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

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

19 BAXTER HEALTHCARE CORPORATION,  
 20 BAXTER INTERNATIONAL INC.,  
 BAXTER HEALTHCARE SA, AND  
 21 DEKA LIMITED PARTNERSHIP,

22 *Plaintiffs and Counter-defendants,*

23 vs.

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

27 *Defendants and Counter-claimants.*

Case No. C 07-01359 PJH (JL)

**STIPULATION TO SET CASE DATES  
 THROUGH TRIAL**

1 WHEREAS, on March 19, 2009, the Court instructed the parties to submit a revised  
 2 jointly proposed schedule for future litigation no later than March 26, 2009;

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

5 The following table is commended to the Court for its adoption as the dates by which the  
 6 present case shall proceed.

EVENT	By Local Rule or Previous Court Order	Proposed Dates
Final Infringement Contentions (Patent L.R. 3-6(a))	Not later than 30 days after Claim Construction Ruling	March 12, 2009
Final Invalidity Contentions (Patent L.R. 3-6(a))	Not later than 50 days after Claim Construction Ruling	April 1, 2009
Defendants' Disclosure of Reliance on Advice of Counsel and Production of Opinion (Patent L.R. 3-8)	Not later than 50 days after Claim Construction Ruling	April 1, 2009
Willfulness Discovery Cut-Off	14 calendar days after Defendants' Disclosure of Reliance on Advice of Counsel and Production of Opinion	April 15, 2009
Deadline for Expert Reports for Issues on which the Parties Bear the Burden	60 days following claim construction ruling	April 24, 2009
Deadline for Rebuttal Expert Reports	88 days after claim construction ruling	June 5, 2009
Expert Discovery Cut-Off	110 days after claim construction ruling	July 2, 2009
Final Date for Motions to Compel Expert Discovery (Civ. L.R. 26)	No more than 7 days after cut-off	July 8, 2009
Deadline for Filing of Dispositive Pretrial Motions	No later than 35 days before Hearing Date	July 22, 2009
Deadline for <i>Daubert</i> Motions (Dkt 87)	No later than 35 days before Hearing Date	No later than April 22, 2010 (Subject to Change if Trial Date Changes)
Deadline for Hearing Dispositive Motions (Dkt 87)	No later than 120 days before trial and not less than 35 days after filing of motion (Civ. L.R. 7-2)	September 2, 2009

1 2 3	Deadline for Hearing(s) re <i>Daubert</i> Motions (Dkt 87)	Hearing date from date dispositive motions are heard up to and including pretrial conference hearing date provided 35 day notice and briefing schedule is followed	No later than May 27, 2010 (Subject to Change if Trial Date Changes)
4	Final Pretrial Conference meet and confer (Dkt 87)	Not less than 40 days prior to Pretrial Conference	November 23, 2009
5 6	Joint Pretrial Statement, trial briefs, motions <i>in limine</i> , etc (Dkt 87)	Not less than 30 days prior to Pretrial Conference	December 8, 2009
7	Oppositions to Motions <i>in limine</i> (Dkt 87)	Not less than 15 days prior to the pretrial conference	December 22, 2009
8	Pretrial Conference		May 27, 2010 (2:30 p.m. (PDT))
9	Trial	No longer than 16 trial days	June 28, 2010

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March 26, 2009

By: /s/ David K. Callahan /s/

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March 26, 2009

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March 26, 2009

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

1                   **ELECTRONIC FILING DECLARATION OF DAVID K. CALLAHAN, P.C.**

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3           I, David K. Callahan, declare as follows:

4           1.     I am a partner at Kirkland & Ellis LLP, and I am Baxter Healthcare  
5 Corporation's, Baxter International Inc.'s, and Baxter Healthcare SA's legal counsel in the  
6 above-captioned litigation.

7           2.     Pursuant to the Northern District of California Electronic Filing Procedures and  
8 General Order No. 45, I attest that Michael E. Florey, counsel for Defendants, Fresenius Medical  
9 Care Holdings, Inc., d/b/a Fresenius Medical Care North America, and Fresenius USA, Inc.,  
10 (collectively "Fresenius"), and Maureen K. Toohey, counsel for Plaintiff DEKA Products  
11 Limited Partnership, concur in the filing of this document and have granted me permission to  
12 electronically file this document absent their actual signatures.

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14       Dated: March 26, 2009

Respectfully submitted,

Kirkland & Ellis LLP

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17       By: /s/ David K. Callahan /s/  
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19             *Attorney For Plaintiffs and Counter-defendants*  
20             *BAXTER HEALTHCARE CORPORATION,*  
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