

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FOREST LABORATORIES, INC., :
FOREST LABORATORIES HOLDINGS, :
LTD., MERZ PHARMA GMBH & CO. :
KGAA, MERZ PHARMACEUTICALS :
GMBH, and ADAMAS :
PHARMACEUTICALS, INC., :

Plaintiffs, :

v. :

C.A. No. 14-121-LPS

TEVA PHARMACEUTICALS USA, INC., :
WOCKHARDT USA LLC, WOCKHARDT :
BIO AG, WOCKHARDT LTD., SUN :
PHARMA GLOBAL FZE, and SUN :
PHARMACEUTICAL INDUSTRIES, :
LTD., :

Defendants. :

FOREST LABORATORIES, INC., :
FOREST LABORATORIES HOLDINGS, :
LTD., and ADAMAS :
PHARMACEUTICALS, INC., :

Plaintiffs, :

v. :

C.A. No. 14-200-LPS

APOTEX CORP., APOTEX INC., ZYDUS :
PHARMACEUTICALS (USA), INC., :
CADILA HEALTHCARE LTD. (d/b/a/ :
ZYDUS CADILA), PAR :
PHARMACEUTICAL, INC., ANCHEN :
PHARMACEUTICALS, INC., and :
ACTAVIS LABORATORIES FL, INC., :

Defendants. :

| | | |
|--------------------------------|---|---------------------|
| FOREST LABORATORIES, INC., | : | |
| FOREST LABORATORIES HOLDINGS, | : | |
| LTD., and ADAMAS | : | |
| PHARMACEUTICALS, INC., | : | |
| | : | |
| Plaintiffs, | : | |
| | : | C.A. No. 14-686-LPS |
| v. | : | |
| | : | |
| RANBAXY INC., RANBAXY | : | |
| LABORATORIES LIMITED, and TEVA | : | |
| PHARMACEUTICALS USA, INC., | : | |
| | : | |
| Defendants. | : | |

MEMORANDUM ORDER

At Wilmington this 9th day of February, 2016, having reviewed the parties' briefs and related filings with respect to the Proposed Pretrial Order (D.I. 206)¹ and Defendants' *Daubert* Motion to Limit Opinions of Howard Martin Fillit M.D. (D.I. 196) ("Defendants' *Daubert* Motion"), **IT IS HEREBY ORDERED** that:

1. Plaintiffs and Defendants shall be allocated between twelve (12) and fifteen (15) hours for presentation of their respective cases at the upcoming bench trial for the above-captioned cases, to be determined at the pretrial conference on February 11, 2016. The bench trial shall be held at some or all of the following times, subject to the overall allocation of time to each side: (i) Tuesday, February 16: 8:30 a.m.-6:00 p.m.; (ii) Wednesday, February 17: 9:30 a.m.-3:00 p.m.; (iii) Thursday, February 18: 8:30 a.m.-4:30 p.m.; (iv) Monday, February 22: 8:30 a.m.-6:00 p.m.; and (v) Tuesday, February 23: 8:30 a.m.-6:00 p.m.

¹All docket citations are to C.A. No. 14-121.

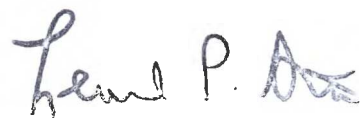
2. Defendants' motion *in limine* ("MIL") 1 is **DENIED**. The Court disagrees with Defendants' assertion that Plaintiffs' "lack of motivation" arguments are irrelevant to the remaining asserted patent claims. Defendants shall be permitted to call Dr. Kornak to testify as an expert witness.

3. Defendants' MIL 2 is **DENIED**. Defendants shall be permitted to depose Dr. Taglietti for up to two (2) hours before trial to mitigate any unfair surprise with respect to Dr. Taglietti's late identification as a trial witness.

4. Plaintiffs' MIL 1 is **GRANTED**. The Court disagrees with Defendants' argument that their new non-infringement theory, disclosed for the first time on January 26, 2016, was justified as a response to arguments in an expert report filed by Dr. Polli more than two months before Defendants disclosed their new theory, given the proximity to trial.

5. Defendants' *Daubert* Motion (D.I. 196) is **DENIED**, for the reasons given above with respect to Defendants' MIL 1, and additionally because Dr. Fillit's testimony will be helpful to the Court, as trier of fact, with respect to motivation to produce an extended-release form of memantine.

6. The parties shall be prepared to argue Defendants' MIL 3 and, specifically, whether and why (or why not) Dr. Derendorf's deposition testimony falls under the hearsay exception in Federal Rule of Evidence 804(b)(1).



HON. LEONARD P. STARK
UNITED STATES DISTRICT JUDGE