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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TEVA PHARMACEUTICALS
INTERNATIONAL GmbH, et al.,

Plaintiffs,

Civil Action
No. 18-cv-12029-ADB

v.

January 20, 2022

ELI LILLY AND COMPANY,

Defendant.

Pages 1 to 22

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE ALLISON D. BURROUGHS
UNITED STATES DISTRICT COURT

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Official Court Reporter
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ALSO PRESENT: Lori Wolfe, Teva Inhouse Counsel

P R O C E E D I N G S

(The following proceeding was held via Zoom Videoconferencing before the Honorable Allison D. Burroughs, United States District Judge, United States District Court, District of Massachusetts, on January 20, 2022.)

THE CLERK: This is civil action 18-12029, Teva Pharmaceuticals versus Eli Lilly. Will counsel identify themselves for the record.

MS. BLAIS: Good morning, Your Honor. This is Elaine Blais from Goodwin Procter on behalf of Teva. I have my colleague Eric Romeo and my partner Doug Kline may join us as well. We also have Lori Wolfe, in-house counsel at Teva.

MS. MARTIN: Good afternoon, Your Honor. Andrea Martin for the defendant Eli Lilly. With me is Ryan O'Quinn and Emily Grabanski.

THE COURT: All right. I think that this meeting is being called at Lilly's request. So does Lilly want to start?

MR. O'QUINN: Yes, Your Honor. Ryan O'Quinn on behalf of Lilly. Thank you so much for your time today. We appreciate the opportunity to hopefully short circuit what could be a more burdensome motion practice in front of Your Honor regarding this issue that has already been fully briefed.

We received Your Honor's order of December 20 and

1 read it with intent, and we endeavored to comply with it in
2 good faith. We went back through our proposed amended
3 pleading, and with a fine tooth comb we removed all
4 references to individuals that your order said needed to be
5 removed. And we cabined allegations directed to "the
6 applicants generally" and where the facts supported them we
7 directed them instead to the two individuals that the
8 documentary evidence and the testimonial evidence supported.

9 All we intended to do and all we want to do is
10 comply with the order in good faith. So hopefully today's
11 conference can get a little bit of guidance from you as to
12 the degree in which our proposed amended pleading needed to
13 be amended in order to conform with your order.

14 THE COURT: Mr. O'Quinn, I feel like we are ships
15 passing in the night here, and it may have been my fault. We
16 are where we are, but it was our intention that you guys
17 would just file the drafted amended answer that was filed
18 with 176, ECF 176. We were sort of eliminating causes of
19 action and not thinking that you'd do a line edit of the
20 amended complaint. So we thought we'd be living with 176 and
21 were surprised to see 238.

22 MR. O'QUINN: I think, Your Honor, I am not sure
23 how the causes of action could be parsed out. I thought we
24 had read your order that the answer at 176 was granted leave
25 to file but needed to be amended to remove the nonspecific

1 arguments to Mr. Giering and to the applicants generally.
2 The applicants contains the two other individuals. I'm
3 hesitant to name their names because those are confidential
4 information that Teva has asked to redact, but we understood
5 Your Honor's order to hold that the cause of action for
6 inequitable conduct had met the standards of Rule 15, 16, and
7 9B and simply it was basically for a more clear statement.

8 THE COURT: I have to say, again I'm not sure we
9 had a great meeting of the minds here, but we were surprised
10 to see 238 which seems like a total revamp, which was not
11 what we had intended or really allowed.

12 MR. O'QUINN: I can understand that, Your Honor,
13 and I apologize for the misunderstanding. We didn't feel
14 like that was a wholesale revamp. We narrowed the scope of
15 176 and 238 to we thought obey the Court's order in terms of
16 wording. If we're mistaken, we certainly can do that. It
17 didn't seem like there was an easy way for us to kind of
18 split the baby and carve out references to the applicants
19 while still keeping the necessary pleadings to meet the
20 standard of Rule 9B.

21 So that's why we wanted your guidance rather than
22 going through another round of motion to strike briefing or
23 motion for leave to amend briefing. And again we apologize.
24 All we want to do is conform with your order.

25 THE COURT: Ms. Blais, or whoever, what does Teva

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