

**United States District Court, Northern District of Illinois**

<b>Name of Assigned Judge or Magistrate Judge</b>	Amy J. St. Eve	<b>Sitting Judge if Other than Assigned Judge</b>	
<b>CASE NUMBER</b>	02 C 4356	<b>DATE</b>	11/3/2010
<b>CASE TITLE</b>	Johnson et al vs. Tellabs Inc et al.		

**DOCKET ENTRY TEXT**

In the light the Court’s summary judgment ruling, the Court hereby modifies the Class Period as follows:

All persons who purchased the common stock of Defendant Tellabs during the period from March 8, 2001, through June 19, 2001, inclusive (the “Modified Class Period”). Excluded from the Class are Defendants; the subsidiaries and affiliates of Tellabs; the officers and directors of Tellabs or its subsidiaries or affiliates, at all relevant times; members of the immediate family of any excluded person; the legal representatives, heirs, successors, and assigns of any excluded person; and any entity in which any excluded person has or had a controlling interest.

■ [ For further details see text below.]

Notices mailed by Judicial staff.

**STATEMENT**

On February 23, 2009, pursuant to Rule 23, the Court certified the following class in this securities fraud case:

All persons who purchased the common stock of Defendant Tellabs during the period from December 11, 2000 through June 19, 2001, inclusive (the “Class Period”). Excluded from the Class are Defendants; the subsidiaries and affiliates of Tellabs; the officers and directors of Tellabs or its subsidiaries or affiliates, at all relevant times; members of the immediate family of any excluded person; the legal representatives, heirs, successors, and assigns of any excluded person; and any entity in which any excluded person has or had a controlling interest.

In addition, the Court appointed Richard J. LeBrun, Nolan Howell, and lead plaintiff Makor Issues & Rights, Ltd. as class representatives.

On August 13, 2010, the Court granted a large portion of Defendants’ motion for summary judgment, and directed the parties to submit their positions regarding the impact of the Court’s ruling on the Class Period. The Court assumes familiarity with the summary judgment ruling. The parties subsequently submitted their respective positions. For the reasons set forth below, the Class Period is modified pursuant to Rule 23(c)(1)(C) to cover the period from March 8, 2001, through June 19, 2001, inclusive (the “Modified Class Period”).

Courtroom Deputy  
Initials:

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## **I. Commencement Date of the Class Period**

The parties agree in light of the Court's ruling that the commencement of the Class Period runs from March 8, 2001, not December 11, 2000. They further agree that because the March 7, 2001, statement was made after the close of trading on that day, the Class Period should commence on March 8, 2001. Accordingly, in the light the Court's summary judgment ruling, the Court hereby modifies the Class as follows:

All persons who purchased the common stock of Defendant Tellabs during the period from March 8, 2001, through June 19, 2001, inclusive (the "Class Period"). Excluded from the Class are Defendants; the subsidiaries and affiliates of Tellabs; the officers and directors of Tellabs or its subsidiaries or affiliates, at all relevant times; members of the immediate family of any excluded person; the legal representatives, heirs, successors, and assigns of any excluded person; and any entity in which any excluded person has or had a controlling interest.

Defendants also argue that they are entitled to an entry of judgment under Federal Rule of Civil Procedure 54(b) on the Class claims prior to March 8, 2001. Rule 54(b) provides that, "[w]hen an action presents more than one claim for relief . . . the court may direct entry of a final judgment as to one or more, but fewer than all, claims . . . only if the court expressly determines that there is no just reason for delay." Fed. R. Civ. P. 54(b). Defendants have failed to establish that there is "no just reason for delay" in this case.

## **II. Defendants Are Not Entitled to Summary Judgment for the Period from April 6, 2001 through June 19, 2001**

Defendants also ask the Court to enter summary judgment for the period from April 6, 2001, through June 19, 2001. Defendants argue that their April 6, 2001 revised guidance cured any prior misrepresentations. Indeed, the "class period ends when curative information is publicly announced or otherwise effectively disseminated to the public." *Neilsen v. Greenwood*, 1996 WL 563539 at \* 10 (N.D. Ill. Oct. 1, 1996) (citations omitted); *see also In re Kirschner Med. Corp. Sec. Lit.*, 139 F.R.D. 74, 82 (D. Md. 1991).

Defendants essentially raise a summary judgment issue that they failed to raise in their initial motion. In addition, given the report of Plaintiff's expert – Linda Allen – the Court cannot conclude on this motion that no genuine issue of material fact exists as to whether the April 6 disclosures completely cured the market. Defendants' request is therefore denied.

## **III. Class Representatives**

Plaintiffs concede that Richard LeBrun is no longer an appropriate class representative because he purchased Tellabs stock on February 2, 2001 – before an actionable alleged misstatement – and then sold those shares on March 12, 2001 – a date before any of the corrective disclosures. Because the other two class representatives both purchased stock after the alleged misrepresentations and did not sell all of their shares before the end of the Modified Class Period, they remain appropriate class representatives.