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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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SAN FRANCISCO DIVISION

11 BRIAN CLEVLEN, individually and on
behalf of all others similarly situated,

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Plaintiff,

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v.

14 ANTHERA PHARMACEUTICALS, INC.,
PAUL F. TRUEX, CRAIG THOMPSON,
15 MAY LIU and WILLIAM SHANAHAN,

16

Defendants.

Case No.: 3:17-cv-00715-RS

**STIPULATION AND ~~[PROPOSED]~~ ORDER
SETTING PLEADING AND BRIEFING
SCHEDULE**

Courtroom: 3, 17th Floor
Judge: Hon. Richard Seeborg

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1 Pursuant to Civil Local Rule 6-2 and 7-12, Lead Plaintiff Urešomir Čorak (“Plaintiff”) and
2 defendants Anthera Pharmaceuticals, Inc., Paul F. Truex, Craig Thompson, May Liu, and William
3 Shanahan (“Defendants,” and together with Plaintiff, the “Parties”), by and through their
4 undersigned counsel of record, hereby stipulate to set the pleading and briefing schedule in the
5 above-captioned action.

6 WHEREAS, on February 13, 2017, Brian Clevlen filed a complaint captioned *Brian Clevlen*
7 *v. Anthera Pharmaceuticals, Inc., Paul F. Truex, Craig Thompson, May Liu, and William*
8 *Shanahan*, No. 3:17-cv-00715-RS (the “Action”), a purported class action under the Private
9 Securities Litigation Reform Act of 1995 (the “PSLRA”) alleging violations of the federal
10 securities laws;

11 WHEREAS, on March 10, 2017, the Court entered an order (Dkt. No. 14) approving the
12 Parties’ joint stipulation extending Defendants’ time to respond to the complaint, vacating the Order
13 Setting Initial Case Management Conference and ADR Deadlines entered by the Court on February
14 14, 2017 (Dkt. No. 4), continuing all dates and deadlines pending disposition on Defendants’
15 anticipated motion(s) to dismiss, and ordering that the Initial Case Management Conference shall
16 be held thirty (30) days after an order directing Defendants to file an answer (if any), or as soon
17 as possible thereafter consistent with the Court’s schedule;

18 WHEREAS, on April 17, 2017, pursuant to the PSLRA, Plaintiff filed a Motion for
19 Appointment as Lead Plaintiff and Approval of Counsel (Dkt. No. 16);

20 WHEREAS, on May 18, 2017, the Court entered an order (Dkt. No. 21) appointing Plaintiff
21 as lead plaintiff; and approving Plaintiff’s selection of Levi & Korsinsky LLP as lead counsel; and

22 WHEREAS, the Parties continue to believe that, because the PSLRA stays all discovery,
23 including initial disclosures, pending the disposition of motions to dismiss in securities actions such
24 as this one, it is appropriate to defer the initial case management conference and the completion of
25 initial disclosures until the lead plaintiff has filed a consolidated amended complaint, Defendants
26 have had the opportunity to file any motion to dismiss, and the Court has ruled on Defendants’
27 anticipated motion to dismiss. *See, e.g., Medhekar v. United States Dist. Court*, 99 F.3d 325, 328-
28 29 (9th Cir. 1996) (holding Fed. R. Civ. P. 26(a)’s initial disclosure requirements are disclosures

1 or other proceedings for purposes of PSLRA’s stay provision, and must be stayed pending
2 disposition of motion to dismiss);

3 NOW, THEREFORE, the Parties stipulate and agree, subject to the Court’s approval, as
4 follows:

5 1. Defendants need not answer, move against or otherwise respond to the complaint in
6 the Action until Plaintiff files or designates an operative complaint;

7 2. Plaintiff shall file an Amended Complaint, which will function as the operative
8 complaint, or designate an existing complaint as the operative complaint, on or before July 17,
9 2017;

10 3. Defendants shall answer, move against, or otherwise respond to the operative
11 complaint on or before September 15, 2017;

12 4. If Defendants move to dismiss the operative complaint, Plaintiff shall file any
13 opposition papers on or before November 15, 2017;

14 5. If Plaintiff files opposition papers, Defendants shall file any reply papers on or
15 before December 15, 2017;

16 6. This Stipulation is entered into without prejudice to any party seeking any interim
17 relief;

18 7. Nothing in this Stipulation shall be construed as a waiver of any of Defendants’
19 rights or positions in law or equity, or as a waiver of any defenses that Defendants would otherwise
20 have, including, without limitation, jurisdictional defenses; and

21 8. The Parties do not seek to stipulate to the foregoing schedule for the purpose of
22 delay, and the proposed dates will not have an effect on any pre-trial and trial dates as the Court
23 has yet to schedule these dates.

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ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED

Dated: 6/5, 2017



HON. RICHARD SEEBORG
U.S. DISTRICT COURT JUDGE