

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

JANSSEN BIOTECH, INC. and  
NEW YORK UNIVERSITY

Plaintiffs,

v.

CELLTRION HEALTHCARE CO., LTD.,  
CELLTRION, INC., and  
HOSPIRA, INC.

Defendants.

Civil Action No. 1:15-cv-10698

Civil Action No. 1:16-cv-11117

**JOINT STIPULATION AND [PROPOSED] ORDER**

WHEREAS, the above-captioned actions were consolidated on August 19, 2016 (No. 16-1117 Dkt 7; No. 15-10698 Dkt 226);

WHEREAS, Defendants Celltrion Healthcare Co., Ltd., Celltrion, Inc., and Hospira Inc. (collectively, “Defendants”) moved this Court to dismiss Plaintiffs Janssen Biotech, Inc. and New York University’s (collectively, “Plaintiffs”) complaint in Action No. 16-11117 and Count 6 of Plaintiffs’ complaint in Action No. 15-10698 (*see* No. 15-10698 Dkt. 240, 241);

WHEREAS, during the October 6, 2016 status conference, the Court discussed with the parties Defendants’ Motion to Dismiss, including some of the bases therefor and standards applicable thereto, and in so doing, mentioned the possibility of Defendants’ arguments being presented in the form of a motion for summary judgment rather than a motion to dismiss;

WHEREAS, the Court’s Order dated October 7, 2016, states, “If defendants’ Motion to Dismiss Civil Action No. 16-11117-MLW is not withdrawn, a hearing on it will be held at 9:30 a.m. on December 21, 2016, and will continue on December 22, 2016, if necessary” (No. 15-10698 Dkt. 260);

WHEREAS, the parties met and conferred regarding the status of Defendants' Motion to Dismiss;

WHEREAS, Defendants will withdraw the Motion to Dismiss and file a Motion for Partial Summary Judgment as to Counts 1, 2 and 3 of the Complaint in Action No. 16-11117 and Count 6 of the Complaint in Action No. 15-10698<sup>1</sup>;

WHEREAS, the parties have agreed upon a proposed schedule for briefing related to the Motion for Partial Summary Judgment that the parties believe will allow the Motion to be heard on December 21–22, the dates originally reserved for the hearing on Defendants' Motion to Dismiss.

NOW THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND ORDERED that:

1. Defendants' Motion to Dismiss (No. 15-10698 Dkt. 240, 241) is withdrawn;
2. On October 19, 2016, Defendants shall file a Motion for Partial Summary Judgment as to Counts 1, 2 and 3 of the Complaint in Action No. 16-11117 and Count 6 of the Complaint in Action No. 15-10698;
3. On November 9, 2016, Plaintiffs shall file their opposition brief;
4. On November 23, 2016, Defendants shall file their reply brief, not to exceed 15 pages;
5. On December 9, 2016, Plaintiffs shall file their sur-reply brief, not to exceed 15 pages;
6. On December 21, 2016, starting at 9:30 am, continuing to December 22, 2016, if needed, the Court will hold a hearing on the Motion for Partial Summary Judgment;
7. On November 4, 2016, Defendants shall answer the Complaint in Action No. 2016-11117.

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<sup>1</sup> The only other remaining count in these consolidated cases is Count 1 in Action No. 15-10698, which alleges a violation of the Biologics Price Competition and Innovation Act. *See* Dkt. 228 (stipulation dismissing Count 2); Dkt. 250 (order granting 54(b) status for Count 3); Dkt. 138 (stipulation dismissing Count 4); Dkt. 83 (stipulation dismissing Counts 5 and 7); Dkt. 89 (stipulation dismissing Count 8).

Respectfully submitted:

Dated: October 18, 2016

/s/Andrea L. Martin

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*Attorneys for Celltrion Healthcare Co., Ltd.,  
Celltrion, Inc. and Hospira, Inc.*

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

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UNITED STATES DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I hereby certify that this document is being filed through the Court's ECF system which will send an electronic copy of the document to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to those indicated as non-registered participants on October 18, 2016.

/s/Andrea L. Martin

Andrea L. Martin