

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

TEVA PHARMACEUTICALS)	
INTERNATIONAL GMBH and)	
TEVA PHARMACEUTICALS USA, INC.)	
)	
Plaintiffs,)	
)	Case No. 1:18-cv-12029-ADB
v.)	
)	
ELI LILLY AND COMPANY)	
)	
Defendant.)	

DECLARATION OF RYAN P. O’QUINN IN SUPPORT OF DEFENDANT ELI LILLY AND COMPANY’S *DAUBERT* MOTION TO PARTIALLY EXCLUDE TESTIMONY OF DR. ELAN RUBINSTEIN AND DR. MARK BERKMAN

I, Ryan P. O’Quinn, declare as follows:

1. I am a partner with Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, counsel for Eli Lilly and Company (Lilly) in this matter. I am licensed to practice in the Commonwealth of Virginia and the District of Columbia and am admitted *pro hac vice* in the above-captioned case. I have personal knowledge of the matters set forth herein, and if called upon would testify as follows.

2. Attached hereto as **Exhibit A** is a true and correct excerpted copy of the Opening Expert Report of Elan B. Rubinstein, Pharm.D, M.P.H., dated September 15, 2021.

3. Attached hereto as **Exhibit B** is a true and correct excerpted copy of the Rebuttal Expert Report of Laura E. Happe, Pharm.D, M.P.H., dated October 28, 2021.

4. Attached hereto as **Exhibit C** is a true and correct excerpted copy of the transcript of the deposition of Elan B. Rubinstein, Pharm.D, M.P.H., dated January 14, 2022.

5. Attached hereto as **Exhibit D** is a true and correct excerpted copy of the Reply Expert Report of Elan B. Rubinstein, Pharm.D, M.P.H., dated December 7, 2021.

6. Attached hereto as **Exhibit E** is a true and correct copy of a document produced by Teva in this litigation bearing Bates numbers TEVA_FREM_002987369–TEVA_FREM_002987379.

7. Attached hereto as **Exhibit F** is a true and correct excerpted copy of the Reply Report of Mark P. Berkman, dated December 7, 2021.

8. Attached hereto as **Exhibit G** is a true and correct excerpted copy of the Expert Report of Mark P. Berkman, dated September 16, 2021.

9. Attached hereto as **Exhibit H** is a true and correct excerpted copy of the transcript of the deposition of Mark P. Berkman, Ph.D., dated January 18, 2022.

10. Attached hereto as **Exhibit I** is a true and correct copy of the webpage “Get Savings Offer | AJOVY® (fremanezumab-vfrm) injection” located at the URL <https://www.ajovy.com/savings/>; last accessed March 23, 2022.

11. Attached hereto as **Exhibit J** is a true and correct copy of a document produced by Lilly in this litigation bearing Bates numbers LLY-GALCA-00706061–LLY-GALCA-00706109.

12. Attached hereto as **Exhibit K** is a true and correct copy of a document produced by Teva in this litigation bearing Bates numbers TEVA_FREM_004789029–TEVA_FREM_004789059.

13. Attached hereto as **Exhibit L** is a true and correct copy of the webpage “U.S. Bureau of Labor Statistics, CPI for All Urban Consumers (CPI-U)” located at the URL

https://data.bls.gov/timeseries/CUUR0000SA0&output_view=pct_12mths; last accessed March 23, 2022.

14. Attached hereto as **Exhibit M** is a true and correct excerpted copy of the transcript of the deposition of Laura Steele, dated August 4, 2021.

15. Attached hereto as **Exhibit N** is a true and correct copy of a document produced by Lilly in this litigation bearing Bates numbers LLY-GALCA-00690565– LLY-GALCA-00690585.

16. Attached hereto as **Exhibit O** is a true and correct copy of a document entitled Teva Full Product Catalog, dated January 10, 2022, introduced as Exhibit 13 in the January 14, 2022 deposition of Elan Rubinstein.

17. **Exhibits A-H, J, K, M, and N** to this declaration are subject to Defendant Lilly's Assented-To Motion for Leave to Impound Confidential Portions of Defendant's Memoranda and Certain Exhibits (ECF No. 284; granted at ECF No. 285) and will be provisionally filed under seal.

18. Complete copies of any excerpted documents identified above will be provided to the Court upon request.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on this 28th day of March, 2022, in Ashburn, Virginia.

/s/ Ryan P. O'Quinn
Ryan P. O'Quinn

CERTIFICATE OF SERVICE

I, Andrea L. Martin, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 28, 2022.

/s/Andrea L. Martin _____

Andrea L. Martin