

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PACIRA PHARM., INC. et al.

Plaintiffs,

v.

U.S. FOOD AND DRUG ADMIN. et al.,

Defendants.
-----X

RECEIVED
OCT 22 2015
JUDGE KAPLAN'S CHAMBERS

15 Civ. 7055 (LAK)

ECF Case

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/22/15

~~PROPOSED~~ REVISED SCHEDULING ORDER

WHEREAS, plaintiff filed suit on September 8, 2015 asserting claims against the FDA under the Administrative Procedure Act, First Amendment, and Fifth Amendment; and

WHEREAS, plaintiff filed a motion for a preliminary injunction on September 9, 2015; and

WHEREAS, the court granted a previous extension on September 17 from September 23 to October 26 (Dkt. No. 28);

WHEREAS, defendant's opposition to plaintiff's motion for a preliminary injunction is now due on October 26, 2015; and

WHEREAS, defendant's answer or other response to the complaint is now due on November 12, 2015; and

WHEREAS, the parties have engaged in and continue to engage in settlement discussions in hopes of resolving this case or, at a minimum, narrowing the dispute; and

WHEREAS, the issues presented are complex and require the direct participation of numerous agency and Justice Department officials, including high-level officials, such that

despite concerted ongoing effort the parties will be unable to resolve their disputes by October 26, 2015; and

WHEREAS, the parties wish to continue their efforts to reach a consensual resolution, and believe that those efforts will be assisted by deferring formal litigation including the filing of an answer or motion to dismiss and the filing of opposition to plaintiff's motion for a preliminary injunction; and

WHEREAS, the parties anticipate that finalizing a settlement may require them to subsequently request a further extension of time, but they will endeavor before November 16, 2015, to finalize a settlement and/or determine whether settlement is impossible such that a resumption of adversarial litigation is necessary;

IT IS HEREBY STIPULATED, AGREED AND ORDERED that:

1. Defendant's time to answer or move with respect to the complaint is hereby extended to November 16, 2015.
2. Defendant's time to file opposition to plaintiff's motion for a preliminary injunction is hereby extended to November 16, 2015.
3. Plaintiff's time to file any reply papers in support of its motion for a preliminary injunction is hereby extended to December 7.

Dated: New York, NY
October 22, 2015

For the Plaintiffs:

ROPES & GRAY LLP

Joan McPhee (JH)

Joan McPhee

Prudential Tower

800 Boylston Street

Boston, MA 02199

Telephone: (617) 951-7000

Email: joan.mcphee@ropesgray.com

Douglas H. Hallward-Driemeier

2009 Pennsylvania Avenue, NW

Washington, DC 20006

Telephone: (202) 508-4600

Email: douglas.hallward-

driemeier@ropesgray.com

For Defendant:

PREET BHARARA

United States Attorney for the

Southern District of New York

By: Caleb Hayes-Deats

CALEB HAYES-DEATS

Assistant United States Attorney

86 Chambers Street, 3rd Floor

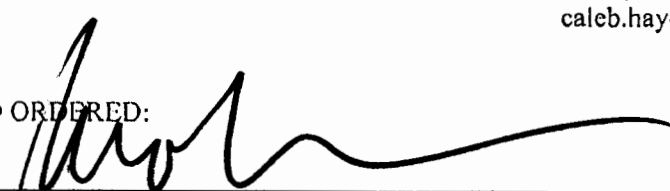
New York, NY 10007

Telephone: (212) 637-2699

Fax: (212) 637-2686

caleb.hayes-deats@usdoj.gov

SO ORDERED:



HONORABLE LEWIS A. KAPLAN
UNITED STATES DISTRICT JUDGE

em