

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE ELECTRONIC BOOKS ANTITRUST  
LITIGATION

No. 11-md-02293 (DLC)  
ECF Case

This Document Relates to:

CLASS ACTION

ALL ACTIONS

**CLASS PLAINTIFFS' NOTICE OF MOTION  
TO EXCLUDE EXPERT OPINIONS CONTAINED IN THE  
DECLARATION OF JOSEPH P. KALT**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT at a hearing date to be set by the Court, if necessary, before the Honorable Denise L. Cote, United States District Judge of the Southern District of New York, located in Courtroom 15B, Daniel Patrick Moynihan United States Courthouse, 500 Pearl St. New York, NY 10007-1312, Class Plaintiffs will, and hereby do, move for an order excluding expert opinions contained in the Declaration of Joseph P. Kalt.

This motion is brought under Federal Rules of Evidence 702 and 403 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). Class Plaintiffs respectfully request the Court to strike Dr. Kalt's report, give his opinions as to class certification no weight, and preclude him from testifying before the jury.

This motion is based on this Notice of Motion and Motion; the accompanying Memorandum of Points and Authorities, the declaration in support of the motion, argument by counsel at the hearing before this Court, any papers filed in reply, such oral and documentary evidence as may be presented at the hearing of this motion, and all papers and records on file in this matter.

DATED: December 18, 2013

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By       /s/ Steve W. Berman        
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 18, 2013, I electronically filed the foregoing document using the CM/ECF system which will send notification of such filing to the e-mail addresses registered in the CM/ECF system, as denoted on the Electronic Mail Notice List, and I hereby certify that I have caused to be mailed a paper copy of the foregoing document via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice List generated by the CM/ECF system.

/s/ Steve W. Berman  
STEVE W. BERMAN