



Marlon Ovalles/NYSD/02/USCOURT S
06/06/2016 11:14 AM

To "Conlin, David" <DGConlin@mintz.com>
".JDG.Brody, Amy" <abrody@rmmslegal.com>, ".JDG.Kayal, Ajay" <akayal@buddlerner.com>, ".JDG.Kokabi, Azy" <akokabi@sughrue.com>, "Andrew Miller"
bcc
RE: Kowa et al. v. Amneal et al. (SNDY 14-cv-02758-PAC; 14-cv-07934-PAC; 15-cv-03935-PAC; 14-cv-02647-PAC; 14-cv-02759-PAC; 14-cv-05575-PAC; and 14-cv-02760-PAC)
Subject

Dear Mr. Conlin,

Noted and your message will be shared with Judge Crotty. For what it's worth, and absent any future changes, the trial will commence on Tuesday, January 17, 2017 since we will observe Dr. Martin Luther King Day on January 16.

-Marlon

"Conlin, David" "Conlin, David" <DGConlin@mintz.com> 06/03/2016 02:50:48 PM



"Conlin, David" <DGConlin@mintz.com>
06/03/2016 02:50 PM

To ""Marlon_Ovalles@nysd.uscourts.gov"
<Marlon_Ovalles@nysd.uscourts.gov>, "Abhyankar, Shri" <Shri.Abhyankar@alston.com>
".JDG.Brody, Amy" <abrody@rmmslegal.com>, ".JDG.Kayal, Ajay" <akayal@buddlerner.com>, ".JDG.Kokabi, Azy" <akokabi@sughrue.com>, "Andrew Miller" <amiller@buddlerner.com>, "Samansky, Adam" <APSamansky@mintz.com>, ".JDG.Huttner, Constance" <chuttner@buddlerner.com>, ".JDG.Iyer, Chidambaram" <ciyer@sughrue.com>, ".JDG.Sun, Caroline" <csun@buddlerner.com>, ".JDG.Wythers, Conly" <cwythers@rmmslegal.com>, ".JDG.Mazzochi, Deanne" <dmazzochi@rmmslegal.com>, ".JDG.Shelhoff, Dmitry" <dshelhoff@buddlerner.com>, ".JDG.Berezowskyj, Helena" <HBerezowskyj@rmmslegal.com>, "Dereka, Jennifer" <JLDereka@mintz.com>, ".JDG.Scarpati, Jennifer" <Jscarpati@buddlerner.com>, "Carr, Kathleen" <KBCarr@mintz.com>, ".JDG.Shannon, Luke" <lshannon@rmmslegal.com>, ".JDG.Dzwonczyk, Michael" <mdzwonczyk@sughrue.com>, "Clayton, Natalie" <Natalie.Clayton@alston.com>, ".JDG.White, Natasha" <nwhite@rmmslegal.com>, "Banky, Paki" <Paki.Banky@alston.com>, "tburns@rmmslegal.com/O=" <tburns@rmmslegal.com/O=>
cc
RE: Kowa et al. v. Amneal et al. (SNDY 14-cv-02758-PAC; 14-cv-07934-PAC; 15-cv-03935-PAC; 14-cv-02647-PAC; 14-cv-02759-PAC; 14-cv-05575-PAC; and 14-cv-02760-PAC)
Subject

Dear Mr. Ovalles:

Thank you very much for your confirmation of the January 16th trial date.

We are concerned by defendants' omission of plaintiffs' position in their communication to the Court, however. As we had indicated to defendants last Friday: "As the January 16th date appears to be the

earliest date the Court has available, plaintiffs will make that date work. We note that it seems that it would require a minor adjustment to the § 355(j) stay, however. We also note that as we had pointed out below, Sawai's recently filed motion to amend its answer and counterclaims, if allowed, would impact the scope, length, and timing of trial."

The "§ 355(j) stay" refers to the 30 month stay of FDA approval provided under 21 U.S.C. § 355(j)(5)(B)(iii), as modified by 21 U.S.C. § 355(j)(5)(F)(ii), which is intended to prevent the FDA from approving the defendants' ANDAs before the patents are ruled on. That stay is presently set to expire on February 3, 2017.

In an email received Wednesday, June 1st at 5:52 p.m., defendants indicated to plaintiffs that they "do not acquiesce to Plaintiffs' positions regarding a stay or the potential impact of Sawai's recently filed motion to amend, and reserve the right to respond to those points at the appropriate time." Two minutes later, defendants sent their communication to the Court representing only that the proposed trial date of January 16, 2017 is acceptable to all. Unfortunately, they chose not to inform the Court as to plaintiffs' actual position.

It seems premature to address these issues at this time, but plaintiffs simply wish to alert the Court as to the actual situation, as defendants chose not to include plaintiffs' position in their representation of the joint position of the parties.

While plaintiffs do not appreciate that approach, plaintiffs will continue to try to work things out without unnecessarily burdening the Court, as plaintiffs have tried hard to do throughout these related cases.

Thank you very much for your consideration.

Respectfully submitted,

David G. Conlin

From: Marlon_Ovalles@nysd.uscourts.gov [mailto:Marlon_Ovalles@nysd.uscourts.gov]
Sent: Thursday, June 02, 2016 3:14 PM
To: Abhyankar, Shri
Cc: .JDG.Brody, Amy; .JDG.Kayal, Ajay; .JDG.Kokabi, Azy; Andrew Miller; Samansky, Adam; .JDG.Huttner, Constance; .JDG.Iyer, Chidambaram; .JDG.Sun, Caroline; .JDG.Wythers, Conly; Conlin, David; .JDG.Mazzochi, Deanne; .JDG.Shelhoff, Dmitry; .JDG.Berezowskyj, Helena; Dereka, Jennifer; .JDG.Scarpati, Jennifer; Carr, Kathleen; .JDG.Shannon, Luke; .JDG.Dzwonczyk, Michael; Clayton, Natalie; .JDG.White, Natasha; Banky, Paki; tburns@rmmslegal.com/O=; \ Wu/
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Confirmed, sir. We will post the date on ECF shortly. Thanks.

-Marlon

"Abhyankar, Shri" <Shri.Abhyankar@alston.com>

06/01/2016 05:54 PM

To: Marlon_Ovalles@nysd.uscourts.gov <Marlon_Ovalles@nysd.uscourts.gov>, ".JDG.Brody, Amy" <abrody@rmmslegal.com>, ".JDG.Kayal, Ajay" <akayal@buddlerner.com>, ".JDG.Kokabi, Azy" <akokabi@sughrue.com>, "Andrew Miller" <amiller@buddlerner.com>, "Samansky, Adam" <ASamansky@mintz.com>, ".JDG.Huttner, Constance" <chuttner@buddlerner.com>, ".JDG.Iyer, Chidambaram" <civer@sughrue.com>, ".JDG.Sun,

Caroline" <csun@buddlarner.com>, ".JDG.Wythers, Conly" <cwythers@rmmslegal.com>, "Conlin, David" <DGConlin@mintz.com>, ".JDG.Mazzochi, Deanne" <dmazzochi@rmmslegal.com>, ".JDG.Shelhoff, Dmitry" <dshelhoff@buddlarner.com>, ".JDG.Berezowskyj, Helena" <HBerezowskyj@rmmslegal.com>, "Dereka, Jennifer" <JLDereka@mintz.com>, ".JDG.Scarpati, Jennifer" <Jscarpati@buddlarner.com>, "Carr, Kathleen" <KBCarr@mintz.com>, ".JDG.Shannon, Luke" <lshannon@rmmslegal.com>, ".JDG.Dzwonczyk, Michael" <mdzwonczyk@sughrue.com>, "Clayton, Natalie" <Natalie.Clayton@alston.com>, ".JDG.White, Natasha" <nwhite@rmmslegal.com>, "Banky, Paki" <Paki.Banky@alston.com>, "Thomas \" <[tburns@rmmslegal.com/O=, \"Wu/@uscmail.uscourts.gov](mailto:tburns@rmmslegal.com/O=,%20Wu/@uscmail.uscourts.gov)>, "Wen \" <[Wen.Wu@alston.com/O=, \"J.DG.Rakoczy/@uscmail.uscourts.gov](mailto:Wen.Wu@alston.com/O=,%20.JDG.Rakoczy/@uscmail.uscourts.gov)>, "William \" <[wrakoczy@rmmslegal.com/O=, \"ward/@uscmail.uscourts.gov](mailto:wakoczy@rmmslegal.com/O=,%20ward/@uscmail.uscourts.gov)>

SubjeRE: Kowa et al. v. Amneal et al. (SNDY 14-cv-02758-PAC; 14-cv-07934-PAC; 15-cv-03935-PAC; ct14-cv-02647-PAC; 14-cv-02759-PAC; 14-cv-05575-PAC; and 14-cv-02760-PAC)

Dear Mr. Ovalles,

The Parties have conferred and the proposed trial date of January 16, 2017 is acceptable to all. Please let us know if you need anything else from our end.

Thank you,

Shri

Shri Abhyankar

Alston & Bird LLP

404-881-7687

From: [Marlon Ovalles@nysd.uscourts.gov](mailto:Marlon_Ovalles@nysd.uscourts.gov) [mailto:Marlon_Ovalles@nysd.uscourts.gov]

Sent: Monday, May 23, 2016 12:37 PM

To: Abhyankar, Shri <Shri.Abhyankar@alston.com>

Cc: .JDG.Brody, Amy <abrody@rmmslegal.com>; .JDG.Kayal, Ajay <akayal@buddlarner.com>; .JDG.Kokabi, Azy <akokabi@sughrue.com>; Andrew Miller <amiller@buddlarner.com>; Samansky, Adam <APSamansky@mintz.com>; .JDG.Huttner, Constance <chuttner@buddlarner.com>; .JDG.Iyer, Chidambaram <ciyer@sughrue.com>; .JDG.Sun, Caroline <csun@buddlarner.com>; .JDG.Wythers, Conly <cwythers@rmmslegal.com>; Conlin, David <DGConlin@mintz.com>; .JDG.Mazzochi, Deanne <dmazzochi@rmmslegal.com>; .JDG.Shelhoff, Dmitry <dshelhoff@buddlarner.com>; .JDG.Berezowskyj, Helena <HBerezowskyj@rmmslegal.com>; Dereka, Jennifer <JLDereka@mintz.com>; .JDG.Scarpati, Jennifer <Jscarpati@buddlarner.com>; Carr, Kathleen <KBCarr@mintz.com>; .JDG.Shannon, Luke <lshannon@rmmslegal.com>; .JDG.Dzwonczyk, Michael <mdzwonczyk@sughrue.com>; Clayton, Natalie <Natalie.Clayton@alston.com>; .JDG.White, Natasha <nwhite@rmmslegal.com>; Banky, Paki <Paki.Banky@alston.com>; Thomas \" <[tburns@rmmslegal.com/O=, \"Wu/@uscmail.uscourts.gov](mailto:tburns@rmmslegal.com/O=,%20Wu/@uscmail.uscourts.gov)>; Wen \" <[Wen.Wu@alston.com/O=, \"J.DG.Rakoczy/@uscmail.uscourts.gov](mailto:Wen.Wu@alston.com/O=,%20.JDG.Rakoczy/@uscmail.uscourts.gov)>; William \" <[wrakoczy@rmmslegal.com/O=, \"ward/@uscmail.uscourts.gov](mailto:wakoczy@rmmslegal.com/O=,%20ward/@uscmail.uscourts.gov)>

Subject: Re: Kowa et al. v. Amneal et al. (SNDY 14-cv-02758-PAC; 14-cv-07934-PAC; 15-cv-03935-PAC; 14-cv-02647-PAC; 14-cv-02759-PAC; 14-cv-05575-PAC; and 14-cv-02760-PAC)

Dear Mr. Abhyankar,

Due to lengthy trials already scheduled to go forward in November (USA -v- Campos Flores, et al - 15-cr-765 & SEC -v- Mudd, 11-cv-9202) the earliest trial date available is: **Monday, January 16, 2017**. Please confer and let us know if the proposed date is acceptable. If not acceptable, please confer and propose some dates that work for all sides. Thanks.

-Marlon



Mr. Marlon Ovalles

Courtroom Deputy to the Hon. Paul A. Crotty, U.S.D.J
United States District Court
Southern District of New York
500 Pearl Street, Chambers 1350 & Courtroom 14-C
New York, NY 10007
Email: Marlon_Ovalles@nysd.uscourts.gov
Office: 212-805-6312
Fax: 212-805-6304

Marlon
Ovalles/NYS/D/0
2/USCOURTS

05/20/2016
11:56 AM

To
".JDG.Scarpati, Jennifer" <Jscarpati@buddlerner.com>, ".JDG.Kokabi, Azy" <akokabi@sughrue.com>, ".JDG.Brody, Amy" <abrody@rmmlegal.com>, ".JDG.Shannon, Luke" <lshannon@rmmlegal.com>, ".JDG.Mazzochi, Deanne" <dmazzochi@rmmlegal.com>, ".JDG.Rakoczy, William" <wtrakoczy@rmmlegal.com>, ".JDG.White, Natasha" <nwhite@rmmlegal.com>, ".JDG.Burns, Thomas" <tburns@rmmlegal.com>, ".ward@rmmlegal.com" <ward@rmmlegal.com>, ".JDG.Berezowskyj, Helena" <HBerezowskyj@rmmlegal.com>, ".JDG.Wythers, Conly" <cwythers@rmmlegal.com>, "Andrew Miller" <amiller@buddlerner.com>, ".JDG.Huttner, Constance" <chuttner@buddlerner.com>, ".JDG.Sun, Caroline" <csun@buddlerner.com>, ".JDG.Kayal, Ajay" <akayal@buddlerner.com>, ".JDG.Shelhoff, Dmitry" <dshelhoff@buddlerner.com>, ".JDG.Iyer, Chidambaram" <civier@sughrue.com>, ".JDG.Dzwonczyk, Michael" <mdzwonczyk@sughrue.com>, "Wu, Wen" <Wen.Wu@alston.com>, "Banky, Paki" <Paki.Banky@alston.com>, "Clayton, Natalie" <Natalie.Clayton@alston.com>, "Conlin, David" <DGConlin@mintz.com>, "Carr, Kathleen" <KBCarr@mintz.com>, "Samansky, Adam" <APSamansky@mintz.com>, "Dereka, Jennifer" <JLDereka@mintz.com>

cc
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Good afternoon Mr. Abhyankar,

Thank you for the detailed e-mail. We will be in touch on Monday with a trial date. Have a nice weekend.

-Marlon

-Marlon

On May 20, 2016, at 11:31 AM, Abhyankar, Shri <Shri.Abhyankar@alston.com> wrote:

Dear Mr. Ovalles:

We write on behalf of the parties in connection with Civil Action Nos. 14-cv-02758-PAC; 14-cv-07934-PAC; 15-cv-03935-PAC; 14-cv-02647-PAC; 14-cv-02759-PAC; 14-cv-05575-PAC; and 14-cv-02760-PAC respectively. The parties recently have agreed to extend the current schedule, and the Court recently entered an Order amending the schedule.

With this new schedule, the parties anticipate that the case will be trial ready by November 2016 and thus would like to obtain a tentative trial date from the Court. To assist the Court in scheduling, the parties wish to advise the Court of the following. The parties anticipate a bench trial. The defendants estimate that the trial will take approximately 10 days. In light of the 16 initial expert reports plaintiffs recently received from defendants, plaintiffs believe that a more realistic estimated trial time is approximately 20 days. Plaintiffs also note that one of the defendants, Sawai, recently filed a motion to amend its answer and counterclaims, which if allowed, would impact the scope, length, and timing of trial.

The parties respectfully request the Court to provide the parties with available tentative trial dates in November 2016, or as soon as the Court's schedule allows thereafter.

We are available at the Court's convenience for a telephone conference and/or in-person conference if the Court believes that would be helpful.

Thank you,

Shri Abhyankar

Alston & Bird LLP

1201 W. Peachtree Street

Atlanta, GA 30309

404-881-7687 - Direct Dial

404-253-8887 - Fax

shri.abhyankar@alston.com

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