

United States District Court
For the Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE COUNTY OF SANTA CLARA and
THE COUNTY OF SANTA CRUZ, on
behalf of themselves and all others
similarly situated,

No. C 05-03740 WHA

Plaintiff,

v.

**ORDER GRANTING IN
PART REQUEST TO
MODIFY BRIEFING SCHEDULE**

ASTRA USA, INC.; ASTRAZENECA
PHARMACEUTICALS LP; AVENTIS
PHARMACEUTICALS, INC.; BAYER
CORP.; BRISTOL-MYERS SQUIBB CO.;
PFIZER, INC.; SCHERING-PLOUGH
CORP.; SMITHKLINE BEECHAM
CORP.; TAP PHARMACEUTICAL
PRODUCTS, INC.; WYETH, INC.;
WYETH PHARMACEUTICALS, INC.;
ZENECA, INC.; ZLB BEHRING LLC; and
DOES 1 through 100, inclusive,

Defendants.

In this action, plaintiffs County of Santa Clara and County of Santa Cruz allege that defendants charged them prices for drugs greater than price ceilings imposed by Section 340B of the Public Health Service Act of 1992 and contractual agreements thereunder. On December 9, 2009, the Ninth Circuit vacated this Court's order that had granted defendants a protective order precluding discovery by plaintiffs of the information underlying defendants' reported average manufacturer price and best price for purposes of calculating the contractual price ceilings. Discovery was subsequently reopened for the limited purpose of allowing plaintiffs to

1 take discovery regarding the information underlying defendant manufacturers' determination of
2 the AMP and the BP.


3 Under the schedule ordered at the December 17 hearing and memorialized in a written
4 order the same day (Dkt. No. 549), plaintiffs served document requests and up to five
5 interrogatories to defendants directed at the underlying data on or before January 7, 2010.
6 Defendants' responses to those requests — including any objections or motions for protective
7 orders — were due by February 4, 2010. The schedule provided that if defendants responded
8 with objections which were followed by subsequent meet-and-confers, any motions to compel
9 by plaintiffs were due by February 25, 2010.

10 On February 4, 2010, defendants filed a joint motion for partial judgment on the
11 pleadings or, in the alternative, for a protective order. Defendants Bayer and Astra USA, Inc.,
12 AstraZeneca Pharmaceuticals LP, and Zeneca Inc. filed motions for protective orders.
13 Defendant Bristol-Myers Squibb Company filed a motion for a stay or in the alternative for a
14 protective order. All four motions are scheduled for hearing on March 11, 2010.

15 Plaintiffs now state that they intend to file additional a cross-motion to compel by
16 February 25, 2010, to be noticed on a 35-day calendar for hearing on April 1, 2010. The parties
17 jointly request to continue the hearing on defendants' motions from March 11 until April 1,
18 2010, so that they may be heard in concert with plaintiffs' cross-motion. The request for a
19 continuance is **GRANTED IN PART**. Plaintiffs shall file their cross-motion to compel by
20 **FEBRUARY 25, 2010**. Defendants shall file a joint opposition by **MARCH 4, 2010**. Plaintiffs'
21 reply brief shall be filed by **MARCH 11, 2010**. A joint hearing on defendants' February 4
22 motions and plaintiffs' cross-motion to compel shall be held on **MARCH 18, 2010, AT 8:00 A.M.**

23
24 **IT IS SO ORDERED.**

25
26 Dated: February 17, 2009.

27 
28 _____
WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE