THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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| In re JUNO THERAPEUTICS, INC. | CASE NO.: C16-1069 RSM<br><br>**STIPULATED MOTION AND ORDER PURSUANT TO LCR 7(j) AND 10(g) AND FCRP 16(b)(4) FOR PARTIAL AMENDMENT OF SCHEDULING ORDER AND FOR BRIEFING SCHEDULE FOR MOTION FOR CLASS CERTIFICATION** |

Pursuant to Local Civil Rule 7(j) (for relief from a deadline), Local Civil Rule 10(g) (stipulated motions), and Federal Rule of Civil Procedure 16(b)(4) (for modification of a scheduling order), Defendants Juno Therapeutics, Inc., Hans Bishop, Dr. Steven Harr, and Dr. Mark J. Gilbert (collectively, "Defendants"), and Lead Plaintiff Gilbert Hoang Nguyen and proposed class representative Susan Tan hereby submit this stipulated motion requesting that the Court partially modify the Rule 16(b) and Rule 23(d)(2) Scheduling Order Regarding Class Certification Motion (Dkt. No. 80; the "Scheduling Order") to allow for expert discovery in connection with the class certification motion, and to extend the time for filing the response and


WILSON SONSINI GOODRICH & ROSATI, PC
701 Fifth Avenue, Suite 5100
Seattle, WA 98104-7036
Tel: (206) 883-2500
Fax: (206) 883-2699

reply memoranda. Further, the parties propose that the motion for class certification be filed on September 15, 2017 (as opposed to October 2, 2017). Filing the motion earlier will help allow sufficient time for expert depositions and briefing without causing any undue delay in the case overall. These modifications would not disturb the Court's existing deadlines for the completion of *fact* discovery relating to class certification (September 1, 2017).

## I. Background

On July 21, 2017, the Court issued the Scheduling Order setting two deadlines: a deadline of September 1, 2017 for completion of discovery on class certification, and a deadline of October 2, 2017 for Plaintiffs to file their motion for class certification. Dkt. No. 40 at 1. The Scheduling Order provided that the class certification motion be noted on the fourth Friday after filing and service, "unless the parties agree to different times for filing the response and reply memoranda."

After the Court issued the Scheduling Order, the parties met and conferred, and Plaintiffs confirmed that they intend to support their motion for class certification with a report from an expert witness. Defendants likewise confirmed that, depending on the content of the motion for class certification and Plaintiffs' expert report, Defendants also intend to file an expert report in support of their opposition to the motion for class certification.

## II. Good Cause Exists To Partially Modify The Scheduling Order To Allow Expert Depositions After The Class Certification Motion Is Filed

Good cause exists here to partially modify the Scheduling Order to allow the parties to depose one another's experts after the motion for class certification is filed.

In securities class actions such as this, the parties typically rely on expert testimony both in support of and in opposition to the motion for class certification. *See, e.g.*, *In re Countrywide Fin. Corp. Sec. Litig.*, 273 F.R.D. 586, 609 (C.D. Cal. 2009) (noting that expert testimony is frequently used for class certification motions in securities class actions). Here, the parties have confirmed through a meet and confer that they intend to support, and oppose, class certification



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701 Fifth Avenue, Suite 5100
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Tel: (206) 883-2500
Fax: (206) 883-2699

with the assistance of experts. The parties agree that they will submit reports of such experts at the time of the class certification motion (for plaintiffs) and opposition to class certification (for defendants). The parties further agree that they should have the opportunity to depose each other's class certification expert. The parties cannot feasibly exchange expert reports prior to preparation and filing of their respective briefs in support of and in opposition to the class certification motion. Likewise, the parties cannot depose one another's expert prior to receiving the expert's report and the brief in support of which the expert report is offered. Therefore, the parties respectfully submit that good cause exists to partially modify the Scheduling Order to include a period for expert depositions after their respective motion papers and accompanying expert report(s) have been filed. *See Johnson v. Mammoth Recreations*, 975 F.2d 604, 609 (9th Cir. 1992) (district court may modify the pretrial schedule "if it cannot reasonably be met despite the diligence of the party seeking the extension.") (internal citation omitted).

Further, in light of the need for expert depositions in connection with class certification, the parties respectfully request that the Court enter a schedule that allows the parties time following the depositions to file their opposition and reply briefs. The Scheduling Order contemplates that the parties may agree to deadlines for the opposition and reply briefs that differ from the default deadlines in the local rules. Dkt. No. 80 at 1. The parties met and conferred regarding the time frame for the briefing of the motion for class certification and agree that, given the need for analysis and rebuttal of expert reports and the potential complexity of the issues involved, the normal briefing schedule set forth in the local rules will not allow adequate time for the parties to prepare the opposition and reply briefs. In order to allow for prompt completion of briefing on the class certification motion, however, the parties have agreed to move the deadlines up such that Plaintiffs will file their motion for class certification on September 15, 2017 rather than October 2, 2017. The parties respectfully submit that the proposed briefing and expert deposition schedule is reasonable and, because the motion for class certification will be filed two weeks earlier, the proposed schedule will not cause undue delay.



WILSON SONSINI GOODRICH & ROSATI, PC
701 Fifth Avenue, Suite 5100
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Fax: (206) 883-2699

Therefore, the parties respectfully request that the Court enter a modified scheduling order as follows:

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| September 15, 2017 | Deadline for Plaintiffs' Motion for Class Certification |
| October 6, 2017 | Deadline for Defendants to depose Plaintiffs' expert regarding expert report submitted in connection with Motion for Class Certification |
| October 20, 2017 | Deadline for Defendants' Opposition to Motion for Class Certification |
| November 3, 2017 | Deadline for Plaintiffs to depose Defendants' expert regarding expert report submitted in connection with Opposition to Motion for Class Certification |
| November 17, 2017 | Deadline for Plaintiffs' Reply in support of Motion for Class Certification |

Respectfully submitted,

Dated: August 14, 2017

*s/ Gregory L. Watts*

Gregory L. Watts, WSBA #43995
**WILSON SONSINI GOODRICH & ROSATI, PC**
701 Fifth Avenue, Suite 5100
Seattle, Washington 98104
Tel: (206) 883-2500
Fax: (206) 883-2699
gwatts@wsgr.com

Nina F. Locker, *pro hac vice*
Ignacio E. Salceda, *pro hac vice*
Joni Ostler, *pro hac vice*
650 Page Mill Road
Palo Alto, CA 94304
Tel: (650) 849-3457
Fax: (650) 493-6811
nlocker@wsgr.com
isalceda@wsgr.com
jostler@wsgr.com

Daniel Slifkin
Karin A. DeMasi
Lauren M. Rosenberg
CRAVATH, SWAINE & MOORE LLP
825 Eighth Avenue
New York, NY 10019

Tel: (212) 474-1000
Fax: (212) 474-3700
dslifkin@cravath.com
kdemasi@cravath.com
lrosenberg@cravath.com

*Attorney for Defendants Juno Therapeutics, Inc., Hans E. Bishop, Steven D. Harr, and Mark J. Gilbert*

s/ Cliff Cantor

By: Cliff Cantor, WSBA # 17893
**LAW OFFICES OF CLIFFORD A. CANTOR, P.C.**
627 208th Ave. SE
Sammamish, WA 98074
Tel: (425) 868-7813
Fax: (425) 732-3752
cliff.cantor@outlook.com

***Plaintiffs' Liaison Counsel***

**POMERANTZ LLP**
Patrick V. Dahlstrom
Leigh H. Smollar
Omar Jafri
Ten South La Salle Street, Suite 3505
Chicago, Illinois 60603
Tel: (312) 377-1181
Fax: (312) 377-1184
pdahlstrom@pomlaw.com
lsmollar@pomlaw.com
ojafri@pomlaw.com

**POMERANTZ LLP**
Jeremy A. Lieberman
J. Alexander Hood II
600 Third Avenue, 20th Floor
New York, New York 10016
Tel: (212) 661-1100
Fax: (212) 661-8665
jalieberman@pomlaw.com
ahood@pomlaw.com

***Plaintiffs' Lead Counsel***

Pursuant to stipulation, and good cause appearing, IT IS SO ORDERED.

DATED: August 15, 2017

RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE



**WILSON SONSINI GOODRICH & ROSATI, PC**
701 Fifth Avenue, Suite 5100
Seattle, WA 98104-7036
Tel: (206) 883-2500
Fax: (206) 883-2699