

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ABBVIE INC. and ABBVIE BIOTECHNOLOGY
LTD.,

Plaintiffs,

v.

AMGEN INC. and AMGEN MANUFACTURING
LTD.,

Defendants.

Civil No. 16-666-SLR

**STIPULATION AND [PROPOSED]
ORDER OF DISMISSAL WITHOUT PREJUDICE**

Plaintiffs AbbVie Inc. and AbbVie Biotechnology Ltd. (collectively, “AbbVie”) and Defendants Amgen Inc. and Amgen Manufacturing Ltd. (collectively, “Amgen”) hereby stipulate, subject to the Court’s approval, by and through their respective counsel that:

1. Amgen stipulates that it will comply with the notice requirements of 42 U.S.C. § 262(l)(8)(A).
2. The parties agree that paragraph (l)(8)(A), as currently interpreted by the courts, requires Amgen Inc., the subsection (k) applicant, to provide notice to AbbVie Inc., the reference product sponsor, only after ABP 501 (now known as Amjevita™) is licensed by the FDA and then not later than 180 days before the date of first commercial marketing of Amjevita™ in the United States.
3. Amgen stipulates that if the law changes so that it is not required to give such notice, in addition to any other notice or action required by law, Amgen Inc.

will still provide AbbVie Inc. with at least 21 days' notice before the first commercial marketing of Amgen Inc.'s adalimumab biosimilar in the United States.

4. In light of Amgen's stipulations, Count XI of the Complaint filed by AbbVie in this action is hereby dismissed without prejudice pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure without costs or attorneys' fees to either party.

ROSS ARONSTAM & MORITZ LLP

YOUNG CONAWAY STARGATT & TAYLOR, LLP

By: /s/ Benjamin J. Schladweiler
Benjamin J. Schladweiler (#4601)
Nicholas D. Mozal (#5838)
100 S. West Street, Suite 400
Wilmington, DE 19801
(302) 576-1600
bschladweiler@ramllp.com
nmozal@ramllp.com

By: /s/ James L. Higgins
Melanie K. Sharp (No. 2501)
James L. Higgins (No. 5021)
1000 North King Street
Wilmington, DE 19801
(302) 571-6681
msharp@ycst.com
jhiggins@ycst.com

*Attorneys for Plaintiffs AbbVie Inc. and
AbbVie Biotechnology Ltd.*

*Attorneys for Defendants Amgen Inc. and
Amgen Manufacturing Ltd.*

SO ORDERED this _____ day of _____ 2016.

UNITED STATES DISTRICT JUDGE