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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

MEDIMMUNE, LLC,
 Plaintiff,
 v.
 PDL BIOPHARMA, INC.,
 Defendant.

Case No. CV 08 5590 JF

Action Filed: December 16, 2008

**STIPULATION AND [PROPOSED]
 ORDER APPOINTING SPECIAL
 MASTER MARTIN QUINN**

1 Pursuant to Federal Rule of Civil Procedure 53, and with the consent of the plaintiff and
2 counterclaim defendant, MedImmune, LLC (“MedImmune”), and the defendant and counterclaim
3 plaintiff, PDL BioPharma, Inc. (“PDL”), the Court hereby appoints Martin Quinn, Esq. as Special
4 Master to assist the Court with discovery in this litigation (hereinafter “Special Master”).

5 The Special Master is hereby appointed pursuant to Rule 53(a)(1) to perform duties
6 consented to by the parties (Rule 53(a)(1)(A)), and to address pretrial discovery matters that
7 cannot be addressed effectively and timely by an available district judge or magistrate judge of the
8 district (Rule 53(a)(1)(C)).

9 Pursuant to Rule 53(a)(2) and 53(b)(3), the Special Master shall promptly file an affidavit
10 with this Court stating that, if true, he has no relationship to the parties, counsel, action, or Court
11 that would require disqualification of a judge under 28 U.S.C. section 455. During the course of
12 these proceedings, the Special Master and the parties shall notify this Court immediately if they
13 become aware of any potential grounds that would require disqualification.

14 Pursuant to Rule 53(a)(3), the Court has considered the fairness of imposing the likely
15 expenses of the Special Master on the parties. The Court believes that the appointment and use of
16 the Special Master will materially advance the litigation, thereby achieving considerable cost-
17 saving to all parties. Moreover, the Court notes that the parties have consented to the Special
18 Master’s appointment and have agreed to pay the compensation ordered herein. The Court will
19 protect against unreasonable expenses and delay through regular communication with the Special
20 Master.

21 Pursuant to Rule 53(b)(1) the Court gave all parties to the proceedings notice of its intent
22 to appoint the Special Master and an opportunity to be heard with respect to such appointment
23 before issuing this Order.

24 Pursuant to Rule 53(b)(2), the Court hereby directs the Special Master to proceed with all
25 reasonable diligence in performing his duties.

26 Pursuant to Rule 53(b)(2)(A), the Special Master shall assist the Court with management
27 of discovery pursuant to the Federal Rules of Civil Procedure, and in particular Rule 26 and with
28 adjudication of all discovery motions and disputes between the parties in this matter pursuant to

1 Rules 37 or 45. All currently pending discovery motions and disputes between the parties are
2 hereby referred to the Special Master pursuant to this Order.

3 The Special Master shall have the authority provided in Rule 53(c) and 53(d).

4 The procedural requirements contained in this Court's Local Rules and/or Pretrial Orders
5 shall govern any motion practice before the Special Master subject to the Special Master's
6 discretion to adopt reasonable alternative procedural requirements with notice to the parties
7 thereof.

8 Pursuant to Rule 53(b)(2)(B), the Special Master may communicate ex parte with the
9 Court at any time. The Special Master shall not communicate ex parte with any party, third party
10 witness, or counsel for any party or third party.

11 Pursuant to Rule 53(b)(2)(C), the Special Master shall maintain orderly files consisting of
12 all documents submitted to him by the parties and any of his written orders, findings, and/or
13 recommendations. Pursuant to Rule 53(e), the Special Master shall file any written orders,
14 findings, and/or recommendations with the Court via the Court's Electronic Case Filing ("ECF").
15 Such filing shall fulfill the Special Master's duty to serve his order on the parties.

16 Pursuant to Rule 53(b)(2)(E) and 53(g), the Special Master shall be compensated at an
17 hourly rate of \$600.00 for his services pursuant to this Order. The Special Master shall not charge
18 for travel time. The Special Master shall prepare a monthly invoice for his services, which he shall
19 provide to counsel for the parties. MedImmune and PDL shall each be responsible for paying one-
20 half of the Special Master's invoice; such invoices shall be paid promptly.

21 Pursuant to Rule 53(f), the Special Master shall report to the Court as directed by the
22 Court.

23 Pursuant to Rule 53(b)(2)(D) and 53(f), the following procedures shall govern any action
24 on the Special Master's orders, reports, and/or recommendations: Any party wishing to file
25 objections to or a motion to adopt or modify the Special Master's orders, reports, and/or
26 recommendations must file such objections or motion with the Court within seven (7) days from
27 the day the Special Master filed the order, report, and/or recommendation via ECF. Any Order
28 issued by the Special Master shall remain in effect pending any such objection or motion, unless

1 the Special Master holds otherwise. A party may, however, move to stay the Special Master's
2 order pending review by the Court. The party filing the objection or motion shall submit with
3 such objection or motion any record necessary for the Court to review the Special Master's order,
4 report, and/or recommendation, including any transcripts of proceedings before the Special Master
5 and any documents submitted by the parties in connection with the Special Master's order, report,
6 and/or recommendation. Failure to provide the record shall constitute grounds for the Court to
7 overrule the objection or deny the motion. No such objection or motion may be filed by any party
8 after seven (7) days from the day the Special Master filed the order, report, and/or
9 recommendation via ECF. Pursuant to the parties' stipulation, the Court shall review findings of
10 fact made or recommended by the Special Master for clear error. The Court shall review de novo
11 any conclusions of law made or recommended by the Special Master. The Court will set aside the
12 Special Master's ruling on a procedural matter only for an abuse of discretion.

13 Pursuant to Rule 53(f)(1), in acting on an order, report, or recommendations of the Special
14 Master, the Court shall afford each party an opportunity to be heard and, in its discretion, may
15 receive evidence, and may adopt or affirm; modify; wholly or partly reject or reverse;
16 resubmit to the Special Master with instructions; or make any further orders it deems appropriate.

17 IT IS SO STIPULATED.

18 DATED: August 6, 2010.

WILLIAMS & CONNOLLY LLP

/s/ Jessamyn S. Berniker

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24 DATED: August 6, 2010.

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/s/ Vernon M. Winters

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: August 9, 2010.



THE HONORABLE JEREMY FOGEL
UNITED STATES DISTRICT COURT JUDGE

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