

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
CLARKSBURG DIVISION**

REGENERON PHARMACEUTICALS, INC.,

Plaintiff,

v.

MYLAN PHARMACEUTICALS INC., and  
BIOCON BIOLOGICS INC.

Defendant.

Case No. 1:22-cv-00061-TSK

**JURY TRIAL DEMANDED**

**PLAINTIFF REGENERON PHARMACEUTICALS, INC.'S  
PROTECTIVE NOTICE OF APPEAL TO THE  
COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

Pursuant to Federal Rules of Appellate Procedure 3 and 4, notice is hereby given that Plaintiff Regeneron Pharmaceuticals, Inc. (“Regeneron”) hereby appeals to the United States Court of Appeals for the Federal Circuit from the “Judgment” entered in this action, *Regeneron Pharmaceuticals, Inc. v. Mylan Pharmaceuticals Inc. and Biocon Biologics Inc.*, Case No. 22-cv-00061-TSK, by the United States District Court for the Northern District of West Virginia on December 27, 2023 (Docket No. 665) (the “December 27, 2023 Judgment”).

Regeneron believes that the December 27, 2023 Judgment is not a final, appealable judgment. It resolves fewer than all claims in Regeneron’s Complaint (Docket No. 1), and a Partial Final Judgment pursuant to Federal Rule of Civil Procedure 54(b) is therefore necessary before an appeal can be taken. Fed. R. Civ. P. 54(b) (“Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.”). Regeneron is in communication with Defendants Mylan Pharmaceuticals Inc. and Biocon Biologics Inc. (“Defendants”) regarding the proper form of a Rule 54(b) judgment in this case.

Accordingly, in an abundance of caution, Regeneron files this notice of appeal within 30 days of the December 27, 2023 Judgment as a protective measure to ensure appellate jurisdiction over the District Court’s judgment in this action. *See* 28 U.S.C. § 2107(a) (“Except as otherwise provided in this section, no appeal shall bring any judgment, order or decree in an action, suit or proceeding of a civil nature before a court of appeals for review unless notice of appeal is filed, within thirty days after the entry of such judgment, order or decree”). When the District Court

enters an appealable judgment under Rule 54(b), Regeneron will file a second notice of appeal.

This notice of appeal does not deprive the District Court of jurisdiction over this action.

Date: January 26, 2023

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**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that on this 26<sup>th</sup> day of January 2024, the foregoing was filed using the Court's CM/ECF system, which will provide service to all counsel of record.

/s/ Steven R. Ruby  
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