advised of all proceedings that relate to efforts to preserve the testimony of Mr. Isaacson.

BY THE COURT:



GENE E.K. PRATTER
United States District Judge