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11 *Attorneys for Defendants*  
*Merck & Company, Inc., Merck Sharp & Dohme LLC (f/k/a Merck*  
 12 *Sharp & Dohme Corporation), MSP Singapore Company LLC,*  
 13 *Schering-Plough Corporation, and Schering Corporation*

14 [Additional Counsel on Signature Page]

15 IN THE UNITED STATES DISTRICT COURT  
 16 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 17 OAKLAND DIVISION

18 KAISER FOUNDATION HEALTH PLAN,  
 19 INC.,  
 20 Plaintiff,  
 21 v.  
 22 MERCK & COMPANY, INC.; MERCK SHARP  
 & DOHME CORPORATION; SCHERING-  
 23 PLOUGH CORPORATION; SCHERING  
 CORPORATION; MSP SINGAPORE  
 24 COMPANY LLC; GLENMARK  
 PHARMACEUTICALS LTD.; AND  
 25 GLENMARK PHARMACEUTICALS INC.,  
 USA,  
 26 Defendants.

CASE NO. 4:21-cv-05497-HSG  
**STIPULATION AND ORDER  
 REGARDING BRIEFING  
 SCHEDULE**

1 Pursuant to Civil Local Rule 7-12, Merck & Company, Inc., Merck Sharp & Dohme LLC (f/k/a  
2 Merck Sharp & Dohme Corporation), MSP Singapore Co. LLC, Schering-Plough Corporation, and  
3 Schering Corporation (“Merck”), and Glenmark Pharmaceuticals Inc., USA and Glenmark  
4 Pharmaceuticals Ltd. (“Glenmark” and together with Merck, “Defendants”), along with Plaintiff Kaiser  
5 Health Plan Inc., by and through their undersigned counsel of record, hereby stipulate as follows:

6 WHEREAS, this action was transferred to the Eastern District of Virginia and consolidated as  
7 part of *In re Zetia (Ezetimibe) Antitrust Litigation*, 2:18-md-02836-RBS-DEM (E.D. Va.) (the “*Zetia*  
8 MDL”) on August 4, 2021;

9 WHEREAS, Plaintiff filed an amended complaint in the *Zetia* MDL on February 9, 2022;

10 WHEREAS, Defendants filed a motion to dismiss the amended complaint in the *Zetia* MDL on  
11 March 2, 2022, which motion was fully briefed but not decided prior to the action being remanded back  
12 to this Court;

13 WHEREAS, the MDL Panel remanded the action back to this Court on December 12, 2023;

14 WHEREAS, the parties believe that it is appropriate to permit Defendants to file a new motion  
15 to dismiss in this Court because the prior motion addressed claims asserted by other plaintiffs in cases  
16 not before this Court, the law cited in the parties’ briefing was primarily based on Fourth Circuit  
17 precedent rather than Ninth Circuit precedent, and the briefing assumed a familiarity with the facts of  
18 this case because it was submitted to a court that had presided over the matter for several years;

19 WHEREAS, the Court held a telephonic initial case management conference on February 27,  
20 2024;

21 WHEREAS, the Court directed the parties to meet and confer and file a stipulation and proposed  
22 order setting a motion to dismiss briefing schedule by March 5, 2024 (Dkt. 56);

23 WHEREAS, the parties have conferred and agreed to a schedule for briefing and page limits  
24 for Defendants’ anticipated motion to dismiss;

25 NOW, THEREFORE, Plaintiff and Defendants have agreed to, and respectively submit for  
26 approval by the Court, the following schedule and page limits for Defendants’ Motion to Dismiss:

- 27 1. By March 8, 2024, Plaintiff will file on the docket in this action the amended complaint it filed  
28 in the *Zetia* MDL on February 9, 2022.

- 1 2. Defendants will jointly file a Motion to Dismiss by April 2, 2024, not to exceed 35 pages of  
2 text in length.
- 3 3. Plaintiff will file an opposition to the Motion to Dismiss by April 30, 2024, not to exceed 35  
4 pages of text in length.
- 5 4. Defendants will jointly file a reply to the opposition to the Motion to Dismiss by May 17, 2024,  
6 not to exceed 25 pages of text in length.

7 **IT IS SO STIPULATED.**

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1 DATED: March 5, 2024

Respectfully submitted,

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3 /s/ Samuel G. Liversidge

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16 /s/ Devora W. Allon

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*Attorneys for Plaintiff Kaiser Health Plan Inc.*

1 **ECF ATTESTATION**

2 Pursuant to Civil Local Rule 5-1(h)(3), I attest that the concurrence in the filing of this  
3 document has been obtained from all other signatories.

4 Dated: March 5, 2024

/s/ Samuel G. Liversidge  
5 Samuel G. Liversidge

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7 \* \* \* \* \*

8 **ORDER**

9 PURSUANT TO STIPULATION, IT IS SO ORDERED.

10 Dated: 3/27/2024

11 Haywood S. Gilliam, Jr.  
12 Hon. Haywood S. Gilliam, Jr.  
13 United States District Judge