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 16 **FRESENIUS MEDICAL CARE HOLDINGS,**
 17 **INC. AND FRESENIUS USA, INC.**

18 **UNITED STATES DISTRICT COURT**
 19 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 20 **SAN FRANCISCO DIVISION**

21 BAXTER HEALTHCARE CORPORATION,
 22 BAXTER INTERNATIONAL INC., BAXTER
 HEALTHCARE SA, and DEKA LIMITED
 PARTNERSHIP,

23 *Plaintiffs and Counter-defendants,*

24 vs.

25 FRESENIUS MEDICAL CARE HOLDINGS,
 26 INC., d/b/a FRESENIUS MEDICAL CARE
 NORTH AMERICA, and FRESENIUS USA,
 INC.,

27 *Defendants and Counter-claimants.*
 28

Case No. C 07-01359 PJH (JL)

**JOINT STIPULATION REGARDING
 THE SCHEDULE FOR BRIEFING AND
 HEARING PLAINTIFFS' MOTION TO
 STAY PATENTS AND DEFENDANTS'
 CROSS-MOTION TO STAY PATENTS**

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WHEREAS, to preserve this Court's time and resources;

WHEREAS, to avoid needless repetition of arguments;

NOW, THEREFORE, it is stipulated by the respective parties and their counsel of record:

a consolidated briefing and hearings schedule relating to **Plaintiffs' Motion to Stay Case Relating to the Merits of the Claims, Defenses, and Counterclaims Relating to United States Patent Nos. 5,438,510, 6,929,751 and 7,083,719** and to **Defendants' Cross-motion to Stay Case as to United States Patent Nos. 6,503,062; 6,808,369; 6,814,547; 6,929,751; and 7,083,719** is commended to the Court for its adoption as follows.

1. Arguments regarding both Plaintiffs' Motion and Defendants' Cross-motion will be heard on the noticed hearing date of November 19, 2008, at 9:00 a.m.
2. Plaintiffs' hearing date of November 5, 2008, will be vacated.
3. Pursuant to L.R. 7-3(a), Plaintiffs will file a single reply and opposition brief not to exceed 25 pages of text no later than October 29, 2008, twenty-one days before the hearing date.
4. Pursuant to L.R. 7-3(c), Defendants will file a reply brief not to exceed 15 pages of text no later than November 5, 2008, fourteen days before the hearing date.

* * *

1 October 17, 2008

2 By: /s David K. Callahan s/

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22 **BAXTER INTERNATIONAL INC., and**
23 **BAXTER HEALTHCARE SA**

24 October 17, 2008

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October 17, 2008

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FRESENIUS MEDICAL CARE HOLDINGS, INC. AND FRESENIUS USA, INC.

ELECTRONIC FILING DECLARATION OF DAVID K. CALLAHAN

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I, David K. Callahan, declare as follows:

- 5. I am a partner at Kirkland & Ellis LLP, and I am Baxter Healthcare Corporation’s legal counsel in the above-captioned litigation.
- 6. Pursuant to the Northern District of California Electronic Filing Procedures and General Order No. 45, I attest that Michael E. Florey, counsel for Defendants, Fresenius Medical Care Holdings, Inc., d/b/a Fresenius Medical Care North America, and Fresenius USA, Inc., (collectively “Fresenius”), and Maureen K. Toohey, counsel for Plaintiff DEKA Products Limited Partnership, concur in the filing of this document and have granted me permission to electronically file this document absent their actual signatures.

Dated: October 17, 2008

Respectfully submitted,

Kirkland & Ellis LLP

By: /s David K. Callahan s/
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*Attorney for Plaintiffs and Counter-defendants
 BAXTER HEALTHCARE CORPORATION,
 BAXTER INTERNATIONAL INC., and
 BAXTER HEALTHCARE SA*

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

BAXTER HEALTHCARE CORPORATION,
BAXTER INTERNATIONAL INC., BAXTER
HEALTHCARE SA, and DEKA LIMITED
PARTNERSHIP,

Plaintiffs and Counter-defendants,

vs.

FRESENIUS MEDICAL CARE HOLDINGS,
INC. d/b/a FRESENIUS MEDICAL CARE
NORTH AMERICA and FRESENIUS USA,
INC.,

Defendants and Counter-claimants.

Case No. C 07-01359 PJH (JL)

**~~PROPOSED~~ ORDER SETTING THE
SCHEDULE FOR BRIEFING AND
HEARING PLAINTIFFS' MOTION TO
STAY PATENTS AND DEFENDANTS'
CROSS-MOTION TO STAY PATENTS**

GOOD CAUSE HAVING BEEN SHOWN, the Court hereby ORDERS the following:

The hearing date for both **Plaintiffs' Motion to Stay Case Relating to the Merits of the Claims, Defenses, and Counterclaims Relating to United States Patent Nos. 5,438,510, 6,929,751 and 7,083,719** and to **Defendants' Cross-motion to Stay Case as to United States Patent Nos. 6,503,062; 6,808,369; 6,814,547; 6,929,751; and 7,083,719** shall be November 19, 2008, at 9:00 a.m.

1 The hearing date of November 5, 2008, for **Plaintiffs' Motion to Stay Case Relating to the**
2 **Merits of the Claims, Defenses, and Counterclaims Relating to United States Patent Nos.**
3 **5,438,510, 6,929,751 and 7,083,719** is vacated.

4
5 Pursuant to L.R. 7-3(a), Plaintiffs shall file a single reply and opposition brief—not to exceed
6 25 pages of text—no later than October 29, 2008, twenty-one days before the hearing date.

7
8 Pursuant to L.R. 7-3(c), Defendants shall file a reply brief—not to exceed 15 pages of text—
9 no later than November 5, 2008, fourteen days before the hearing date.

10
11 IT IS SO ORDERED.

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13
14 DATED: 10/21/08

