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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

United States District Court
Northern District of California

STEPHEN WENDELL & LISA
WENDELL, as successors in interest to
MAXX WENDELL deceased,

Plaintiffs,

v.

JOHNSON & JOHNSON, et al.,

Defendants.

Case No. 09-4124 CW (JSC)

ORDER GRANTING IN PART
PLAINTIFFS' MOTION FOR RELIEF
TO MODIFY DISCOVERY
DEADLINES (Dkt. No. 263)

Presently before the Court is Plaintiffs' Motion for Relief to Modify Discovery Deadlines and all Other Applicable Deadlines by 60 Days. (Dkt. No. 263.) Specifically, Plaintiffs seek to take a number of depositions that they were unable to schedule and complete before the close of fact discovery on February 26, 2013.¹ For the reasons stated below, the motion is GRANTED in part.

¹ Although Plaintiffs request that "all other applicable deadlines" be extended 60 days, these other applicable deadlines are not identified. Because the Court concludes that limited fact discovery can be extended without disrupting any of the other dates in the case management order, the Court declines to order or recommend that any other deadline be extended.

1 deposition the day after their deposition of Dr. Popik, where she testified that J&J, Centocor’s parent
2 company, had a separate pharmacovigilance operation. (*See* Dkt. No. 264 at 5; *see also* Dkt. No.
3 265-1 at 25:16-26:2.) Because J&J has not opposed Plaintiffs’ request for this deposition, and
4 because there is good cause, the Court grants Plaintiffs’ motion to depose a witness from J&J on the
5 topics identified in its request.

6 Plaintiffs also seek the deposition of Robert Baldassano, M.D., a pediatric gastroenterologist
7 at Children’s Hospital of Philadelphia (“CHOP”), who Plaintiffs believe “was the principal clinical
8 investigator for the study which led to the application for an indication for pediatric Chron disease,”
9 author of a relevant case report, and a “consultant for Centocor/J&J . . . concerning the detection of
10 the safety signal of HSTCL and the response to it.” (Dkt. No. 264 ¶ 12.) Plaintiffs subpoenaed Dr.
11 Baldassano based in part on the testimony of Dr. Popik, with a return date of the subpoena for
12 February 26, 2013. (*Id.*) Dr. Baldassano’s counsel at CHOP advised Plaintiffs that beginning on
13 February 25, 2013, he would be unavailable “on the order of weeks at a minimum.” (*Id.*) Because
14 no defendant objects to Plaintiffs’ request for relief to depose Dr. Baldassano, and because there is
15 good cause, the Court grants Plaintiff’s motion.

16 Finally, the Court grants Plaintiffs’ request for leave to conduct three depositions of
17 Defendant Abbott Laboratories (“Abbott”). Plaintiffs and Abbott have reached an agreement
18 whereby Plaintiffs may depose the three witnesses after the February 26, 2013 cut-off in exchange
19 for Plaintiffs’ agreement to narrow its discovery request. (Dkt. No. 271.)²

20 CONCLUSION

21 For the reasons stated, Plaintiffs’ motion is GRANTED. Although Plaintiffs requested an
22 extension of the discovery deadline of only 60 days, given the time that has elapsed between the
23 filing of the present motion and this Order, the Court concludes that the specific discovery granted
24 above shall be completed by no later than May 23, 2013. All other discovery deadlines, motion
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27 ² To the extent Plaintiffs’ motion seeks relief to conduct additional discovery of Defendants Teva
28 Pharmaceuticals USA, Inc. (“Teva”) and Par Pharmaceuticals, Inc. (“Par”), such a request is
duplicative of Plaintiffs’ motion to compel. The Court’s Order on the motion to compel resolves the
scope and timeline of the discovery requested from Teva and Par.

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hearings, and trial-related dates shall remain unchanged from the August 8, 2012 case management order. (*See* Dkt. No. 236.)

IT IS SO ORDERED.

Dated: April 22, 2013



JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE