UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-60704-CIV-SEITZ/SIMONTON

APOTEX, INC. and APOTEX CORP.,
Plaintiff,
vs.

MYLAN PHARMCEUTICALS INC.,
Defendant.
_____/

ORDER SETTING TRIAL DATE, PRETRIAL DEADLINES AND REFERRAL TO MAGISTRATE

Pursuant to Local Rule 16.1, and the Court having considered the parties' Initial Scheduling Report, it is hereby

ORDERED as follows:

1. **Trial Date and Calendar Call**. This case is set for jury trial on the Court's two-week trial period commencing **March 24, 2014**,[1] before the undersigned United States District Judge. Calendar Call shall be held on **March 19, 2014, at 1:15 p.m.** The case shall be assigned to the standard case management track.

2. **Pre-Markman Hearing**. A Pre-Markman hearing conference and tutorial will be held on **February 21, 2013 at 8:30 a.m.**

3. **Pretrial Conference**. A Pretrial Conference will be held on **March 6, 2014**,[1] at **9:00 a.m.**

[1]The Trial and Pretrial Conference dates are tentative and may be revised depending on how many of these cases actually go to trial.

4. **Markman Hearing**. A Markman hearing will be held on **March 8, 2013 at 9:00 a.m.**

5. **Pretrial Deadlines**. The pretrial deadlines for joinder of parties, amendment of pleadings and disclosure of witnesses, are those counsel provided in their Initial Scheduling Report filed with the Court. The Court will hold the parties to these deadlines with the exception of the following deadlines the Court has set:

October 5, 2012	Plaintiff must provide documents pursuant to EDTX Patent Rule 3-2.
October 19, 2012	Deadline for Defendant to serve invalidity contentions pursuant to EDTX Patent Rule 3-3.
November 9, 2012	List of proposed terms for construction due.
November 30, 2012	Proposed claim term constructions due.
December 14, 2012	Opening claim construction briefs due from all parties.
January 14, 2013	Responses to claim construction briefs due from all parties.
January 22, 2013	Joint claim construction statement due.
January 31, 2013	Deadline for completion of claim construction discovery.
May 17, 2013	Deadline for amendment of pleadings and joinder of parties.
June 14, 2013	All fact discovery must be completed.
June 28, 2013	Expert reports due.
July 26, 2013	Responsive expert reports due.
August 9, 2013	Reply expert reports due.
August 16, 2013	Deadline for Rule 26(a)(3)(A) disclosures.
September 6, 2013	All discovery must be completed.

November 4, 2013	All summary judgment, Daubert motions and motions in limine must be filed. Counsel shall submit courtesy copies of all briefs and exhibits.
December 13, 2013	Deadline for filing joint status report regarding consolidating cases for trial.
January 17, 2013	Parties shall meet regarding joint pretrial stipulation.
February 18, 2014	(a) Joint pretrial stipulation must be filed pursuant to Local Rule 16.1.E. The witness lists shall be pared down to those witnesses the parties actually intend to call at trial; and the exhibit lists shall identify the witness introducing each exhibit. The witness and exhibit lists shall contain information required by Fed. R. Civ. P. 26(a); (b) Joint proposed jury instructions and verdict form must be filed outlining (1) the legal elements of Plaintiff's claims, including damages, and (2) the legal elements of the defenses raised, consistent with and citing to the Eleventh Circuit Pattern Jury Instructions, where applicable; **and** (c) Motions in Limine and Responses must be filed. **Before any motions are filed, the parties shall consult with each other to see if the issues can be resolved without Court involvement.** The motions shall be limited to one (1) page per evidentiary issue, and shall identify the evidence sought to be precluded and the legal authority supporting exclusion. The responses shall also be limited to one (1) page, and shall provide a statement of the purpose for which the challenged evidence would be offered and the legal authority supporting the admissibility of such evidence.

6. **Referral to Magistrate**. Pursuant to Rule 1 of the Magistrate Rules of the Southern District of Florida, **ALL DISCOVERY AND ALL MOTIONS FOR ATTORNEYS' FEES, COSTS AND SANCTIONS** are referred to Magistrate Judge Andrea M. Simonton for appropriate resolution. DISCOVERY DISPUTES THAT REQUIRE COURT INTERVENTION SHALL FOLLOW THE PROCEDURES SET OUT ON ATTACHMENT A TO THIS ORDER. It shall be the responsibility of the respective parties in this case to note on all materials necessary

to the resolution of the referred matters the name of Magistrate Judge Simonton on the case number caption (i.e., Case No. 99-1234-CIV-SEITZ/SIMONTON) and that courtesy copies of such materials shall be directed to her Chambers.

7. **Settlement**. If this case is settled, counsel must inform the Court within two (2) days by calling Chambers.

8. **Non-compliance with Order and Rules of Court**. Non-compliance with any provision of this Order, the Federal Rules of Civil Procedure, and/or the Local Rules of Court, may subject the offending party to **sanctions or dismissal**. It is the duty of all counsel to enforce the case management timetable to insure an expeditious resolution of this cause.

DONE AND ORDERED in Miami, Florida, this 24th day of September, 2012.

PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: The Honorable Andrea M. Simonton
Counsel of Record

DISCOVERY PROCEDURES FOR
MAGISTRATE JUDGE ANDREA M. SIMONTON

The discovery procedures below apply to all civil cases assigned to United States District Judge Patricia A. Seitz.

A. Pre-hearing Communication. If a discovery dispute arises, Counsel must actually speak to one another (in person or via telephone) and engage in reasonable compromise in a genuine effort to resolve their discovery disputes before seeking Court intervention. The Court expects all Parties to act courteously and professionally in the resolution of their discovery disputes in an attempt to resolve the discovery issue prior to setting a hearing. The Court may impose sanctions, monetary or otherwise, if the Court determines discovery is being improperly sought or is not being provided in good faith.

B. Hearing Procedures. If, after conferring, parties are unable to resolve their discovery disputes without Court intervention, Magistrate Judge Andrea M. Simonton will set the matter for a hearing. Discovery disputes are generally set for hearing (10 minutes per side) on Wednesdays and Fridays between 10:30 a.m. and 12:00 p.m. in the 8th Floor Courtroom, United States Courthouse, 301 N. Miami Avenue, Miami, Florida.

The moving party must seek relief within **fourteen (14) days** after the occurrence of the grounds for relief, by contacting Magistrate Judge Simonton's Chambers (305-523-5930) and placing the matter on the next available discovery calendar. The movant must contact chambers no later than three (3) business days before the discovery calendar, after conferring with opposing counsel and confirming his or her availability.

On the same day the matter is placed on the discovery calendar, the movant shall file a Notice of Hearing which shall briefly specify the substance of the discovery matter to be heard. (For example, "The Parties dispute the appropriate time frame for Plaintiff's Interrogatory Nos. 1, 5, 6-9," or "The Parties dispute the number of depositions permitted.") The Notice shall include a certification that the parties have complied with the pre-filing conference required by S.D. Fla. L.R 7.1(a)(3).

The movant shall provide Magistrate Judge Simonton a copy of all source materials relevant to the discovery dispute, via hand-delivery or through a scanned PDF document that is emailed to the CM/ECF mailbox (simonton@flsd.uscourts.gov), when the Notice of Hearing is filed. (For example, if the dispute concerns interrogatories, the interrogatories at issue and the response thereto, shall be provided to Magistrate Judge Simonton's Chambers.)

C. No Written Motions. No written discovery motions, including motions to compel and motions for protective order, shall be filed unless requested by Magistrate Judge Simonton. It is the intent of this procedure to minimize the necessity of motions. The Parties shall notify Chambers as soon as practicable if they resolve some, or all, of the issues in dispute.