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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of	)	
Impax Laboratories, Inc., a corporation,	)	DOCKET NO. 9373
Respondent.	)	

Joint Motion to Extend the Discovery Schedule

WHEREAS the Federal Trade Commission ("FTC")'s administrative complaint in this proceeding scheduled the evidentiary hearing for September 19, 2017, and

WHEREAS Complaint Counsel and Respondend Impax Laboratories are currently conducting fact discovery to prepare for the abovementioned hearing, and

WHEREAS, to facilitate the resolution of a significant discovery dispute between the parties, Impax has agreed to substantially complete its document production by July 7, 2017, and the Commission has rescheduled the evidentiary hearing to October 24, 2017 to accommodate a five-week extension of the discovery schedule, and

WHEREAS the Commission has found that this brief extension of the discovery schedule would allow the parties to "complete fact discovery in an expeditious and efficient way,"

WHEREFORE the FTC and Impax hereby jointly move this Court to enter the attached proposed revised scheduling order, which extends the remaining deadlines in this action by five weeks to align with the new date for the evidentiary hearing.

Dated: June 16, 2017

Respectfully submitted,

/s/ Bradley S. Albert
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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of	)	
Impax Laboratories, Inc., a corporation,	)	DOCKET NO. 9373
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[PROPOSED] REVISED SCHEDULING ORDER

March 21, 2017	-	Complaint Counsel provides preliminary witness list (not including experts) with a brief summary of the proposed testimony.
April 4, 2017	-	Respondent's Counsel provides preliminary witness list (not including experts) with a brief summary of the proposed testimony.
May 30, 2017	-	Deadline for issuing document requests, interrogatories and subpoenas *duces tecum*, except for discovery for purposes of authenticity and admissibility of exhibits.
June 5, 2017	-	Complaint Counsel provides expert witness list.
July 24, 2017	-	Deadline for issuing requests for admissions, except for requests for admissions for purposes of authenticity and admissibility of exhibits.
July 28, 2017	-	Respondent's Counsel provides expert witness list.
August 11, 2017	-	Close of discovery, other than discovery permitted under Rule 3.24(a)(4), depositions of experts, and discovery for purposes of authenticity and admissibility of exhibits.
August 18, 2017	-	Deadline for Complaint Counsel to provide expert witness reports.
September 5, 2017	-	Deadline for Respondent's Counsel to provide expert witness reports (to be provided by 4 p.m. ET). Respondent's expert report shall include (without limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).
September 13, 2017	-	Complaint Counsel provides to Respondent's Counsel its final proposed witness and exhibit lists, including depositions, copies of

all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Complaint Counsel's basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.

Complaint Counsel serves courtesy copies on ALJ of its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including its expert witnesses.

September 20, 2017 - Complaint Counsel to identify rebuttal expert(s) and provide rebuttal expert report(s). Any such reports are to be limited to rebuttal of matters set forth in Respondent's expert reports. If material outside the scope of fair rebuttal is presented, Respondent will have the right to seek appropriate relief (such as striking Complaint Counsel's rebuttal expert reports or seeking leave to submit surrebuttal expert reports on behalf of Respondent).

September 26, 2017 - Respondent's Counsel provides to Complaint Counsel its final proposed witness and exhibit lists, including depositions, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Respondent's basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.

Respondent's Counsel serves courtesy copies on ALJ its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including its expert witnesses.

September 27, 2017 - Parties that intend to offer confidential materials of an opposing party or non-party as evidence at the hearing must provide notice to the opposing party or non-party, pursuant to 16 C.F.R. § 3.45(b).[1] *See* Additional Provision 7.

October 2, 2017 - Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.

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[1] Appendix A to Commission Rule 3.31, the Standard Protective Order, states that if a party or third party wishes *in camera* treatment for a document or transcript that a party intends to introduce into evidence, that party or third party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives notice of a party's intent to introduce such material. Commission Rule 3.45(b) states that parties who seek to use material obtained from a third party subject to confidentiality restrictions must demonstrate that the third party has been given at least 10 days' notice of the proposed use of such material. To resolve this apparent conflict, the Scheduling Order requires that the parties provide 10 days' notice to the opposing party or third parties to allow for the filing of motions for *in camera* treatment.

October 4, 2017	-	Deadline for filing motions *in limine* to preclude admission of evidence. *See* Additional Provision 9.
October 4, 2017	-	Exchange and serve courtesy copy on ALJ objections to final proposed witness lists and exhibit lists. The Parties are directed to review the Commission's Rules on admissibility of evidence before filing objections to exhibits.
October 10, 2017	-	Deadline for filing motions for *in camera* treatment of proposed trial exhibits.
October 10, 2017	-	Complaint Counsel files pretrial brief supported by legal authority.
October 10, 2017	-	Deadline for filing responses to motions *in limine* to preclude admissions of evidence.
October 11, 2017	-	Exchange proposed stipulations of law, facts, and authenticity.
October 13, 2017	-	Deadline for filing responses to motions for *in camera* treatment of proposed trial exhibits.
October 17, 2017	-	Respondent's Counsel files pretrial brief supported by legal authority.
October 19, 2017	-	Final prehearing conference to begin at 10:00 a.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The parties shall meet and confer prior to the prehearing conference regarding trial logistics and proposed stipulations of law, facts, and authenticity of exhibits. To the extent the parties have agreed to stipulate to any issues of law, facts, and/or authenticity of exhibits, the parties shall prepare a list of such stipulations and submit a copy of the stipulations to the ALJ one business day prior to the conference. At the conference, the parties' list of stipulations shall be marked as "JX1" and signed by each party, and the list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required. Any subsequent stipulations may be offered as agreed by the parties. Counsel may present any objections to the final proposed witness lists and exhibits. Trial exhibits will be admitted or excluded to the extent practicable. To the extent the parties agree to the admission of each other's exhibits, the parties shall prepare a list identifying each exhibit to which admissibility is agreed, marked

as "JX2" and signed by each party, which list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required.

October 24, 2017 - Commencement of Hearing, to begin at 10:00 a.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SO ORDERED:

_____

D. Michael Chappell
Chief Administrative Law Judge

Date: _____

CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2017, I filed the foregoing documents electronically using the FTC's E-Filing System, which will send notification of such filing to:

Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I also certify that I delivered via electronic mail a copy of the foregoing documents to:

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Counsel for Respondent Impax Laboratories, Inc.

Dated: June 16, 2017

By: /s/ Rebecca E. Weinstein
Attorney

CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

June 16, 2017 By: /s/ Rebecca E. Weinstein
Attorney