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LOS ANGELES, CA

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12 Facsimile: (214) 978-4044

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Facsimile: (512) 692-8744

13 Additional Counsel Listed on  
Signature Page

14 Attorneys for Defendants  
15 *Sanofi; Sanofi-Aventis U.S. LLC;*  
16 *Genzyme Corporation; Aventisub LLC;*  
*and Regeneron Pharmaceuticals, Inc.*

17  
18 **UNITED STATES DISTRICT COURT**  
19 **CENTRAL DISTRICT OF CALIFORNIA**

20 IMMUNEX CORPORATION,

21 Plaintiff,

22 v.

23 SANOFI; SANOFI-AVENTIS U.S.  
24 LLC; GENZYME CORPORATION;  
25 AVENTISUB LLC; and REGENERON  
PHARMACEUTICALS, INC.,

26 Defendants.

Case No. 2:17-cv-2613-SJO-PLA

**DEFENDANTS' NOTICE OF  
MOTION AND MOTION TO FILE  
A FIRST AMENDED ANSWER**

**Judge:** The Hon. S. James Otero  
**Hearing:** October 16, 2017  
**Time:** 10:00 am  
**Place:** Courtroom 10C

1 SANOFI-AVENTIS U.S. LLC;  
2 GENZYME CORPORATION; and  
3 REGENERON  
4 PHARMACEUTICALS, INC.,

5 Counterclaim-  
6 Plaintiffs,

7 v.

8 IMMUNEX CORPORATION and  
9 AMGEN INC.,

10 Counterclaim-  
11 Defendants.

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MCKOOL SMITH HENNIGAN, P.C.  
LOS ANGELES, CA

1 **TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF**  
2 **RECORDS:**

3 **PLEASE TAKE NOTICE** that on October 16, 2017 at 10:00 a.m., or as soon  
4 thereafter as the matter may be heard, in this Court, located at First Street Courthouse,  
5 350 W. First Street, Courtroom 10C, Los Angeles, CA 90012, Defendants Sanofi,  
6 Sanofi-Aventis U.S. LLC, Genzyme Corporation, Aventisub LLC, and Regeneron  
7 Pharmaceuticals, Inc. (collectively, “Defendants”), will and hereby do move, pursuant  
8 to this Court’s Scheduling Order (Dkt. No. 80) and Fed. R. Civ. P. 15(a) for leave to  
9 amend their answer (Dkt. No. 64) in this action.

10 This motion is made following the conference of counsel pursuant to Local  
11 Rule 7-3 that took place on September 11, 2017.

12 This motion is based upon this Notice of Motion and Motion, the Declaration of  
13 John F. Garvish, II, the accompanying documents filed under seal concurrently  
14 herewith: the Memorandum of Points and Authorities, the proposed First Amended  
15 Answer attached as Appendix A, the Exhibits cited therein, and a redline version of  
16 the First Amended Answer attached as Appendix B, and upon such other matters as  
17 may be presented to the Court at the time of the hearing.

McKool Smith Hennigan, P.C.  
Los Angeles, CA

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MCKOOL SMITH HENNIGAN, P.C.  
LOS ANGELES, CA

1 Dated: September 18, 2017

**MCKOOL SMITH HENNIGAN, P.C.**

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/s/ John F. Garvish, II

4

John F. Garvish, II

5

6 Mike McKool (*admitted pro hac vice*)  
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Attorneys for Defendants  
*Sanofi; Sanofi-Aventis U.S. LLC;*  
*Genzyme Corporation; Aventisub LLC;*  
*and Regeneron Pharmaceuticals, Inc.*

**CERTIFICATE OF SERVICE**

1  
2 The undersigned hereby certifies that a true and correct copy of the above and  
3 foregoing document has been served on September 18, 2017 to all counsel of record  
4 who are deemed to have consented to electronic service via the Court’s CM/ECF  
5 system. Any other counsel of record will be served by electronic mail, facsimile, U.S.  
6 Mail and/or overnight delivery.

7  
8 /s/ John F. Garvish, II  
9 John F. Garvish, II

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13 Additional Counsel Listed on  
Signature Page

14 Attorneys for Defendants  
15 *Sanofi; Sanofi-Aventis U.S. LLC;*  
16 *Genzyme Corporation; Aventisub LLC;*  
*and Regeneron Pharmaceuticals, Inc.*

17  
18 **UNITED STATES DISTRICT COURT**  
19 **CENTRAL DISTRICT OF CALIFORNIA**

20 IMMUNEX CORPORATION,  
21 Plaintiff,

22 v.

23 SANOFI; SANOFI-AVENTIS U.S.  
24 LLC; GENZYME CORPORATION;  
25 AVENTISUB LLC; and REGENERON  
26 PHARMACEUTICALS, INC.,  
27 Defendants.

Case No. 2:17-cv-2613-SJO-PLA

**DECLARATION OF JOHN F.  
GARVISH, II IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
LEAVE TO FILE A FIRST  
AMENDED ANSWER**

Judge: The Hon. S. James Otero



1 I, John F. Garvish, II, hereby declare as follows:

2 1. I am an attorney at McKool Smith P.C. (“McKool Smith”), counsel of  
3 record in this action for Defendants Sanofi, Sanofi-Aventis U.S. LLC, Genzyme  
4 Corporation, Aventisub LLC, and Regeneron Pharmaceuticals, Inc. (collectively,  
5 “Sanofi and Regeneron” or “Defendants”). I am one of the attorneys principally  
6 responsible for the representation of Sanofi and Regeneron. I have personal  
7 knowledge of all facts stated in this declaration and if called as a witness, could and  
8 would competently testify thereto. This declaration is offered in support of  
9 Defendants’ Motion for Leave to file a First Amended Answer.

10 2. Plaintiff Immunex Corp. and Counterclaim Defendant Amgen Inc.  
11 (collectively, “Immunex”) served their Disclosure of Asserted Claims and  
12 Infringement Contentions pursuant to Northern District of California Patent Local  
13 Rule (“P.L.R.”) 3-1 and produced documents pursuant to P.L.R. 3-2 on August 17,  
14 2017. Immunex produced over 13,000 pages of documents. Outside counsel for  
15 Sanofi and Regeneron at McKool Smith, including myself, diligently reviewed  
16 Immunex’s document production.

17 3. On September 7, 2017, Immunex granted Sanofi and Regeneron  
18 permission to share documents marked “CONFIDENTIAL” in the August 17, 2017  
19 document production with certain in-house counsel at Sanofi and Regeneron, pursuant  
20 to the parties’ agreed provisions in the Protective Order filed as Dkt. No. 83.

21 4. The Court granted the parties’ joint request to extend the deadline to  
22 amend pleadings from September 14, 2017 to September 18, 2017 (Dkt. No. 89).

23 5. On September 11, 2017, I met and conferred with Heather Takahashi,  
24 counsel for Immunex at Munger, Tolles & Olson LLP, regarding Defendants’  
25 inequitable conduct affirmative defense. The purpose of this meet and confer was to  
26 inquire whether, given that Defendants’ affirmative defense is based on information  
27 from Immunex’s recent document production, Immunex would agree in writing to  
28 allow Sanofi and Regeneron to amend their Answer under Fed. R. Civ. P. 15(a).



MCKOOL SMITH HENNIGAN, P.C.  
LOS ANGELES, CA

1           6. Attached hereto as **Exhibit 1** is a true and correct redacted copy of an  
2 email I sent to Counsel for Immunex on Monday, September 11, 2017, summarizing  
3 our meet and confer. Exhibit 1 is redacted to remove any references to information  
4 that Immunex designated "CONFIDENTIAL" in its document production.

5           7. On Tuesday, September 12, 2017, I sent counsel for Immunex a draft of  
6 Defendants' First Amended Answer for review.


7           8. On Wednesday, September 13, 2017, Counsel for Immunex informed  
8 Counsel for Defendants that they would not agree to allow Defendants to amend their  
9 answer, and that Immunex would oppose any motion for leave to amend. Attached  
10 hereto as **Exhibit 2** is a true and correct redacted copy of an email from Counsel for  
11 Immunex to me, sent Wednesday afternoon, stating that Immunex intends to oppose  
12 any motion for leave to amend on "futility grounds." Exhibit 2 is redacted to remove  
13 any references to information that Immunex designated "CONFIDENTIAL" in its  
14 document production.

15           9. After receiving the email attached hereto as Exhibit 2, I telephoned  
16 Counsel for Immunex directly. On the phone, Heather Takahashi, Counsel for  
17 Immunex, again represented that the sole grounds for Immunex's opposition is that  
18 the amendment would be "futile." Specifically she indicated that Immunex's  
19 opposition to Defendants' motion to amend would be based on two aspects that make  
20 up their futility argument: (1) a lack of materiality and (2) a lack of scienter.

21           I declare under penalty of perjury under the laws of the United States of  
22 America that the foregoing is true and correct.

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Executed this 18th day of September, 2017, at Austin, Texas.

  
\_\_\_\_\_  
John F. Garvish, II

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on September 18, 2017 to all counsel of record who are deemed to have consented to electronic service via the Court’s CM/ECF system. Any other counsel of record will be served by electronic mail, facsimile, U.S. Mail and/or overnight delivery.

/s/ John F. Garvish, II

John F. Garvish, II

McKool Smith Hennigan, P.C.  
Los Angeles, CA

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# **EXHIBIT 1**

**From:** [John Garvish](#)  
**To:** [Takahashi, Heather](#); [R-S\\_DUPIXENT](#)  
**Cc:** [IMMUNEXCOUNSEL](#)  
**Subject:** RE: Case 2:17-cv-02613-SJO-PLA Immunex Corporation v. Sanofi et al / Ltrs Re Infringement Contentions & RFP  
**Date:** Monday, September 11, 2017 8:36:35 PM  
**Attachments:** [2017 09 11 - Notice of Lodging of Amended Answer and Counterclaims.docx](#)  
[2017 09 11 - Proposed Order re Stipulation to Allow Filing of Amended Answer and Counterclaims.docx](#)  
[2017 09 11 - Stipulation to Allow Filing of Amended Answer and Counterclaims.docx](#)

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Heather,

Thank you so much for the helpful meet and confer that happened today at 2:45 pm cst (12:45 pst). On the call we discussed the following:

1. On 8/17/2017 Immunex produced over 13,000 pages of documents.
2. Defendants reviewed these documents diligently.
3. On 9/07/2017 Immunex agreed to allow certain of the Defendants' client representatives to become privy to the confidential information disclosed in the 8/17/2017 production.
4. The deadline for amending pleadings is 9/14/2017 but has been requested to be extended to 09/18/2017.
5. I explained the details of our inequitable conduct defense (described briefly below) and indicated that we plan to add to this defense to our pleadings.

I stated that our goal for the meet and confer was to find out whether Immunex would agree to a joint stipulation to allow us to amend our pleadings before the deadline (see attached documents). I indicated that I thought Immunex was likely to oppose the inequitable conduct defense on the merits but I did not believe that there was any reason to oppose Defendants amending their pleading to assert such a defense. Likewise, you did not identify a reason on the call.

More specifically, we indicated that the basis for our inequitable conduct defense was at least the following:

1. Immunex's 8/17/2017 production contains documents [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
2. During the prosecution of the family of patents that led to the '487 Patent Immunex argued that the "competes" limitation was the point of novelty and in response to invalidity arguments made by the examiner based on prior art mouse monoclonal antibodies to human IL-4R, Immunex responded that there was no evidence that any prior art antibodies compete with the 12B5 antibody and demanded such evidence be provided by the examiner.
3. [REDACTED]  
[REDACTED]

On the call, you also asked us to identify the documents that we plan to rely on to support this defense. While this is not an exhaustive list, and although we are not planning to attach any

Immunex documents to our Amended Answer, we plan to rely on information contained in the following Immunex documents that are marked "CONFIDENTIAL." For example, we plan to rely on information contained in at least the following categories of Immunex documents:

- [REDACTED] e.g., IMNX00012439-12458
- [REDACTED]: e.g., IMNX00001352-1823; IMNX00002111-2461; IMNX00002958-3338; IMNX00003923-4333; IMNX00005624-5840
- [REDACTED] e.g., IMNX00009696-9703; IMNX00009737-9741
- [REDACTED]: e.g., IMNX00009817-9827

We plan to redact information obtained from such documents marked "CONFIDENTIAL." Please let us know by noon PST tomorrow (9/12/2017) whether we can agree to the attached joint stipulation or whether you intend to oppose our motion to amend our pleading. Thanks in advance for working with us on this issue.

Best,  
John

John Franklin Garvish, II, Ph.D., J.D.  
[jgarvish@mckoolsmith.com](mailto:jgarvish@mckoolsmith.com)  
Phone: [\(512\) 692-8731](tel:(512)692-8731)

# **EXHIBIT 2**

**From:** [Takahashi, Heather](#)  
**To:** [John Garvish; R-S\\_DUPIXENT](#)  
**Cc:** [IMMUNEXCOUNSEL](#)  
**Subject:** RE: Case 2:17-cv-02613-SJO-PLA Immunex Corporation v. Sanofi et al / Ltrs Re Infringement Contentions & RFP  
**Date:** Wednesday, September 13, 2017 6:38:04 PM

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John,

Thank you for providing us with a copy of the Defendants' draft Amended Answer.

In the current draft, Defendants have not alleged any facts that would reasonably support asserting an inequitable conduct defense. We therefore intend to oppose Defendants' motion for leave to amend on futility grounds. Should Defendants continue to press these frivolous allegations, Immunex reserves the right to request attorney fees associated with rebutting this defense.

Best regards,  
Heather

**Heather E. Takahashi | Munger, Tolles & Olson LLP**  
350 South Grand Avenue | Los Angeles, CA 90071  
Tel: 213.683.9531 | Fax: 213.683.4031 | [heather.takahashi@mto.com](mailto:heather.takahashi@mto.com) | [www.mto.com](http://www.mto.com)

---

**From:** John Garvish [<mailto:jgarvish@McKoolSmith.com>]  
**Sent:** Wednesday, September 13, 2017 2:31 PM  
**To:** Takahashi, Heather; R-S\_DUPIXENT  
**Cc:** IMMUNEXCOUNSEL  
**Subject:** RE: Case 2:17-cv-02613-SJO-PLA Immunex Corporation v. Sanofi et al / Ltrs Re Infringement Contentions & RFP

Heather,

In my haste to get this email off to you I did not send you the complete list in the email below. My apologies. Listed below is the complete lists of documents that we intend to attach to our amended answer.

- IMNX00001354, IMNX00001451–IMNX00001453, IMNX00001618–IMNX00001619, IMNX00001793–IMNX00001804
- IMNX00002960, IMNX00003004–IMNX00003006
- IMNX00003925, IMNX00004107–IMNX00004109
- IMNX00005627, IMNX00005819–IMNX00005821
- IMNX00009696–IMNX00009703
- IMNX00009737–IMNX00009741
- IMNX00009742–IMNX00009752
- IMNX00009753–IMNX00009756
- IMNX00009765–IMNX00009772
- IMNX00009801–IMNX00009803
- IMNX00009817–IMNX00009819
- IMNX00011161–IMNX00011165
- IMNX00011872–IMNX00011873
- IMNX00011878
- IMNX00012439–IMNX00012446

Best,  
John

John Franklin Garvish, II, Ph.D., J.D.  
[jgarvish@mckoolsmith.com](mailto:jgarvish@mckoolsmith.com)  
Phone: [\(512\) 692-8731](tel:(512)692-8731)

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**From:** John Garvish  
**Sent:** Wednesday, September 13, 2017 4:17 PM  
**To:** 'Takahashi, Heather'; R-S\_DUPIXENT  
**Cc:** IMMUNEXCOUNSEL  
**Subject:** RE: Case 2:17-cv-02613-SJO-PLA Immunex Corporation v. Sanofi et al / Ltrs Re Infringement Contentions & RFP

Heather,

I previously agreed to tell you if anything changed regarding what we intended to file as our amended answer. As I mentioned on the telephone earlier today, we have decided that we are going to attach certain of the documents identified to you on Monday, September 11, 2017 as exhibits to further support our inequitable conduct allegations should Immunex decide to move to dismiss this defense after its filing. For your reference the documents are the following:

- IMNX00001451–IMNX00001453;
- IMNX00001618–IMNX00001619;
- IMNX00001793–IMNX00001797;
- IMNX00003004–IMNX00003006;
- IMNX00005820;
- IMNX00009696–IMNX00009703;
- IMNX00009737–IMNX00009741;
- IMNX00009817–IMNX00009819;
- IMNX00012439- IMNX00012446;
- IMNX00009770–IMNX00009772; and
- IMNX00011878

Please let me know if you would like to discuss.

In addition, would it be possible to add one item to our call tomorrow (9/14 at 11 am cst)? We'd like to discuss the procedures for filing Immunex's confidential information contained within or attached to our amended pleading just so we make sure that everyone is on the same page and Immunex's confidential information is protected.

Thanks in advance.

Best,  
John



John Franklin Garvish, II, Ph.D., J.D.

[jgarvish@mckoolsmith.com](mailto:jgarvish@mckoolsmith.com)

Phone: [\(512\) 692-8731](tel:(512)692-8731)

---

**From:** Takahashi, Heather [<mailto:Heather.Takahashi@mt.com>]

**Sent:** Tuesday, September 12, 2017 6:48 PM

**To:** John Garvish; R-S\_DUPIXENT

**Cc:** IMMUNEXCOUNSEL

**Subject:** Re: Case 2:17-cv-02613-SJO-PLA Immunex Corporation v. Sanofi et al / Ltrs Re Infringement Contentions & RFP

John,

We are willing to review the draft amended pleading and let you know after that whether we still plan to oppose Defendants' motion for leave to amend. We reserve the right to object if Defendants file a different version of the amended answer from the version you share with us.

If you would like to discuss by phone, I'm available at 323-533-7531.

Thanks,  
Heather

On Sep 12, 2017, at 1:33 PM, John Garvish <[jgarvish@McKoolSmith.com](mailto:jgarvish@McKoolSmith.com)> wrote:

Heather,

Thanks so much for the email. We disagree with your characterizations below and are surprised to hear that you are planning to oppose our motion to amend our pleadings – especially since you made the decision without ever reviewing our pleading. That said, we are happy to share a draft of our amended answer assuming you will agree not to use any changes we make prior to filing against us in any way. Please confirm and we will send our draft.

Contrary to your suggestion, we have identified exemplary documents that support our amended pleading and shortly you will have our draft amended pleading as well which at this stage must be accepted as true. We don't believe you have any basis to object to our amendment in light of Rule 15(a)(2) ("The court should freely give leave when justice so requires."). However, once you receive our pleading, please let us know as soon as possible whether you still plan to oppose our motion for leave to amend.

Best,  
John

John Franklin Garvish, II, Ph.D., J.D.

[jgarvish@mckoolsmith.com](mailto:jgarvish@mckoolsmith.com)

Phone: [\(512\) 692-8731](tel:(512)692-8731)

**From:** Takahashi, Heather [<mailto:Heather.Takahashi@mto.com>]  
**Sent:** Tuesday, September 12, 2017 1:34 PM  
**To:** John Garvish; R-S\_DUPIXENT  
**Cc:** IMMUNEXCOUNSEL  
**Subject:** RE: Case 2:17-cv-02613-SJO-PLA Immunex Corporation v. Sanofi et al / Ltrs Re Infringement Contentions & RFP

John,

First, we disagree with your characterization of our meet-and-confer, which among other things omits the following:

1. You told us for the first time on our meet-and-confer call today that Defendants wish to amend their Answer to assert a defense for inequitable conduct.
2. You told us that you would provide us with a copy of the amended pleading that Defendants propose filing. We have not received a copy of the amended pleading from you.
3. When we asked you to identify the specific basis for your defense, [REDACTED]

[REDACTED] said that we are not aware of experiments showing this, and I asked you to provide us with the Bates numbers for those experiments.

Second, we have reviewed the Bates-numbered documents cited in your email below. Contrary to your very misleading characterization of those documents, they do not appear to contain [REDACTED]. If you are aware of such experiments, please identify those Bates numbers. Otherwise, we must oppose Defendants' motion for leave to file an Amended Answer on the ground that it is futile.

Best regards,  
Heather

**Heather E. Takahashi** | **Munger, Tolles & Olson LLP**  
350 South Grand Avenue | Los Angeles, CA 90071  
Tel: 213.683.9531 | Fax: 213.683.4031 | [heather.takahashi@mto.com](mailto:heather.takahashi@mto.com) | [www.mto.com](http://www.mto.com)

---

**From:** John Garvish [<mailto:jgarvish@McKoolSmith.com>]  
**Sent:** Monday, September 11, 2017 6:36 PM  
**To:** Takahashi, Heather; R-S\_DUPIXENT  
**Cc:** IMMUNEXCOUNSEL  
**Subject:** RE: Case 2:17-cv-02613-SJO-PLA Immunex Corporation v. Sanofi et al / Ltrs Re Infringement Contentions & RFP

Heather,

Thank you so much for the helpful meet and confer that happened today at 2:45 pm cst (12:45 pst). On the call we discussed the following:

1. On 8/17/2017 Immunex produced over 13,000 pages of documents.
2. Defendants reviewed these documents diligently.
3. On 9/07/2017 Immunex agreed to allow certain of the Defendants' client representatives to become privy to the confidential information disclosed in the 8/17/2017 production.
4. The deadline for amending pleadings is 9/14/2017 but has been requested to be extended to 09/18/2017.
5. I explained the details of our inequitable conduct defense (described briefly below) and indicated that we plan to add to this defense to our pleadings.

I stated that our goal for the meet and confer was to find out whether Immunex would agree to a joint stipulation to allow us to amend our pleadings before the deadline (see attached documents). I indicated that I thought Immunex was likely to oppose the inequitable conduct defense on the merits but I did not believe that there was any reason to oppose Defendants amending their pleading to assert such a defense. Likewise, you did not identify a reason on the call.

More specifically, we indicated that the basis for our inequitable conduct defense was at least the following:

1. Immunex's 8/17/2017 production contains documents [REDACTED]  
[REDACTED]  
[REDACTED].
2. During the prosecution of the family of patents that led to the '487 Patent Immunex argued that the "competes" limitation was the point of novelty and in response to invalidity arguments made by the examiner based on prior art mouse monoclonal antibodies to human IL-4R, Immunex responded that there was no evidence that any prior art antibodies compete with the 12B5 antibody and demanded such evidence be provided by the examiner.
3. [REDACTED]  
[REDACTED]

On the call, you also asked us to identify the documents that we plan to rely on to support this defense. While this is not an exhaustive list, and although we are not planning to attach any Immunex documents to our Amended Answer, we plan to rely on information contained in the following Immunex documents that are marked "CONFIDENTIAL." For example, we plan to rely on information contained in at least the following categories of Immunex documents:

- [REDACTED]: e.g., IMNX00012439-12458
- [REDACTED]: e.g., IMNX00001352-1823; IMNX00002111-2461; IMNX00002958-3338; IMNX00003923-4333; IMNX00005624-5840
- [REDACTED]: e.g., IMNX00009696-9703; IMNX00009737-9741
- [REDACTED] e.g., IMNX00009817-9827

We plan to redact information obtained from such documents marked "CONFIDENTIAL." Please let us know by noon PST tomorrow (9/12/2017) whether we can agree to the attached joint stipulation or whether you intend to oppose our motion to amend our pleading. Thanks in advance for working with us on this issue.

Best,  
John

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13 Attorneys for Defendants  
14 *Sanofi; Sanofi-Aventis U.S. LLC;*  
15 *Genzyme Corporation; Aventisub LLC;*  
*and Regeneron Pharmaceuticals, Inc.*

16  
17 **UNITED STATES DISTRICT COURT**  
18 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

19 IMMUNEX CORPORATION,  
20 Plaintiff,  
21 v.  
22 SANOFI; SANOFI-AVENTIS U.S.  
23 LLC; GENZYME CORPORATION;  
24 AVENTISUB LLC; and REGENERON  
PHARMACEUTICALS, INC.,  
25 Defendants.

Case No. 2:17-cv-02613-SJO (PLA)  
**[PROPOSED] ORDER GRANTING  
DEFENDANTS' MOTION FOR  
LEAVE TO FILE A FIRST  
AMENDED ANSWER AND  
COUNTERCLAIMS**

Judge: Hon. S. James Otero

1 SANOFI-AVENTIS U.S. LLC;  
 2 GENZYME CORPORATION; and  
 3 REGENERON  
 4 PHARMACEUTICALS, INC.,  
 5  
 6 Counterclaim-  
 7 Plaintiffs,  
 8  
 9 v.  
 10 IMMUNEX CORPORATION and  
 11 AMGEN INC.,  
 12  
 13 Counterclaim-  
 14 Defendants.

15 The Court, having read and considered all of the papers and arguments  
 16 submitted in connection with the motion by Defendants for leave to file a First  
 17 Amended Answer and Counterclaims, the Court finds it will grant Defendants’  
 18 request.

19 IT IS HEREBY ORDERED THAT:  
 20 Defendants shall file their First Amended Answer and Counterclaims  
 21 forthwith.

22 **IT IS SO ORDERED.**

23 DATED: \_\_\_\_\_

\_\_\_\_\_  
 Honorable S. James Otero  
 United States District Judge

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on September 18, 2017 to all counsel of record who are deemed to have consented to electronic service via the Court’s CM/ECF system. Any other counsel of record will be served by electronic mail, facsimile, U.S. Mail and/or overnight delivery.

/s/ John F. Garvish, II  
John F. Garvish, II