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11 **UNITED STATES DISTRICT COURT**  
 12 **NORTHERN DISTRICT OF CALIFORNIA**

13  
 14 NICOLE BAKER,  
 15 Plaintiff,

**Case No.: C:13-0490 TEH**

16 vs.

**STIPULATION AND ~~PROPOSED~~  
 ORDER TO VACATE THE HEARING  
 DATE ON THE MOTION TO DISMISS  
 AND TO ALLOW FILLING OF THE  
 SECOND AMENDED COMPLAINT**

17 BAYER HEALTHCARE  
 18 PHARMACEUTICALS INC.,  
 19 Defendant

**Complaint Filed: February 4, 2013**

20  
 21 WHEREAS, Plaintiff filed her complaint on February 4, 2013;  
 22 WHEREAS, Plaintiff filed her First Amended Complaint on February 6, 2013;  
 23 WHEREAS, Defendant in the above-captioned matter filed its Motion to Dismiss  
 24 Plaintiff's First Amended Complaint on August 28, 2013;  
 25 WHEREAS, Plaintiff intends to file a Second Amended Complaint in response to the  
 26 Motion to Dismiss;  
 27 WHEREAS, the current due date for Plaintiff's Opposition to the Motion to Dismiss is  
 28

1 September 11, 2013;

2 WHEREAS, in the interests of judicial economy Plaintiff has requested and Defendant  
3 has agreed to withdraw the Motion to Dismiss, vacate the opposition and reply due dates, as  
4 well as the hearing date set for October 7<sup>th</sup>, 2013, and stipulate to an order allowing the filing of  
5 the Second Amended Complaint without motion practice, provided Defendant reserves its right  
6 to file a subsequent motion to dismiss, if appropriate, in response to Plaintiff's Second Amended  
7 Complaint; and

8 WHEREAS this is the first such request in this case and it will not affect any other  
9 deadlines currently in place;

10 IT IS HEREBY STIPULATED AND AGREED THAT:

11 Defendant's Motion to Dismiss is withdrawn and the hearing date vacated. Plaintiff shall  
12 have thirty days from the date of the order to file her Second Amended Complaint. Defendant  
13 reserves its right to file a subsequent motion to dismiss if appropriate.

14 Dated: Sept. 9, 2013

AUDET & PARTNERS, LLP

15 /s/  
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22 Dated: Sept. 9, 2013

SHOOK, HARDY & BACON

23 /s/  
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**PURSUANT TO STIPULATION, IT IS SO ORDERED**

Defendant's Motion to Dismiss is withdrawn and the hearing date vacated. Plaintiff shall file her Second Amended Complaint 30 days from the date of this order. Defendant shall file a responsive motion or answer thereafter.

Dated: 09/10/2013

