

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HOSPIRA, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 15-697-RGA
AMNEAL PHARMACEUTICALS LLC,)	
)	
Defendant.)	
)	

~~PROPOSED~~ **SCHEDULING ORDER**

This 22nd day of September 2015, the Court having conducted an initial Rule 16(b) scheduling conference pursuant to Local Rule 16.1(b), and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation or binding arbitration;

IT IS ORDERED that:

1. **Rule 26(a)(1) Initial Disclosures.** Unless otherwise agreed to by the other parties, the parties shall make their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) within fifteen days of the date of this Order.
2. **Delaware Default Standard for Discovery Disclosures.** The Delaware Default Standard for Discovery shall apply, unless modified by this Order or by agreement of the parties, with the caveat that paragraph 4(c) is modified such that there will be no 6 year restriction on relevant discovery. The parties shall make their disclosures pursuant to paragraph 3 of the Delaware Default Standard for Discovery by October 30, 2015.
3. **Joinder of other Parties and Amendment of Pleadings.** All motions to join

parties other than third party ANDA applicants, and to amend or supplement the pleadings, shall be filed on or before July 8, 2016.

4. **Discovery.**

a. **Discovery Cut Off.** All discovery in this case shall be initiated so that it will be completed on or before September 1, 2016.

b. **Document production.** Document production shall be substantially complete by June 10, 2016.

c. **Requests for Admission.** A maximum of 50 requests for admission are permitted for each side, with the exception of unlimited requests for admission for authentication of documents.

d. **Interrogatories.** A maximum of 25 interrogatories, including contention interrogatories, are permitted for each side.

e. **Depositions.**

i. **Limitation on Hours for Deposition Discovery.** Each side is limited to a total of 70 hours of taking testimony by deposition upon oral examination.

ii. **Location of Depositions.** Any party or representative (officer, director, or managing agent) of a party filing a civil action in this district court must ordinarily be required, upon request, to submit to a deposition at a place designated within this district.

Exceptions to this general rule may be made by order of the Court or by agreement of the parties.

A defendant who becomes a counterclaimant, cross-claimant, or third-party plaintiff shall be considered as having filed an action in this Court for the purpose of this provision.

f. **Discovery Matters and Disputes Relating to Protective Orders.** Should counsel find they are unable to resolve a discovery matter or a dispute relating to a protective

order, the parties involved in the discovery matter or protective order dispute shall contact the Court's Case Manager to schedule an in-person conference/argument. Unless otherwise ordered, by no later than forty-eight hours prior to the conference/argument, the party seeking relief shall file with the Court a letter, not to exceed three pages, outlining the issues in dispute and its position on those issues. By no later than twenty-four hours prior to the conference/argument, any party opposing the application for relief may file a letter, not to exceed three pages, outlining that party's reasons for its opposition. Should any document(s) be filed under seal, a courtesy copy of the sealed document(s) must be provided to the Court within one hour of e-filing the document(s).

If a discovery-related motion is filed without leave of the Court, it will be denied without prejudice to the moving party's right to bring the dispute to the Court through the discovery matters procedures set forth in this Order.

5. Application to Court for Protective Order. Should counsel find it will be necessary to apply to the Court for a protective order specifying terms and conditions for the disclosure of confidential information, counsel should confer and attempt to reach an agreement on a proposed form of order and submit it to the court within thirty days from the date of this Order. Should counsel be unable to reach an agreement on a proposed form of order, counsel must follow the provisions of Paragraph 3(f) above.

Any proposed protective order must include the following paragraph:

Other Proceedings. By entering this order and limiting the disclosure of information in this case, the Court does not intend to preclude another court from finding that information may be relevant and subject to disclosure in another case. Any person or party subject to this order who becomes subject to a motion to disclose another party's information designated as confidential pursuant to this order shall promptly notify that party of the motion so that the party may have an opportunity to appear and be heard

on whether that information should be disclosed.

6. Papers Filed Under Seal. When filing papers under seal, counsel shall deliver to the Clerk an original and one copy of the papers. A redacted version of any sealed document shall be filed electronically within seven days of the filing of the sealed document.

7. Courtesy Copies. The parties shall provide to the Court two courtesy copies of all briefs and one courtesy copy of any other document filed in support of any briefs (i.e., appendices, exhibits, declarations, affidavits etc.). This provision also applies to papers filed under seal.

8. Claim Construction Issue Identification. On or before December 18, 2015, the parties shall exchange a list of those claim term(s)/phrase(s) that they believe need construction and their proposed claim construction of those term(s)/phrase(s). This document will not be filed with the Court. Subsequent to exchanging that list, the parties will meet and confer to prepare a Joint Claim Construction Chart to be filed no later than January 8, 2016. The Joint Claim Construction Chart, in Word or WordPerfect format, shall be e-mailed simultaneously with filing to rga_civil@ded.uscourts.gov. The parties' Joint Claim Construction Chart should identify for the Court the term(s)/phrase(s) of the claim(s) in issue, and should include each party's proposed construction of the disputed claim language with citation(s) only to the intrinsic evidence in support of their respective proposed constructions. A copy of the patent(s) in issue as well as those portions of the intrinsic record relied upon shall be submitted with this Joint Claim Construction Chart. In this joint submission, the parties shall not provide argument.

9. Claim Construction Briefing. The Plaintiff shall serve, but not file, its opening brief, not to exceed 20 pages, on February 5, 2016. The Defendant shall serve, but not file, its answering brief, not to exceed 30 pages, on March 1, 2016. The Plaintiff shall serve, but not file,

its reply brief, not to exceed 20 pages, on March 22, 2016. The Defendant shall serve, but not file, its sur-reply brief, not to exceed 10 pages, on April 5, 2016. No later than April 12, 2016, the parties shall file a Joint Claim Construction Brief. The parties shall copy and paste their unfiled briefs into one brief, with their positions on each claim term in sequential order, in substantially the form below.

JOINT CLAIM CONSTRUCTION BRIEF

- I. Agreed-upon Constructions
- II. Disputed Constructions
 - A. [TERM 1]
 1. Plaintiff's Opening Position
 2. Defendant's Answering Position
 3. Plaintiff's Reply Position
 4. Defendant's Sur-Reply Position
 - B. [TERM 2]
 1. Plaintiff's Opening Position
 2. Defendant's Answering Position
 3. Plaintiff's Reply Position
 4. Defendant's Sur-Reply Position

Etc. The parties need not include any general summaries of the law relating to claim construction. If there are any materials that would be submitted in an appendix, the parties shall submit them in a joint appendix.

10. **Hearing on Claim Construction**. Beginning at 9:00 on ^{May}~~June 10~~, 2016, the Court will hear argument on claim construction. Absent prior approval of the Court (which, if it is sought, must be done so by joint letter submission no later than the date on which answering claim construction briefs are due), the parties shall not present testimony at the argument, and the argument shall not exceed a total of three hours.

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