

1 **BERNSTEIN LITOWITZ BERGER**
 2 **& GROSSMANN LLP**
 3 BRETT M. MIDDLETON (Bar No. 199427)
 12481 High Bluff Drive, Suite 300
 4 San Diego, California 92130
 Tel: (858) 793-0070
 Fax: (858) 293-0323
 brettm@blbglaw.com

5 *Attorneys for Plaintiff International Union*
 6 *of Operating Engineers Local 478*

7 *[Additional Counsel on Signature Page]*

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

11 INTERNATIONAL UNION OF
 12 OPERATING ENGINEERS LOCAL 478,
 Derivatively on Behalf of Nominal Defendant
 13 IMPAX LABORATORIES, INC.

14 Plaintiff,

15 vs.

16 LARRY HSU, G. FREDERICK
 WILKINSON, LESLIE Z. BENET, ROBERT
 17 L. BURR, ALLEN CHAO, NIGEL T.
 FLEMING, MICHAEL MARKBREITER,
 18 MICHAEL J. NESTOR, MARY K.
 PENDERGAST, BRYAN M. REASONS,
 19 and PETER R. TERRERI,

20 Defendants.
 21

Case No.: 14-cv-04980-SC

**STIPULATION AND [~~PROPOSED~~]
 RESCHEDULING ORDER**

SHAREHOLDER DERIVATIVE ACTION

22
 23 WHEREAS, on November 10, 2014, plaintiff International Union of Operating Engineers
 24 Local 478 (“IUOE” or “Plaintiff”) by and through its counsel, initiated this shareholder
 25 derivative action on behalf of nominal defendant Impax Laboratories, Inc. (“Impax”) and against
 26 defendants Larry Hsu, G. Frederick Wilkinson, Leslie Z. Benet, Robert L. Burr, Allen Chao,
 27 Nigel T. Fleming, Michael Markbreiter, Michael J. Nestor, Mary K. Pendergast, Bryan M.
 28 Reasons, and Peter R. Terreri, (collectively, “Defendants”);

1 WHEREAS, on December 17, 2014, Plaintiff and plaintiff in *Wickey v. Larry Hsu, et al.*,
2 No. 14-cv-04266-JD (collectively, “Plaintiffs”) jointly filed an unopposed motion to consolidate
3 the *Wickey* and *IUOE* actions in front of the Honorable Judge Donato;

4 WHEREAS, on January 21, 2015, Judge Donato denied the Motion to Consolidate;

5 WHEREAS, based on Judge Donato’s denial of the Motion to Consolidate, Defendants’
6 motion to dismiss is due within 30 days of such ruling (or February 20, 2015), pursuant to the
7 Stipulation and Rescheduling Order entered by this Court on January 5, 2015 (ECF No. 30);

8 WHEREAS, on January 26, 2015, Plaintiffs filed a Joint Administrative Motion To
9 Consider Whether Cases Should Be Related And Notice Of Pendency Of Other Action Or
10 Proceeding (the “Administrative Motion”) before Judge Donato;

11 WHEREAS, on January 26, 2015, Plaintiff IUOE filed a Notice Of Pendency Of Other
12 Action Or Proceeding Pursuant To Civil Local Rule 3-13 in the above captioned action;

13 WHEREAS Plaintiffs intend to file a renewed motion to consolidate the *Wickey* and
14 *IUOE* actions consistent with the outcome of the Administrative Motion, in the coming days;

15 WHEREAS, if consolidated, Plaintiffs intend to file an amended consolidated complaint;
16 and

17 WHEREAS, the parties agree that it would be a waste of judicial resources for
18 Defendants to prepare and file a motion to dismiss prior to Judge Donato’s ruling on the renewed
19 motion to consolidate and, if granted, the amended consolidated complaint being filed;

20 NOW, THEREFORE, the undersigned parties, by and through their counsel of record,
21 stipulate as follows:

- 22 1. The current February 20, 2015 deadline for Defendants’ motion to dismiss is
23 vacated.
- 24 2. If Judge Donato grants Plaintiffs’ renewed motion for consolidation (or the Court
25 consolidates the *Wickey* and *IUOE* actions *sua sponte*), Defendants shall file and
26 serve their motion to dismiss within 45 days of plaintiffs filing an amended
27 consolidated complaint.
- 28 3. If the Court denies Plaintiffs’ renewed motion for consolidation, Defendants shall

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file and serve their motion to dismiss within 30 days of such ruling.

DATED: January 27, 2015

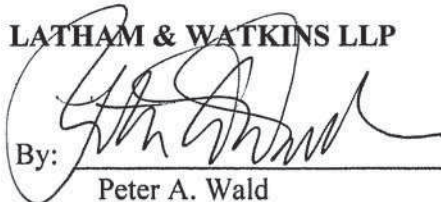
**BERNSTEIN LITOWITZ BERGER
& GROSSMAN LLP**

By: /s/ Brett M. Middleton
Brett M. Middleton

Brett M. Middleton (Bar No. 199427)
12481 High Bluff Drive, Suite 300
San Diego, California 92130
Tel: (858) 793-0070
Fax: (858) 793-0323
brettm@blbgllaw.com

*Counsel for Plaintiff International Union of
Operating Engineers Local 478*

LATHAM & WATKINS LLP

By: 
Peter A. Wald

Peter A. Wald (Bar No. 85705)
Marcy C. Priedeman (Bar No. 258505)
505 Montgomery St., Suite 2000
San Francisco, California 94111
Telephone: (415) 391-0600
Facsimile: (415) 395-8095
peter.wald@lw.com
marcy.priedeman@lw.com

and

Patrick E. Gibbs (Bar No. 183174)
140 Scott Drive
Menlo Park, California 94025-1008
Telephone: (650) 328-4600
Facsimile: (650) 463-2600
patrick.gibbs@lw.com

*Counsel for Defendants Larry Hsu, G. Frederick
Wilkinson, Leslie Z. Benet, Robert L. Burr, Allen
Chao, Nigel T. Fleming, Michael Markbretier,
Michael J. Nestor, Mary K. Pendergast, and
Bryan M. Reasons*

and

Nominal Defendant Impax Laboratories, Inc.

