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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

BRISTOL-MYERS SQUIBB
COMPANY,

Plaintiff and Counter-
Defendant,

v.

GENENTECH, INC. and CITY
OF HOPE,

Defendants and
Counter-Plaintiffs.

MEDAREX, L.L.C.,

Third-Party Defendant
and Counter-Claimant.

Case No. 2:13-CV-05400-MRP

**STIPULATION OF DISMISSAL
OF ENTIRE ACTION**

Judge: Hon. Mariana R. Pfaelzer
Ctm: 12

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COMPANY and Third Party Defendant
and Counter-Claimant
MEDAREX, L.L.C.

1 IT IS HEREBY STIPULATED by and among the parties to this action
2 through their counsel that the above-captioned action (including without limitation
3 all claims, counterclaims, and third-party claims asserted in the action) be and
4 hereby is dismissed in its entirety pursuant to Federal Rule of Civil Procedure
5 41(a)(1)(A)(ii).

6 IT IS FURTHER STIPULATED by and among the parties to this action
7 through their counsel that:

- 8 1. This dismissal is without prejudice with respect to Counts III and IV of
9 Genentech Inc.'s and City of Hope's First Amended Counterclaims to
10 Bristol-Myers Squibb Company's Complaint for Declaratory Judgment,
11 dated November 8, 2013, for "Infringement of the Cabilly II Patent
12 regarding Erbitux (Asserted Against BMS)" (Count III) and
13 "Infringement of the Cabilly III Patent regarding Erbitux (Asserted
14 Against BMS)" (Count IV), which allege that by marketing and
15 distributing Erbitux[®] (cetuximab) in the United States, offering for sale
16 and selling Erbitux[®] in the United States, and/or importing Erbitux[®] into
17 the United States, BMS has infringed, is infringing, and/or will infringe
18 one or more of the claims of the Cabilly II and/or Cabilly III patents,
19 literally and/or under the doctrine of equivalents.
- 20 2. This dismissal is with prejudice with respect to all other all claims,
21 counterclaims, and third-party claims asserted in the action, including all
22 claims, counterclaims, and third-party claims asserted in the action
23 regarding Yervoy[®] (ipilimumab).
- 24 3. Nothing in this Stipulation shall affect in any way any rights, claims,
25 counterclaims, defenses, or affirmative defenses of any of the parties
26 hereto in Case No. 2:13-cv-07248-MRP-JEM, *Eli Lilly and Company and*
27 *Imclone Systems LLC v. Genentech, Inc. and City of Hope* (C.D. Cal.).
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FILER'S ATTESTATION

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Pursuant to Civil L.R. 5-4.3.4, regarding signatures, I, Daralyn J. Durie, attest that concurrence in the filing of this document has been obtained.

/s/ Daralyn J. Durie

DARALYN J. DURIE

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