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10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 **EDWIN STREED, et al.,**

14 **Plaintiffs,**

15 **v.**

16 **WYETH PHARMACEUTICALS, INC., et**
17 **al.,**

18 **Defendants.**

Case No. 17-cv-02609-WHO

**NOTICE AND STIPULATION SETTING
AND CONTINUING BRIEFING SCHEDULE
AND HEARINGS ON DEFENDANTS'
MOTION TO SEVER PLAINTIFFS' CLAIMS
PURSUANT TO LOCAL RULE 6-1(b),
DEFENDANTS' MOTIONS TO DISMISS
PLAINTIFFS' FIRST AMENDED
COMPLAINT, PLAINTIFFS' MOTION TO
REMAND, AND DEADLINES TO RESPOND
TO COMPLAINT; DECLARATION OF
ALAN M. MANSFIELD; PROPOSED
ORDER**

**Current Dates: June 21, 2017 and
July 19, 2017**
Time: 2:00 p.m.
Courtroom: 2, 17th Floor
Judge: Hon. William H. Orrick

**Proposed New
Dates: July 19, 2017 and
Aug. 9, 2017**

26
27 Pursuant to Civil Local Rules 6-1 and 7-7, Plaintiffs and Defendants Teva
28 Pharmaceuticals USA, Inc. ("Teva"), Barr Pharmaceuticals, Inc. (n/k/a Barr Pharmaceuticals,

1 LLC) (“Barr”), Sandoz, Inc. (“Sandoz”), Eon Labs, Inc. (“Eon”), Zydus Pharmaceuticals USA,
2 Inc. (“Zydus”), Taro Pharmaceuticals USA, Inc. (“Taro”), Wyeth Pharmaceuticals Inc.
3 (“Wyeth”), Par Pharmaceutical Companies, Inc. (“Par”), and Upsher-Smith Laboratories, Inc.
4 (“Upsher-Smith”) through their respective counsel, HEREBY STIPULATE and AGREE as
5 follows:

6 WHEREAS, Plaintiffs filed their Complaint against Defendants (“Complaint”) on
7 March 24, 2017 in the Superior Court of the State of California for the County of Alameda (Case
8 No. RG17854340);

9 WHEREAS, Plaintiffs filed their First Amended Complaint against Defendants (“FAC”)
10 on May 1, 2017 in Alameda County Superior Court;

11 WHEREAS, on May 5, 2017, Defendants Sandoz, Inc. and Eon Labs, Inc. filed a Notice
12 of Removal of this action to the United States District Court, Northern District of California,
13 which was assigned Case No. 17-cv-02609-MEJ, and which has been subsequently assigned to
14 the Honorable William H. Orrick III;

15 WHEREAS, on May 10, 2017, Plaintiff Raymond Collette filed an Administrative
16 Motion to Consider Whether Cases Should be Related in *Collette v. Wyeth Pharmaceuticals,*
17 *Inc., et al.*, U.S. District Court, Northern District of California, Case No. 16-cv-01034-JD, which
18 pursuant to Local Rule 7-11 should be determined in the short term and identify which judge
19 will be assigned to this matter;

20 WHEREAS, on May 12, 2017 (Dkt. 23) Defendants Teva and Barr filed a Motion to
21 Dismiss Plaintiffs’ First Amended Complaint (“Teva/Barr Motion to Dismiss”), which is
22 currently set for hearing on July 19, 2017, the opposition to which is currently due on May 26,
23 2017, and to which a reply is due on June 2, 2017;

24 WHEREAS, on May 15, 2017 (Dkt. 25) Defendants Teva, Barr, Sandoz, Eon, Zydus,
25 Taro and Wyeth filed a Motion to Sever Plaintiffs’ Claims (“Motion to Sever”), which is
26 presently set for hearing on June 21, 2017, the opposition to which is due on May 30, 2017, and
27 to which a reply is due on June 6, 2017; and on May 25, 2017, Defendant Par filed a Notice of
28 Joinder and Joinder in Defendants’ Motion to Sever;

1 WHEREAS, on May 22, 2017 (Dkt. 38) Defendant Par filed a Motion to Dismiss for
2 Lack of Jurisdiction (“Par Motion to Dismiss”), which is currently set for hearing on July 19,
3 2017, the opposition to which is currently due on June 5, 2017, and to which a reply is due on
4 June 12, 2017;

5 WHEREAS, on May 22, 2017 (Dkt. 41) Defendants Eon and Sandoz filed a Motion to
6 Dismiss (“Eon/Sandoz Motion to Dismiss”), which is currently set for hearing on July 19, 2017,
7 the opposition to which is due on June 5, 2017, and to which a reply is due on June 12, 2017;

8 WHEREAS, on May 22, 2017 (Dkt. 46) Defendant Upsher-Smith filed a Motion to
9 Dismiss (“Upsher-Smith Motion to Dismiss”), which is currently set for hearing on July 19,
10 2017, the opposition to which is due on June 5, 2017, and to which a reply is due on June 12,
11 2017;

12 WHEREAS, Plaintiffs do not consent to the Notice of Removal filed by Defendants
13 Sandoz and Eon and will be filing a motion to remand this action to Alameda County Superior
14 Court on the basis that such removal was improper on the grounds stated in that Notice (“Motion
15 to Remand”);

16 WHEREAS, the parties agree that jurisdictional issues should be briefed and heard prior
17 to the Court addressing other issues raised by the pleadings;

18 WHEREAS, no prior extension of time in which to respond or continue these hearing
19 dates has been requested by any party;

20 WHEREAS, the extension of time agreed upon by the parties will not alter or affect any
21 event or deadline fixed by the Court at this time;

22 NOW, THEREFORE, the parties stipulate and agree as follows:

23 1. Plaintiffs shall file their Motion to Remand no later than May 31, 2017, and shall
24 set the motion for hearing on July 19, 2017;

25 2. Any opposition briefs directed at the Motion to Remand shall be filed on or
26 before June 20, 2017, and any reply brief in support of such motion shall be filed on or before
27 July 5, 2017;

28 3. Teva, Barr, Eon, Sandoz, and Upsher-Smith pursuant to Rule 7-7(a), hereby

1 provide notice that the hearing on the portions of their respective Motions to Dismiss that
2 concern issues other than personal jurisdiction are continued to August 9, 2017; the hearing on
3 the portions of their Motions to Dismiss that concern the issue of personal jurisdiction will
4 remain on July 19, 2017;

5 4. Any opposition briefs directed at the Par Motion to Dismiss, and the personal
6 jurisdiction arguments in the Teva/Barr Motion to Dismiss, Eon/Sandoz Motion to Dismiss, and
7 Upsher-Smith Motion to Dismiss shall be filed on or before June 16, 2017, and any reply briefs
8 in support of these Defendants' personal jurisdiction arguments shall be filed on or before June
9 30, 2017;

10 5. Defendant Wyeth shall file any motion to dismiss for lack of personal jurisdiction
11 ("Wyeth Motion to Dismiss") on or before June 9, 2017 and shall notice such motion for hearing
12 on July 19, 2017; any opposition briefs directed at the Wyeth Motion to Dismiss shall be filed on
13 or before June 23, 2017, and any reply briefs in support of such motion shall be filed on or
14 before June 30, 2017;

15 6. The Defendants who filed the Motion to Sever, pursuant to Rule 7-7(a), hereby
16 provide notice that the hearing on the Motion to Sever is continued to August 9, 2017;

17 7. Any opposition brief directed at the Motion to Sever and arguments other than
18 personal jurisdiction in the Teva/Barr Motion to Dismiss, Eon/Sandoz Motion to Dismiss, and
19 Upsher-Smith Motion to Dismiss shall be filed on or before July 12, 2017, and any reply brief in
20 support of such motions (or portions thereof, as designated) shall be filed on or before July 26,
21 2017;

22 8. Any opposition or reply briefs regarding the personal jurisdiction issues in the
23 Teva/Barr Motion to Dismiss, the Eon/Sandoz Motion to Dismiss, and the Upsher-Smith Motion
24 to Dismiss (respectively) must, in combination with the opposition and reply briefing on issues
25 other than personal jurisdiction, be no more than the page numbers allotted for such briefs
26 (specifically, per Rule 7-3(a), 25 pages for an opposition brief, and, per Rule 7-3(c), 15 pages for
27 a reply brief) had all of the issues been addressed in a single brief for each respective Motion to
28 Dismiss;

1 9. Defendant Wyeth shall have until 21 days after the Court rules on the Motion to
2 Remand or Motion to Sever, whichever is later, to file a motion to dismiss on substantive
3 grounds other than lack of personal jurisdiction.

4 10. Defendants Taro and Zydus shall have until 15 days after the Court rules on the
5 Motion to Remand to file a motion or responsive pleading directed at the FAC.

6 11. The Parties enter into this Stipulation without waiving any claim that personal
7 and/or subject matter jurisdiction is not proper before this Court, and without waiving any other
8 substantive defense to the claims in the FAC.

9 Dated: May 25, 2017

CONSUMER LAW GROUP OF CALIFORNIA

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22 Attorneys for Plaintiffs

23 Dated: May 25, 2017

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Attorneys for Defendants TEVA
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PHARMACEUTICALS, INC. (n/k/a Barr
Pharmaceuticals, LLC)

Dated: May 25, 2017

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Dated: May 25, 2017

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Dated: May 25, 2017

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1 Dated: May 25, 2017

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7 PAR PHARMACEUTICAL COMPANIES,
8 INC.

9 Dated: May 25, 2017

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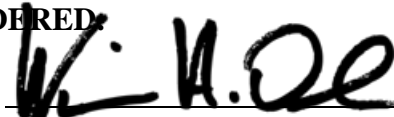
15
16 **Filer's Attestation:** Pursuant to General Order No. 45, § X(B), I attest under penalty of perjury
17 that concurrence in the filing of the within document has been obtained from all parties.
18

19 Dated: May __, 2017

20
21 By: S/Alan M. Mansfield
22 ALAN M. MANSFIELD (SBN 125998)

23 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

24 Dated: May 26, 2017

25 
26 Hon. William H. Orrick
27 United States District Judge
28

DECLARATION OF ALAN M. MANSFIELD

I, Alan M. Mansfield, declare:

1. I am an attorney duly admitted to practice before this Court. I am one of the counsel for Plaintiffs in this case. I have personal knowledge of the facts set forth below.

2. Pursuant to Northern District of California Local Rules 6-2(a)(2), the Court has not previously granted any time modifications related to (1) Defendants Teva and Barr's Motion to Dismiss Plaintiffs' First Amended Complaint, (2) Defendants Teva, Barr, Sandoz, Eon, Zydus, Taro and Wyeth's Motion to Sever Plaintiffs' Claims, (3) Defendant Par's Motion to Dismiss Plaintiffs' First Amended Complaint, (4) Defendants Eon and Sandoz's Motion to Dismiss Plaintiffs' First Amended Complaint, or (5) Defendant Upsher-Smith's Motion to Dismiss Plaintiffs' First Amended Complaint.

3. Plaintiffs filed their Complaint against Defendants ("Complaint") on March 24, 2017 in the Superior Court of the State of California for the County of Alameda (Case No. RG17854340).

4. Plaintiffs filed their First Amended Complaint against Defendants ("FAC") on May 1, 2017 in Alameda County Superior Court.

5. On May 5, 2017, Defendants Sandoz, Inc. and Eon Labs, Inc. filed a Notice of Removal of this action to the United States District Court, Northern District of California, which was assigned Case No. 17-cv-02609-MEJ, and which has been subsequently assigned to the Honorable William H. Orrick.

6. On May 10, 2017, an Administrative Motion to Consider Whether Cases Should be Related was filed in *Collette v. Wyeth Pharmaceuticals, Inc., et al.*, U.S. District Court, Northern District of California, Case No. 16-cv-01034-JD, which pursuant to Local Rule 7-11 should be determined in the short term and identify which judge will be assigned to this matter.

7. On May 12, 2017 (Dkt. 23), Defendants Teva and Barr filed a Motion to Dismiss Plaintiffs' First Amended Complaint ("Motion to Dismiss"), which is set for hearing on July 19, 2017, the opposition to which is currently due on May 26, 2017, and to which a reply is due June 2, 2017.

1 8. On May 15, 2017 (Dkt. 25) Defendants Teva, Barr, Sandoz, Eon, Zydus, Taro
2 and Wyeth filed a Motion to Sever Plaintiffs' Claims ("Motion to Sever"), which is presently set
3 for hearing on June 21, 2017, the opposition to which is due on May 30, 2017, and to which a
4 reply is due June 6, 2017.

5 9. On May 22, 2017 (Dkt. 38) Defendant Par filed a Motion to Dismiss for Lack of
6 Jurisdiction ("Par Motion to Dismiss"), which is currently set for hearing on July 19, 2017, the
7 opposition to which is currently due on June 5, 2017, and to which a reply is due on June 12,
8 2017.

9 10. On May 22, 2017 (Dkt. 41) Defendants Eon and Sandoz filed a Motion to
10 Dismiss ("Eon/Sandoz Motion to Dismiss"), which is currently set for hearing on July 19, 2017,
11 the opposition to which is due on June 5, 2017, and to which a reply is due on June 12, 2017.

12 11. On May 22, 2017 (Dkt. 46) Defendant Upsher-Smith filed a Motion to Dismiss
13 ("Upsher-Smith Motion to Dismiss"), which is currently set for hearing on July 19, 2017, the
14 opposition to which is due on June 5, 2017, and to which a reply is due on June 12, 2017.

15 12. Plaintiffs do not consent to the Notice of Removal filed by Defendants Sandoz
16 and Eon and will be filing a motion to remand this action to Alameda County Superior Court on
17 the basis that such removal was improper on the grounds stated in that Notice ("Motion to
18 Remand").

19 13. I will be unavailable for a hearing on the Motion to Sever June 21, 2017, and
20 plaintiffs' counsel have several pending commitments such that they do not have adequate time
21 to respond to the pending Motion to Sever and Motion to Dismiss while preparing the Motion to
22 Remand, which must be filed by no later than June 4, 2017.

23 14. The scheduling and extension of time agreed upon by the parties as set forth in
24 the Stipulation will not alter or affect any deadline fixed by the Court at this time, and granting
25 this Stipulation will ensure judicial efficiency by having the relevant motions set for hearing at
26 the same time rather than on multiple dates, and are briefed so that the Court can decide how it
27 wishes to address these motions.

28 I declare under penalty of perjury under the laws of the United States that the foregoing

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is true and correct.

Executed this 25TH day of May, 2017, at San Diego, California.

S/ Alan M. Mansfield

ALAN M. MANSFIELD