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## I. INTRODUCTION

In this patent infringement action, Plaintiffs Teva Pharmaceuticals International GmbH and Teva Pharmaceuticals USA, Inc. (“Teva”) contend that Defendant Eli Lilly and Company (“Lilly”) has indirectly infringed the patents-in-suit by marketing and selling its accused product Emgality<sup>®</sup>—the only biologic approved by the FDA for both the preventive treatment of migraine and the treatment of episodic cluster headache in adults. In forming their opinions regarding Teva’s alleged [REDACTED] for its own biologic, Ajovy<sup>®</sup>, Teva’s experts Drs. Elan B. Rubinstein and Mark P. Berkman relied on (1) certain erroneous facts and (2) purely speculative assumptions.

First, Dr. Rubinstein opines that Teva would have [REDACTED] for Ajovy<sup>®</sup> if Emgality<sup>®</sup> were not on the market. [REDACTED]

[REDACTED] These erroneous opinions will not assist the jury in deciding any fact. Thus, Dr. Rubinstein’s opinions relating to [REDACTED] should be excluded.

In addition, despite having no relevant expertise, Dr. Berkman opines extensively on the [REDACTED] His related opinions on [REDACTED] including at least those premised on Dr. Rubinstein’s erroneous opinions [REDACTED] are unreliable and should be excluded. Moreover, Dr. Berkman made assumptions [REDACTED] based on nothing more than rank speculation. Amounting to blindly throwing a dart at a large number to bias the jury, Dr. Berkman’s [REDACTED] are mere guesses and should also be excluded.

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