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16 [Additional attorney on signature page]

17 **UNITED STATES DISTRICT COURT**  
18 **NORTHERN DISTRICT OF CALIFORNIA**  
19 **SAN FRANCISCO DIVISION**

20 FEDERAL TRADE COMMISSION,  
21 Plaintiff,

22 v.

23 ALLERGAN PLC,  
24 ALLERGAN FINANCE LLC,  
25 WATSON LABORATORIES, INC.,  
26 ENDO INTERNATIONAL PLC,  
27 and  
28 ENDO PHARMACEUTICALS INC.,  
Defendants.

Case No. 17-cv-00312  
**JOINT MOTION FOR ENTRY OF  
STIPULATED ORDER FOR  
PERMANENT INJUNCTION**

Plaintiff Federal Trade Commission (“FTC”) and Defendants Endo Pharmaceuticals Inc.  
and Endo International plc (collectively, “Endo”), by their respective attorneys, respectfully  
move this Court to enter the accompanying proposed Stipulated Order for Permanent Injunction

1 (“Stipulated Order”). Entry of the Stipulated Order will end all current litigation between the  
2 FTC and Endo. A copy of the proposed Stipulated Order is attached as Exhibit 1. As grounds  
3 for this request, the parties state as follows:

4 **Introduction**

5 1. On January 23, 2017, the FTC filed its Complaint against Endo and others  
6 pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b).  
7 The Complaint alleges that Endo, and Watson Laboratories, Inc., Allergan Finance LLC, and  
8 Allergan plc (collectively, “Watson”) violated Section 5 of the FTC Act by entering into a  
9 reverse-payment settlement agreement that induced Watson to abandon its patent challenge and  
10 forgo entering the market with its lower-cost generic version of Lidoderm until September 2013.  
11 Lidoderm is a transdermal lidocaine patch indicated for relief of pain associated with post-  
12 herpetic neuralgia.

13 2. The Defendants and claims in the FTC’s Complaint overlap significantly with *In*  
14 *re Lidoderm Antitrust Litigation*, Case No. C-14-md-2521, currently pending in this District  
15 before the Honorable Judge William H. Orrick. For that reason, the FTC intends to file, at the  
16 earliest opportunity, an administrative motion to seek designation of this case as related and  
17 reassignment of this case to Judge Orrick. Endo intends to support this motion.

18 3. In its Complaint, the FTC seeks a permanent injunction to prevent Endo and the  
19 other Defendants from engaging in similar and related conduct in the future and “such other  
20 equitable relief as the Court finds necessary, including restitution or disgorgement, to redress and  
21 prevent recurrence of Defendants’ violations.”

22 4. Endo has reached a settlement with the FTC. In doing so, Endo admits only the  
23 facts necessary to establish the personal and subject matter jurisdiction of this Court in this  
24 matter. Moreover, Endo denies that it engaged in any conduct violating Section 5 of the FTC  
25 Act.

26 5. On January 6, 2017, Endo executed a Stipulated Order for Permanent Injunction  
27 in settlement of all claims against it in the above-captioned case. On January 19, 2017, the  
28 Commission voted unanimously to approve the proposed Stipulated Order. Thus, Endo and the

1 Commission jointly seek entry of the attached proposed Stipulated Order by the Court, thereby  
2 bringing all of the litigation between the Commission and Endo to an end, including the  
3 following “Covered Actions”: (a) this action; (b) Endo’s claims against the Commission under  
4 the Declaratory Judgment Act in *Endo Pharmaceuticals Inc., et al. v. Federal Trade*  
5 *Commission*, Civ. Action No. 16-cv-5599 (E.D. Pa.) and *Endo Pharmaceuticals Inc., et al. v.*  
6 *Federal Trade Commission*, Civ. Action No. 16-cv-5600 (E.D. Pa.); and (c) the Commission’s  
7 claims against Par Pharmaceuticals Companies, Inc. and Paddock Laboratories, Inc. now known  
8 as Paddock Holdings, LLC in *Federal Trade Commission v. Actavis, Inc.*, Civ. Action No. 09-  
9 cv-955 (N.D. Ga.).

### 10 **Proposed Stipulated Order**

11 6. The proposed Stipulated Order prohibits Endo from entering into patent  
12 infringement settlement agreements containing certain types of provisions for a period of ten  
13 years. Paragraph II of the proposed Stipulated Order prohibits Endo from entering into any  
14 settlement agreement containing: (1) terms providing for either (a) a Payment by the NDA  
15 Holder to the Generic Filer or (b) a “No-AG Commitment,” in which the brand company agrees  
16 to restrictions on its ability to compete through sales of an authorized generic of a drug product  
17 for some period of time; and (2) an agreement by the generic company to refrain from  
18 researching, developing, manufacturing, marketing, or selling the drug product at issue in the  
19 patent infringement litigation (the “Subject Drug Product”) for some period of time. The term  
20 “Payment by the NDA Holder to the Generic Filer” is defined to include any transfer of value  
21 (including money, goods, or services) where such transfer is either expressly contingent upon, or  
22 within 30 days prior to or after, the companies entering into the settlement agreement.

23 7. The proposed Stipulated Order excludes certain forms of value from the definition  
24 of Payment by the NDA Holder to the Generic Filer. The transfer of these excluded forms of  
25 value would not be prohibited by Paragraph II:

26 a. compensation for saved future litigation expenses of up to \$7 million,  
27 adjusted annually for inflation;

1           b.       provisions, including the right to market a generic product on the Generic  
2 Entry Date, that allow the generic company to begin or continue selling the Subject Drug  
3 Product;

4           c.       under certain circumstances, a waiver of damages based on the generic  
5 company's prior marketing of the Subject Drug Product; and

6           d.       under certain circumstances, the continuation or renewal of a pre-existing  
7 agreement.

8           8.       The proposed Stipulated Order also exempts from the prohibition in Paragraph II  
9 certain supply agreements relating to supply of the Generic Subject Drug Product or materials  
10 used to make that product and certain agreements for which the Defendants seek prior approval  
11 from the Commission.

12           9.       Paragraph VIII of the proposed Stipulated Order includes certain provisions  
13 relating to Endo's obligations in connection with discovery in this case.

14           10.      The Stipulated Order contemplates that its terms will fully and finally resolve the  
15 Covered Actions. Paragraph XII of the proposed Stipulated Order provides that this action will  
16 be dismissed with prejudice against Endo. Paragraphs 8-9 of the Stipulations also provide that  
17 the parties will each voluntarily dismiss with prejudice their claims against the other in the other  
18 Covered Actions. In addition, in Paragraph 6 of the Stipulations, the parties stipulate that the  
19 Commission's prior voluntary dismissal, under Federal Rule of Civil Procedure 41, of its  
20 complaint in *Federal Trade Commission v. Endo Pharmaceuticals Inc.*, Civ Action No. 16-cv-  
21 1440 (E.D.Pa.) shall be treated for all purposes as being *with prejudice* with respect to any  
22 claims asserted in that action against Endo.

23           11.      The remaining paragraphs of the proposed Stipulated Order relate to reporting and  
24 other standard requirements designed to assist the Commission in monitoring compliance with  
25 the order. Paragraph XI provides that the proposed Stipulated Order will expire in ten years.

**Conclusion**

For the reasons set forth above, the FTC and Endo jointly request that the Court enter the proposed Stipulated Order that accompanies this motion.

Respectfully submitted,

/s/ Bradley S. Albert  
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January 23, 2017



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**ATTESTATION**

I, Bradley S. Albert, attorney for the Federal Trade Commission, filed this Joint Motion for Entry of Stipulated Order for Permanent Injunction through the Electronic Case Filing system of the Northern District of California. I attest that the Federal Trade Commission has obtained concurrence in the filing of this document from Daniel B. Asimow, attorney for defendants Endo Pharmaceutical Inc. and Endo International plc.

Dated: January 23, 2017

/s/ Bradley S. Albert  
BRADLEY S. ALBERT  
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# Exhibit 1



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14 Endo Pharmaceuticals, Inc.

15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**  
17 **SAN FRANCISCO DIVISION**

18 FEDERAL TRADE COMMISSION,

19 Plaintiff,

20 v.

21 ENDO PHARMACEUTICALS INC.,

22 and

23 ENDO INTERNATIONAL PLC,

24 Defendants.

Case No 17-cv-00312

**STIPULATED ORDER FOR  
PERMANENT INJUNCTION**

25 The Federal Trade Commission (“Commission”) filed its Complaint for Injunctive Relief  
26 (“Complaint”) in this matter pursuant to Section 13(b) of the Federal Trade Commission Act  
27 (“FTC Act”), 15 U.S.C. § 53(b). The Commission and Defendants Endo Pharmaceuticals Inc.  
28 and Endo International plc, by their respective attorneys, have reached an agreement to resolve  
this case through settlement, and without trial or final adjudication of any issue of fact or law,

1 and stipulate to entry of this Stipulated Order for Permanent Injunction (“Order”) to resolve all  
2 matters in dispute in this action.

3 **FINDINGS**

- 4 1. This Court has jurisdiction over the parties and the subject matter of this action.  
5 Defendants have stipulated that, for purposes of this Order alone, the Court has  
6 jurisdiction over Endo Pharmaceuticals Inc. and Endo International plc.
- 7 2. Venue for these matters is proper in this Court under 15 U.S.C. § 22 and 28 U.S.C. §  
8 1391(b) and (c), and under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b).
- 9 3. The Complaint alleges that Defendants engaged in anticompetitive acts that constitute an  
10 unfair method of competition in violation of Sections 5(a) and 13(b) of the FTC Act, 15  
11 U.S.C. §§ 45(a) and 53(b), and an acquisition in violation of Section 7 of the Clayton  
12 Act, 15 U.S.C. § 18, by entering an agreement that foreclosed competition from generic  
13 equivalents of the brand-name drug Lidoderm® and later reduced competition between  
14 sellers of generic lidocaine patches.
- 15 4. Defendants admit the facts necessary to establish the personal and subject matter  
16 jurisdiction of this Court in this matter only.
- 17 5. Defendants deny the charges in the Complaint and dispute that the Commission is  
18 entitled to obtain relief.
- 19 6. This Order does not constitute any evidence against Defendants, or an admission of  
20 liability or wrongdoing by Defendants, in this case or in any other litigation involving  
21 Lidoderm® or Opana ER®. This Order shall not be used in any way, as evidence or  
22 otherwise, in any other litigation or proceeding; *provided that*, nothing in this provision  
23 prevents the Commission or Defendants from using this Order in any proceeding  
24 regarding enforcement or modification of this Order or as otherwise required by law.
- 25 7. Defendants waive any claim that they may have under the Equal Access to Justice Act,  
26 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this  
27 Order, and agree to bear their own costs and attorney fees in this action and the Federal  
28 Court Actions.

1 8. Entry of this Order is in the public interest. The Commission and Defendants have  
2 agreed to stipulate to entry of this Order to finally resolve the claims and litigations  
3 between them in the FTC Litigation and the Federal Court Actions.

4 **STIPULATIONS**

- 5 1. Defendants stipulate that venue for this matter is proper in this Court under 15 U.S.C. §  
6 22 and 28 U.S.C. § 1391(b) and (c), and under Section 13(b) of the FTC Act, 15 U.S.C. §  
7 53(b).
- 8 2. Defendants waive all rights to appeal or otherwise challenge or contest the validity of this  
9 Order.
- 10 3. Defendants stipulate that they shall comply with the provisions of this Order pending its  
11 entry by the Court.
- 12 4. Defendants and the Commission have agreed to entry of this Order to finally resolve all  
13 claims and litigations between the Commission and Defendants in the FTC Litigation and  
14 the Federal Court Actions.
- 15 5. The Commission stipulates that it will not file litigation or any other proceedings against  
16 Defendants asserting, or seeking remedies based on, Resolved Claims, other than any  
17 legal proceeding regarding enforcement or modification of this Order.
- 18 6. The parties stipulate that the Commission's dismissal of the *Federal Trade Commission*  
19 *v. Endo Pharmaceuticals Inc.*, Civ Action No. 16-cv-1440 (E.D. Pa.) shall be treated for  
20 all purposes as being *with prejudice* with respect to any claims asserted in that action  
21 against Defendants.
- 22 7. Defendants stipulate that they shall bear their own costs in the Federal Court Actions and  
23 shall not make any claims against the Commission for attorneys' fees or costs in the  
24 Federal Court Actions.
- 25 8. Defendants stipulate that, within one day of the entry of this Order, they will file a  
26 voluntary dismissal with prejudice of their claims in the Declaratory Judgment Actions in  
27 the form provided in Exhibit 1 to this Order.
- 28

1 9. The Commission stipulates that, within one day of the entry of this Order, the  
2 Commission will file a motion for voluntary dismissal with prejudice of its claims against  
3 Defendants, including but not limited to Par Pharmaceutical Companies, Inc., as well as  
4 Paddock Holdings, LLC and Paddock Laboratories, Inc., in *Federal Trade Commission v.*  
5 *Actavis, Inc.*, Civ. Action No. 09-cv-955 (N.D. Ga.), in the form provided in Exhibit 2 to  
6 this Order.

7 **I.**

8 **IT IS ORDERED** that, as used in this Order, the following definitions shall apply:

9 A. “Commission” means the United States Federal Trade Commission.

10 B. “Endo Pharmaceuticals” means Endo Pharmaceuticals Inc., any joint venture, subsidiary,  
11 division, group, or affiliate Controlled currently or in the future by Endo Pharmaceuticals Inc.,  
12 their successors and assigns, and the respective directors, officers, employees, agents, and  
13 representatives acting on behalf of each.

14 C. “Endo International” means Endo International plc, any joint venture, subsidiary,  
15 division, group, or affiliate Controlled currently or in the future by Endo International plc, their  
16 successors and assigns, and the respective directors, officers, employees, agents, and  
17 representatives acting on behalf of each.

18 D. “Defendant” means either Endo Pharmaceuticals or Endo International.

19 E. “Defendants” means Endo Pharmaceuticals and Endo International.

20 F. “505(b)(2) Application” means an application filed with the United States Food and Drug  
21 Administration pursuant to Section 505(b)(2) of the Federal Food, Drug and Cosmetic Act, 21  
22 U.S.C. § 355(b)(2).

23 G. “ANDA” means an Abbreviated New Drug Application filed with the United States Food  
24 and Drug Administration pursuant to Section 505(j) of the Federal Food, Drug and Cosmetic  
25 Act, 21 U.S.C. § 355(j).

26 H. “Authorized Generic” means a Drug Product that is manufactured pursuant to an NDA  
27 and Marketed in the United States under a name other than the proprietary name identified in the  
28 NDA.

1 I. “Brand/Generic Settlement” means any agreement or understanding that settles a Patent  
2 Infringement Claim in or affecting Commerce in the United States.

3 J. “Brand/Generic Settlement Agreement” means a written agreement that settles a Patent  
4 Infringement Claim in or affecting Commerce in the United States.

5 K. “Branded Subject Drug Product” means a Subject Drug Product Marketed in the United  
6 States under the proprietary name identified in the NDA for the Subject Drug Product.

7 L. “Commerce” has the same definition as it has in 15 U.S.C. § 44.

8 M. “Control” or “Controlled” means the holding of more than fifty percent (50%) of the  
9 common voting stock or ordinary shares in, or the right to appoint more than fifty percent (50%)  
10 of the directors of, or any other arrangement resulting in the right to direct the management of,  
11 the said corporation, company, partnership, joint venture, or entity.

12 N. “Contingent Supply Agreement” means a Supply Agreement that: (i) is contingent on the  
13 Generic Filer’s inability to market the Generic Subject Drug Product on or after the Generic  
14 Entry Date because (x) the FDA has not granted final approval of the Generic Filer’s ANDA or  
15 505(b)(2) Application for the Generic Subject Drug Product and/or (y) the Generic Filer cannot  
16 manufacture commercial quantities of the Generic Subject Drug Product; and (ii) terminates  
17 within thirty (30) days after the Generic Filer has final FDA approval and can manufacture  
18 commercial quantities of the Generic Subject Drug Product using good faith, commercially  
19 reasonable efforts,

20 *provided, however,* the Generic Filer may take delivery of, market, and sell quantities of  
21 Authorized Generic ordered prior to termination of the Supply Agreement *so long as* the total  
22 quantity of Authorized Generic delivered to the Generic Filer following termination of the  
23 Supply Agreement: (i) does not exceed the total quantity needed by the Generic Filer (as  
24 reflected in forecasts provided to the NDA Holder prior to termination of the Supply Agreement)  
25 during the eight (8) months following (x) termination of the Supply Agreement, if termination  
26 occurs after the Generic Entry Date, or (y) the Generic Entry Date, if termination occurs before  
27 the Generic Entry Date; and (ii) is delivered within eight (8) months of termination of the Supply  
28 Agreement.

1 O. “Declaratory Judgment Actions” means *Endo Pharmaceuticals Inc., et al. v. Federal*  
2 *Trade Commission*, Civ. Action No. 16-cv-5599 (E.D. Pa.) and *Endo Pharmaceuticals Inc., et al.*  
3 *v. Federal Trade Commission*, Civ. Action No. 16-cv-5600 (E.D. Pa.).

4 P. “Drug Product” means a finished dosage form (e.g., tablet, capsule, solution, or patch), as  
5 defined in 21 C.F.R. § 314.3(b), approved under a single NDA, ANDA or 505(b)(2) Application,  
6 that contains a drug substance, generally, but not necessarily, in association with one or more  
7 other ingredients.

8 Q. “Exception” means the following in a Brand/Generic Settlement:

- 9 1. compensation for saved future litigation expenses, ***but only if*** the total  
10 compensation the NDA Holder agrees to provide to the Generic Filer during the  
11 sixty (60) day period starting thirty (30) days before and ending thirty (30) days  
12 after executing the Brand/Generic Settlement Agreement does not exceed a  
13 maximum limit, which is initially set at seven million dollars (\$7,000,000) and  
14 shall be increased (or decreased) as of January 1 of each year following entry of  
15 this Order by an amount equal to the percentage increase (or decrease) from the  
16 previous year in the annual average Producer Price Index for Legal Services  
17 (Series Id. PCU5411--5411--) published by the Bureau of Labor Statistics of the  
18 United States Department of Labor or its successor;
- 19 2. the right to Market, as of an agreed upon Generic Entry Date: (i) Generic  
20 Product(s) in the United States under an ANDA or 505(b)(2) Application (x) that  
21 is controlled by the Generic Filer and was not transferred to the Generic Filer by  
22 the NDA Holder, or (y) to which the Generic Filer has a license from a party other  
23 than the NDA Holder; or (ii) an Authorized Generic of the Subject Drug Product;  
24 provided that this Exception shall apply regardless of whether or not the Generic  
25 Filer must pay for the right to Market and, if so, the terms and conditions  
26 governing such payment;
- 27 3. provisions to facilitate, by means other than the transfer of goods or money, the  
28 Generic Filer’s ability to secure or maintain final regulatory approval, or

1 commence or continue the Marketing, of a Generic Product, by, *inter alia*,  
2 providing covenants, waivers, permissions, releases, dismissals of claims, and/or  
3 authorizations;

4 4. waiver or limitation of a claim for damages or other monetary relief based on  
5 prior Marketing of the Generic Subject Drug Product, **but only if** the NDA Holder  
6 and the Generic Filer do not agree, and have not agreed, to another Brand/Generic  
7 Settlement for a different Drug Product during the sixty (60) day period starting  
8 thirty (30) days before and ending thirty (30) days after the execution of the  
9 Brand/Generic Settlement Agreement; or

10 5. a continuation or renewal of a pre-existing agreement between an NDA Holder  
11 and a Generic Filer **but only if**: (i) the pre-existing agreement was entered into at  
12 least 90 days before the relevant Brand/Generic Settlement Agreement, (ii) the  
13 terms of the renewal or continuation, including the duration and the financial  
14 terms, are substantially similar to those in the pre-existing agreement, and (iii)  
15 entering into the continuation or renewal is not expressly contingent on agreeing  
16 to a Brand/Generic Settlement.

17 R. "Exempted Agreement" means a Materials Agreement or Supply Agreement that meets  
18 all of the following conditions:

- 19 1. the price is above the Fully Allocated Manufacturing Cost, meaning:
- 20 a. if the Agreement is a Materials Agreement, the Materials Price charged by the  
21 NDA Holder for Materials provided through the Materials Agreement is at or  
22 above the Fully Allocated Manufacturing Cost incurred by the NDA Holder  
23 per unit of the relevant Materials, or
- 24 b. if the Agreement is a Supply Agreement, the Supply Price charged by the  
25 NDA Holder for the Authorized Generic of the Subject Drug Product is at or  
26 above the Fully Allocated Manufacturing Cost incurred by the NDA Holder  
27 per unit of the Authorized Generic of the Subject Drug Product provided  
28 under the agreement;

- 1           2.     the Brand/Generic Settlement Agreement containing or incorporating the  
2           Materials Agreement or Supply Agreement is the only Brand/Generic Settlement  
3           Agreement that the NDA Holder and the Generic Filer have entered, or agreed to  
4           enter, during the sixty (60) day period starting thirty (30) days before and ending  
5           thirty (30) days after the execution of the Brand/Generic Settlement Agreement;
- 6           3.     within fourteen (14) days after signing the Brand/Generic Settlement Agreement  
7           containing or incorporating the Materials Agreement or Supply Agreement,  
8           Defendants Submitted to the Monitor a full and complete copy of the  
9           Brand/Generic Settlement Agreement, including any Materials Agreement and/or  
10          Supply Agreement;
- 11          4.     within fourteen (14) days after the NDA Holder provides to the Generic Filer the  
12          Materials Price or Supply Price, as applicable, Defendants Submitted to the  
13          Monitor notification of the relevant Materials Price or Supply Price;
- 14          5.     within thirty (30) days after beginning supply under the relevant Materials  
15          Agreement or Supply Agreement, the NDA Holder Submitted to the Monitor:
  - 16           a.     if a Materials Agreement, a verified written statement containing (i) the Fully  
17           Allocated Manufacturing Cost per unit for the Materials and (ii) a detailed  
18           calculation of the Fully Allocated Manufacturing Cost for the Materials, stated  
19           separately by cost component and on a per-unit basis; and
  - 20           b.     if a Supply Agreement, a verified written statement containing (i) the Fully  
21           Allocated Manufacturing Cost per unit for the relevant Authorized Generic of  
22           the Subject Drug Product and (ii) a detailed calculation of the Fully Allocated  
23           Manufacturing Cost for the Authorized Generic of the Subject Drug Product,  
24           stated separately by cost component and on a per-unit basis; and
- 25          6.     if the NDA Holder is not a Defendant, the Materials Agreement or Supply  
26          Agreement, as applicable, requires the NDA Holder to (i) provide the notification  
27          required by subparagraphs I.S.(5) and (ii) cooperate with any reasonable request  
28          by the Monitor or staff of the Commission for documents and information to



1 determine the relevant Fully Allocated Manufacturing Cost, including without  
2 limitation and subject to any demonstrated legally recognized privilege, providing  
3 the Monitor reasonable access to personnel, books, documents, and records kept  
4 in the ordinary course of business;

5 *provided that*, notwithstanding subparagraph I.S(5) or subparagraph I.S(6), a Materials  
6 Agreement or Supply Agreement in which a Defendant is the Generic Filer shall also be  
7 considered an Exempted Agreement if it complies with subparagraphs I.S(1) to (4) **and**:

- 8 a. if a Materials Agreement, Defendants Submit to the Monitor within thirty (30)  
9 days of beginning to receive the Materials, a verified written statement containing  
10 (i) Defendants’ best estimate of what would be the Fully Allocated Manufacturing  
11 Cost per unit for the Materials if manufactured or sourced by the Generic Filer,  
12 including a separate estimate of each cost component on a per-unit basis, and (ii)  
13 a description of the terms and conditions of any agreement(s), offer(s), purchase  
14 order(s), or price quote(s) a Defendant has entered into or received for supply of  
15 the Materials in connection with manufacture of the Subject Drug Product and  
16 other facts and circumstances, if any, that Defendants deem relevant to  
17 understanding such terms and conditions; and
- 18 b. if a Supply Agreement, it is a Contingent Supply Agreement and Defendants  
19 Submit to the Monitor within thirty (30) days of beginning to receive the  
20 Authorized Generic, a verified written statement containing (i) Defendants’ best  
21 estimate of what would be the Fully Allocated Manufacturing Cost per unit for  
22 the Subject Drug Product if manufactured by the Generic Filer and (ii) a detailed  
23 calculation of the estimated Fully Allocated Manufacturing Cost, including an  
24 estimate of each cost component on a per-unit basis.

25 S. “Federal Court Actions” means the Declaratory Judgment Actions, *Federal Trade*  
26 *Commission v. Endo Pharmaceuticals Inc.*, Civ. Action No. 16-cv-1440 (E.D. Pa.), which was  
27 dismissed without prejudice by the Commission on October 25, 2016; and *Federal Trade*  
28 *Commission v. Actavis, Inc.*, Civ. Action No. 09-cv-955 (N.D. Ga.).

1 T. “FTC Investigation” means the pre-complaint investigation conducted by FTC staff under  
2 File No. 141-0004.

3 U. “FTC Litigation” means any legal proceeding brought by the Commission that alleges the  
4 Lidoderm Settlement Agreement and/or the Opana Settlement Agreement violates the law(s)  
5 enforced by the Commission.

6 V. “Fully Allocated Manufacturing Cost” means: (1) direct costs incurred to produce or, if  
7 applicable, to acquire, the Subject Drug Product or Materials, determined in accordance with  
8 GAAP, as consistently applied in accordance with past practice and in the ordinary course of  
9 business, including, but not limited to (x) acquisition costs or (y) if applicable, materials, labor,  
10 manufacturing costs, packaging, labeling, testing, quality control, storage, insurance, and product  
11 maintenance; (2) the cost to ship the Subject Drug Product or Materials to the Generic Filer, and  
12 (3) administrative and overhead expenses associated with production or, if applicable, the  
13 acquisition of the Subject Drug Product or Materials, including, but not limited to, administrative  
14 labor costs, maintenance, information technology, quality assurance, insurance, depreciation of  
15 the equipment, and depreciation of the facility, allocated in accordance with past practice and in  
16 the ordinary course of business. To the extent the NDA Holder does not allocate administrative  
17 and overhead expenses associated with the Subject Drug Product to the Subject Drug Product,  
18 the NDA Holder shall do so at a proportion of the NDA Holder’s COGS of the Subject Drug  
19 Product to the NDA Holder’s total COGS (for purposes of this definition, COGS means the  
20 NDA Holder’s cost of goods sold, determined in accordance with GAAP, as consistently applied  
21 in accordance with past practice and in the ordinary course of business).

22 W. “Generic Entry Date” shall mean the date in a Brand/Generic Settlement Agreement,  
23 whether certain or contingent, on or after which a Generic Filer is authorized by the NDA Holder  
24 to begin manufacturing, using, importing or Marketing the Generic Subject Drug Product.

25 X. “Generic Filer” means a party to a Brand/Generic Settlement who controls an ANDA or  
26 505(b)(2) Application for the Subject Drug Product or has the exclusive right under such ANDA  
27 or 505(b)(2) Application to distribute the Subject Drug Product.

1 Y. “Generic Product” means a Drug Product manufactured and/or sold under an ANDA or  
2 pursuant to 505(b)(2) Application.

3 Z. “Generic Subject Drug Product” means the Generic Product that is the subject of the  
4 Patent Infringement Claim being resolved by the Brand/Generic Settlement.

5 AA. “Lidoderm Settlement Agreement” means the Settlement and License Agreement  
6 between Endo Pharmaceuticals Inc. and Watson Laboratories, Inc. resolving the ANDA patent  
7 litigation involving the brand-name drug Lidoderm that is the subject of the Complaint in this  
8 action.

9 BB. “Market,” “Marketed,” or “Marketing” means the promotion, offering for sale, sale, or  
10 distribution of a Drug Product.

11 CC. “Materials” means components or ingredients used in the manufacturing of a Subject  
12 Drug Product, including, but not limited to, hard-to-source excipients, hard-to-source active  
13 pharmaceutical ingredients, hard-to-source packaging, devices, or kits for injectables.

14 DD. “Materials Agreement” means provisions in, or incorporated into, a Brand/Generic  
15 Settlement Agreement providing for the supply of Materials to the Generic Filer by the NDA  
16 Holder for securing and/or maintaining regulatory approval, or manufacturing and Marketing by  
17 the Generic Filer of the Subject Drug Product, including the terms and conditions of any such  
18 supply.

19 EE. “Materials Price” means the total actual per-unit price charged by the NDA Holder for  
20 Materials provided through a Materials Agreement, including any transfer price and royalty to be  
21 paid by the Generic Filer, net of any discounts, allowances, rebates, or other reductions.

22 FF. “Monitor” means an individual appointed pursuant to the terms of Section IV below.

23 GG. “NDA” means a New Drug Application filed with the United States Food and Drug  
24 Administration pursuant to Section 505(b) of the Federal Food, Drug and Cosmetic Act, 21  
25 U.S.C. § 355(b), including all changes or supplements thereto that do not result in the submission  
26 of a new NDA.

1 HH. “NDA Holder” means a party to a Brand/Generic Settlement that controls the NDA for  
2 the Subject Drug Product or has the exclusive right to distribute the Branded Subject Drug  
3 Product in the United States.

4 II. “No-AG Commitment” means any agreement with, or commitment or license to, the  
5 Generic Filer that prohibits, prevents, restricts, requires a delay of, or imposes a condition  
6 precedent upon the research, development, manufacture, regulatory approval, or Marketing of an  
7 Authorized Generic,

8 *provided however*, that agreement by the Generic Filer to pay royalties to the NDA  
9 Holder for the right to Market the Generic Subject Drug Product or an Authorized Generic of the  
10 Subject Drug Product, including agreement on the terms and conditions governing payment of  
11 such royalties, shall not be considered a No-AG Commitment.

12 JJ. “Opana Settlement Agreement” means the Settlement and License Agreement and  
13 Development and Co-Promotion Agreement between Endo Pharmaceuticals Inc. and Impax  
14 Laboratories, Inc. resolving the ANDA patent litigation involving the brand-name drug Opana  
15 ER that is the subject of the FTC Investigation.

16 KK. “Patent Infringement Claim” means any allegation threatened in writing or included in a  
17 complaint filed with a court of law that a Generic Product may infringe one or more U.S. Patents  
18 held by, or licensed to, an NDA Holder.

19 LL. “Payment by the NDA Holder to the Generic Filer” means a transfer of value, other than  
20 a No-AG Commitment, by the NDA Holder to the Generic Filer (including, but not limited to,  
21 money, goods, or services), regardless of whether the Generic Filer purportedly transfers value in  
22 return, where such transfer is either (i) expressly contingent on entering a Brand/Generic  
23 Settlement Agreement, or (ii) agreed to during the sixty (60) day period starting thirty (30) days  
24 before and ending thirty (30) days after executing a Brand/Generic Settlement Agreement.

25 MM. “Resolved Claims” means antitrust claims, or other claims based on the competitive  
26 impact of the conduct alleged in *Federal Trade Commission v. Endo Pharmaceuticals Inc.*, Civ.  
27 Action No. 16-cv-1440 (E.D. Pa.) (the “Original Action”), including but not limited to claims  
28 alleging unfair methods of competition under § 5 of the FTC Act, that were or could have been

1 included in the Original Action or which arise from or are related to allegations, claims, or  
2 remedies included in the Original Action.

3 NN. “Submit to the Commission” or “Submitted to the Commission” means to file with the  
4 Office of the Secretary of the Commission and send an electronic copy to the Compliance  
5 Division of the Commission at [bccompliance@ftc.gov](mailto:bccompliance@ftc.gov).

6 OO. “Submit to the Monitor” or “Submitted to the Monitor” means to deliver to the Monitor  
7 appointed pursuant to the Order or, if no Monitor is appointed under this Order, to Submit to the  
8 Commission.

9 PP. “Subject Drug Product” means the Drug Product for which one or more Patent  
10 Infringement Claims are settled under a given Brand/Generic Settlement. For purposes of this  
11 Order, the Drug Product of the NDA Holder and the Generic Filer to the same Brand/Generic  
12 Settlement shall be considered to be the same Subject Drug Product.

13 QQ. “Supply Agreement” means provisions in, or incorporated into, a Brand/Generic  
14 Settlement Agreement providing for the supply of the Subject Drug Product to the Generic Filer  
15 by the NDA Holder for the Marketing by the Generic Filer of an Authorized Generic on or after  
16 the Generic Entry Date, including the terms and conditions of any such supply.

17 RR. “Supply Price” means the total actual per-unit price charged by the NDA Holder for  
18 supply provided through a Supply Agreement, including any transfer price and royalty to be paid  
19 by the Generic Filer for the right to sell an Authorized Generic of the Subject Drug Product, net  
20 of any discounts, allowances, rebates, or other reductions.

21 SS. “U.S. Patent” means any patent issued by the United States Patent and Trademark Office,  
22 including all renewals, derivations, divisions, reissues, continuations, continuations-in part,  
23 modifications, or extensions thereof.

24 **II.**

25 **IT IS FURTHER ORDERED** that, in connection with any actions in or affecting  
26 Commerce,  
27  
28

1 A. Defendants shall cease and desist from, either directly or indirectly, or through any  
2 corporate or other device, individually or collectively entering into a Brand/Generic Settlement  
3 that includes:

- 4 1. (i) a No-AG Commitment and (ii) an agreement by the Generic Filer not to  
5 research, develop, manufacture, or Market the Subject Drug Product for any  
6 period of time; or
- 7 2. (i) any Payment by the NDA Holder to the Generic Filer that is not an Exception  
8 or an Exempted Agreement and (ii) an agreement by the Generic Filer not to  
9 research, develop, manufacture, or Market the Subject Drug Product for any  
10 period of time,

11 *provided that* any agreement entered into by an entity prior to that entity becoming part  
12 of a Defendant is not subject to the terms of this Order.

13 **III.**

14 **IT IS FURTHER ORDERED** that:

15 A. Nothing in this Order shall prohibit a Defendant from entering a written agreement,  
16 including a Brand/Generic Settlement, for which Defendant has Submitted to the Commission a  
17 request for prior approval of the agreement *so long as*:

- 18 1. within thirty (30) days of the Commission's receipt of the request for prior  
19 approval under this paragraph, the Director of the Bureau of Competition (or his  
20 or her designee) has not notified the Defendant in writing that, after considering  
21 the request in good faith, Commission staff believes the relevant agreement raises  
22 substantial questions regarding violation of Section 5 of the FTC Act or any other  
23 applicable law that the FTC has authority to enforce and of the reasons for such a  
24 belief; or
- 25 2. the Defendant has received the prior approval of the Commission,

26 *provided, however,* nothing in Paragraph II shall prohibit a Defendant  
27 from executing a written agreement *so long as* such agreement contains a  
28 provision or provisions expressly stating: (1) the Defendant will Submit to the

1 Commission a request for prior approval of the agreement, and (2) the agreement  
2 is not effective, and shall not become effective, until and unless (i) thirty (30)  
3 days have passed since the request for prior approval was Submitted to the  
4 Commission and the Director of the Bureau of Competition (or his or her  
5 designee) has not notified the Defendant in writing that Commission staff believes  
6 the agreement raises substantial questions regarding violation of Section 5 of the  
7 FTC Act or any other applicable law that the FTC has authority to enforce, or (ii)  
8 the Commission has approved of the agreement.

9 B. Nothing in this Order shall prohibit a Defendant from purchasing, merging with, or  
10 otherwise acquiring or being acquired by any party with which the Defendant has entered into a  
11 Brand/Generic Settlement.

12 **IV.**

13 A. The Commission may appoint a Monitor to ensure that any Materials Agreement or  
14 Supply Agreement that a Defendant asserts is an Exempted Agreement meets the requirements  
15 of Paragraph I.S of this Order. The Monitor shall serve, without bond or other security, at the  
16 expense of Defendants, on such reasonable and customary terms and conditions to which the  
17 Monitor and Defendants agree and that the Commission approves.

18 B. The Commission shall select the Monitor, subject to the consent of Defendants, which  
19 consent shall not be unreasonably withheld. If Defendants have not opposed, in writing and  
20 identifying the reasons for opposing, the selection of any proposed Monitor within fourteen (14)  
21 days after notice by the staff of the Commission of the identity of any proposed Monitor,  
22 Defendants shall be deemed to have consented to the selection of the proposed Monitor.

23 C. The Monitor's duties and responsibilities shall include the following:

- 24 1. the Monitor shall act in a fiduciary capacity for the benefit of the Commission;
- 25 2. the Monitor shall have the power and authority to perform his/her duties under  
26 this Paragraph. The Monitor shall exercise his/her power and authority and carry  
27 out his/her duties and responsibilities in a manner consistent with the purposes of  
28 this Order and in consultation with the Commission;

1 3. the Monitor shall have authority to employ, at the expense of Defendants, such  
2 consultants, accountants, attorneys, and other representatives and assistants as are  
3 reasonably necessary to carry out the Monitor's duties and responsibilities;

4 4. the Monitor shall evaluate reports Submitted to the Monitor pursuant to the  
5 requirements of Paragraph V and within thirty (30) days from the date the  
6 Monitor receives a report, report in writing to the Commission concerning  
7 whether any Materials Agreement or Supply Agreement that Defendants assert is  
8 an Exempted Agreement meets the requirements of Paragraph I.S of this Order.

9 D. Defendants shall grant and transfer to the Monitor, and such Monitor shall have, all  
10 rights, powers, and authority necessary to carry out the Monitor's duties and responsibilities  
11 under this Order, including but not limited to, the following:

12 1. Defendants shall cooperate with any reasonable request of the Monitor and shall  
13 take no action to interfere with or impede the Monitor's ability to perform his/her  
14 duties as provided in this Paragraph;

15 2. subject to any demonstrated legally recognized privilege, Defendants shall  
16 provide the Monitor full and complete access to personnel, books, documents,  
17 records kept in the ordinary course of business, facilities and technical  
18 information, and such other relevant information as the Monitor may reasonably  
19 request to perform his/her duties under this Paragraph;

20 3. Defendants shall indemnify the Monitor and hold the Monitor harmless against  
21 any losses, claims, damages, liabilities, or expenses arising out of, or in  
22 connection with, the performance of the Monitor's duties, including all reasonable  
23 fees of counsel, and other reasonable expenses incurred in connection with the  
24 preparations for, or defense of, any claim, whether or not resulting in any liability,  
25 except to the extent that such losses, claims, damages, liabilities, or expenses  
26 result from gross negligence, willful or wanton acts, or bad faith by Monitor; and

27 4. Defendants may require the Monitor and each of the Monitor's consultants,  
28 accountants, attorneys, and other representatives and assistants to sign an



1 appropriate confidentiality agreement related to Defendants' materials and  
2 information received in connection with the performance of the Monitor's duties,  
3 *provided however*, such agreement shall not restrict the Monitor from  
4 providing any information to the Commission or require the Monitor to report to  
5 Defendants the substance of communications to or from the Commission or any  
6 party to a Brand/Generic Settlement Agreement other than Defendants.

7 E. The Commission may require the Monitor and each of the Monitor's consultants,  
8 accountants, attorneys, and other representatives and assistants to sign an appropriate  
9 confidentiality agreement related to Commission materials and information received in  
10 connection with the performance of the Monitor's duties.

11 F. The Commission may, on its own initiative or at the request of the Monitor, issue such  
12 additional orders or directions as may be necessary or appropriate.

13 G. If the Commission determines that the Monitor has ceased to act or failed to act  
14 diligently, the Commission may appoint a substitute Monitor. The Commission shall select the  
15 substitute Monitor, subject to the consent of Defendants, which consent shall not be  
16 unreasonably withheld. If Defendants have not opposed, in writing and identifying the reasons  
17 for opposing, the selection of any proposed substitute Monitor within fourteen (14) days after  
18 notice by the staff of the Commission to Defendants of the identity of any proposed substitute  
19 Monitor, Defendants shall be deemed to have consented to the selection of the proposed  
20 substitute Monitor.

21 **V.**

22 **IT IS FURTHER ORDERED** that:

23 A. Defendants shall Submit to the Commission a verified written report within sixty (60)  
24 days after the date this Order is entered, one (1) year after the date this Order is entered, and  
25 annually for nine (9) years thereafter, setting forth in detail the manner and form in which they  
26 have complied and are complying with this Order. So long as Defendants are under common  
27 ownership, their reports may be filed jointly. If the Commission has appointed a Monitor, and if  
28 Defendants are providing or receiving product under an Exempted Agreement, Defendants shall

1 Submit to the Monitor a copy of the report. Among other things and without limitation,  
2 Defendants shall include in each report:

- 3 1. a copy of each agreement a Defendant has entered with any party to a  
4 Brand/Generic Settlement signed by a Defendant if: (i) the Brand/Generic  
5 Settlement Agreement includes an agreement by the Generic Filer not to research,  
6 develop, manufacture, or Market the Subject Drug Product for any period of time;  
7 and (ii) the agreement was entered within six (6) months of executing the  
8 Brand/Generic Settlement Agreement, *provided that*, Defendants do not need to  
9 submit any agreement that was submitted with a prior verified written report; and
- 10 2. if, during the period covered by the report, an NDA Holder has supplied  
11 Authorized Generic to a Defendant pursuant to a Contingent Supply Agreement  
12 that Defendants assert is an Exempted Agreement, identify the Contingent Supply  
13 Agreement; if Defendants have not obtained FDA approval for the Generic  
14 Subject Drug Product, provide a statement describing the status of their efforts  
15 and planned actions to obtain approval; and if Defendants are not able to  
16 manufacture commercial quantities of the Generic Subject Drug Product, provide  
17 a statement describing the status of their efforts and what steps they are taking to  
18 develop commercial manufacturing capability.

19 B. This Order does not alter the reporting requirements of Defendants pursuant to Section  
20 1112 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

21 **VI.**

22 **IT IS FURTHER ORDERED** that for the purpose of determining or securing  
23 compliance with this Order, subject to any legally recognized privilege, and upon written request  
24 and upon reasonable notice to Defendants, Defendants shall, without restraint or interference,  
25 permit any duly authorized representative of the Commission:

- 26 1. access, during office hours and in the presence of counsel, to all facilities and  
27 access to inspect and copy all non-privileged business records and documentary  
28 material related to compliance with this Order, including without limitation

1 electronically stored information as defined in Rule 2.7(a)(1) and (2), 16 C.F.R. §  
2 2.7(a)(1), and books, ledgers, accounts, correspondence, memoranda, and other  
3 records and documents (in whatever form such records and documents are kept)  
4 in the possession or under the control of a Defendant, which copying services  
5 shall be provided by Defendants at the request of the authorized representative(s)  
6 of the Commission and at the expense of Defendants; and

- 7 2. to interview officers, directors, or employees of Defendants, who may have  
8 counsel present, regarding any such matters.

9 **VII.**

10 **IT IS FURTHER ORDERED** that Defendants shall notify the Commission at least  
11 thirty (30) days prior to:

- 12 A. Any proposed dissolution of Endo Pharmaceuticals Inc. or Endo International plc; or  
13 B. Any proposed acquisition, merger, or consolidation of Endo Pharmaceuticals Inc. or  
14 Endo International plc; or  
15 C. Any other change in a Defendant, including, but not limited to, assignment and the  
16 creation, sale or dissolution of subsidiaries, if such change might affect the compliance  
17 obligations arising out of this Order.

18 **VIII.**

19 **IT IS FURTHER ORDERED** that:

- 20 A. In connection with any FTC Litigation, Defendants shall:
- 21 1. agree to service of process of all Commission subpoenas issued under Rule 45 of  
22 the Federal Rules of Civil Procedure or Rule 3.34 of the Commission Rules of  
23 Practice;
- 24 2. respond to the Commission's requests for production of documents as though  
25 Defendants were parties to the FTC Litigation and shall limit objections to those  
26 available to a party to such litigation;
- 27 3. not object to or file a motion to quash, on the grounds that the depositions are  
28 unduly burdensome because Defendants are third parties, subpoenas from the

1 Commission for the deposition testimony of up to seven (7) of their officer(s),  
2 director(s), agent(s), or employee(s), or corporate representative(s) (designated  
3 under Federal Rule of Civil Procedure 30(b)(6) or Rule 3.33(c)(1) of the  
4 Commission Rules of Practice). Such depositions shall be scheduled at mutually-  
5 agreeable dates, times, and locations in the United States;

- 6 4. not object to any discovery request on the grounds that the requested documents  
7 are not located in the United States;
- 8 5. not object on grounds of timeliness to any motion(s) to compel the production of  
9 documents that Defendants withheld as privileged or protected by the work  
10 product doctrine during the FTC Investigation; and
- 11 6. negotiate in good faith with the Commission to provide a declaration, affidavit,  
12 and/or sponsoring witness, if necessary, to establish the authenticity and  
13 admissibility of any documents and/or data that Defendants produce or have  
14 produced to the Commission.

15 **IX.**

16 **IT IS FURTHER ORDERED** that:

- 17 A. No information or documents submitted under this Order shall be disclosed by the  
18 Commission to any person other than an authorized representative of the Commission, including  
19 without limitation any Monitor appointed pursuant to this Order, except in the course of a legal  
20 proceeding regarding enforcement or modification of this Order, or as otherwise required by law.
- 21 B. In the event of a material change in the law governing the antitrust implications of  
22 Brand/Generic Settlements, the Commission will consider, in good faith, modifications to this  
23 Order proposed by Defendants.

24 **X.**

25 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction over these matters  
26 for purposes of construction, modification, and enforcement of this Order.

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**XI.**

**IT IS FURTHER ORDERED** that this Order shall terminate ten (10) years from the date on which the Order is issued.

**XII.**

**IT IS FURTHER ORDERED** that this action shall be dismissed with prejudice. Each party shall bear its own costs.

**SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
The Honorable

1 SO STIPULATED AND AGREED:

2  
3  Date: 1/9/2017  
4 \_\_\_\_\_  
5 Bradley Scott Albert  
6 Deputy Assistant Director  
7 Health Care Division  
8 Bureau of Competition  
9 Federal Trade Commission  
10 FOR PLAINTIFF FEDERAL TRADE COMMISSION

11 \_\_\_\_\_ Date: \_\_\_\_\_  
12 Paul V. Campanelli  
13 President and Chief Executive Officer of Endo Pharmaceuticals Inc.  
14 FOR ENDO PHARMACEUTICALS INC.

15 \_\_\_\_\_ Date: \_\_\_\_\_  
16 George G. Gordon  
17 Dechert LLP

18 Jonathan L. Stern  
19 Steven G. Reade  
20 Arnold & Porter Kaye Scholer LLP

21 Michael F. Brockmeyer  
22 Frommer, Lawrence & Haug LLP  
23 COUNSEL FOR ENDO PHARMACEUTICALS INC.

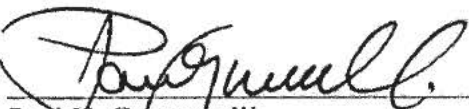
24 \_\_\_\_\_ Date: \_\_\_\_\_  
25 Paul V. Campanelli  
26 President and Chief Executive Officer of Endo International plc  
27 ENDO INTERNATIONAL PLC

28 \_\_\_\_\_ Date: \_\_\_\_\_  
George G. Gordon  
Dechert LLP

1 SO STIPULATED AND AGREED:

2  
3 Date: \_\_\_\_\_

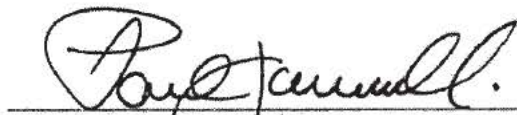
4 \_\_\_\_\_  
Bradley Scott Albert  
5 Deputy Assistant Director  
Health Care Division  
6 Bureau of Competition  
Federal Trade Commission  
7 FOR PLAINTIFF FEDERAL TRADE COMMISSION


8  
9  \_\_\_\_\_ Date: 1-6-2017  
10 Paul V. Campanelli  
President and Chief Executive Officer of Endo Pharmaceuticals Inc.  
11 FOR ENDO PHARMACEUTICALS INC.

12  
13  \_\_\_\_\_ Date: 1-6-2017  
14 George G. Gordon  
Dechert LLP

15 Jonathan L. Stern  
16 Steven G. Reade  
17 Arnold & Porter Kaye Scholer LLP

18 Michael F. Brockmeyer  
19 Frommer, Lawrence & Haug LLP  
COUNSEL FOR ENDO PHARMACEUTICALS INC.

20  
21  \_\_\_\_\_ Date: 1-6-2017  
22 Paul V. Campanelli  
23 President and Chief Executive Officer of Endo International plc  
ENDO INTERNATIONAL PLC

24  
25  \_\_\_\_\_ Date: 1-6-2017  
26 George G. Gordon  
Dechert LLP

# Exhibit 1



**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ENDO PHARMACEUTICALS INC., et. al.,**

Plaintiffs,

v.

**FEDERAL TRADE COMMISSION,**

Defendant.

Case No: 16-cv-5599

**NOTICE OF VOLUNTARY DISMISSAL WITH PREJUDICE**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiffs Endo Pharmaceuticals Inc. and Endo International plc hereby give notice that their claims against Defendant in the above-captioned action are voluntarily dismissed with prejudice. The Defendant has not filed an answer or motion for summary judgment in this case.

Dated:

Respectfully Submitted,

---

George G. Gordon  
Christine C. Levin  
Jennings F. Durand  
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---

Steven G. Reade (*pro hac vice*)  
Ryan Z. Watts (*pro hac vice*)  
Charles B. Weinograd (*pro hac vice*)  
Jonathan L. Stern (*pro hac vice*)  
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*Counsel for Defendants Endo  
Pharmaceuticals Inc. and Endo International  
plc*

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ENDO PHARMACEUTICALS INC., et. al.,**

Plaintiffs,

v.

**FEDERAL TRADE COMMISSION,**

Defendant.

Case No: 16-cv-5600

**NOTICE OF VOLUNTARY DISMISSAL WITH PREJUDICE**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiffs Endo Pharmaceuticals Inc. and Endo International plc hereby give notice that their claims against Defendant in the above-captioned action are voluntarily dismissed with prejudice. The Defendant has not filed an answer or motion for summary judgment in this case.

Dated:

Respectfully Submitted,

---

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Jennings F. Durand  
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---

Steven G. Reade (*pro hac vice*)  
Ryan Z. Watts (*pro hac vice*)  
Charles B. Weinograd (*pro hac vice*)  
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jonathan.stern@aporter.com

*Counsel for Defendants Endo  
Pharmaceuticals Inc. and Endo International  
plc*

# Exhibit 2

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**FEDERAL TRADE  
COMMISSION,**

**Plaintiff,**

**vs.**

**ACTAVIS, INC., et al.,**

**Defendants.**

**Case Number: 1:09-cv-955-TWT**

**Unopposed Motion for Voluntary Dismissal with Prejudice as to Defendants  
Par Pharmaceutical Companies, Inc. and Paddock Holdings, LLC**

Pursuant to Federal Rule of Civil Procedure 41(a)(2), Plaintiff Federal Trade Commission (“FTC”) moves this Court to enter an order dismissing the above-captioned case as against defendants Par Pharmaceutical Companies, Inc. (“Par”) and Paddock Laboratories, Inc. now known as Paddock Holdings, LLC (“Paddock”). As grounds for this request, the FTC states as follows:

1. On January [ ], 2017, Judge Orrick in the Northern District of California entered a Stipulated Order for Permanent Injunction in the case styled, *Federal Trade Commission v. Endo Pharmaceuticals Inc. et. al*, No. [ ] (N.D.

Cal.). A copy of the Stipulated Order for Permanent Injunction (“Permanent Injunction”) is attached as Exhibit A.

2. As of September 28, 2015, Par is a wholly owned indirect subsidiary of Endo International plc. (“Endo”).

3. Under the Permanent Injunction, Endo and its subsidiaries (including Par) are prohibited from entering into agreements similar to those challenged in this case. (Permanent Injunction at § II.) The scope of this prohibition is consistent with the relief the FTC seeks in this case. *See* Federal Trade Commission’s Third Supplemental Response to Actavis Inc.’s First Set of Interrogatories (Sept. 8, 2016). Entry of the Permanent Injunction, therefore, adequately addresses the alleged anticompetitive conduct at issue here with respect to Par.

4. In light of the Permanent Injunction, the FTC also seeks voluntary dismissal against Paddock, Par’s generic AndroGel joint venture partner. Paddock is no longer engaged in the manufacture or sale of pharmaceutical products, and no longer controls the assets or entities involved in the alleged anticompetitive conduct.

5. The FTC, Par, and Paddock have reached agreement on costs and cooperation in this case. A copy of the letter agreement is attached as Exhibit B.

6. “[I]n most cases, a voluntary dismissal should be granted unless the defendant will suffer clear legal prejudice.” *Pontenberg v. Boston Scientific Corp.*,

252 F.3d 1253, 1255 (11th Cir. 2001) (quoting *McCants v. Ford Motor Co., Inc.*, 781 F.2d 855, 856–57 (11th Cir. 1986)). Here, Par and Paddock agree that they suffer no prejudice as a result of a dismissal with prejudice. For the foregoing reasons, therefore, the FTC respectfully requests that the Court dismiss this case as to Defendants Par and Paddock.

Date: January [ ], 2017

Respectfully submitted,

---

Saralisa C. Brau  
Randall M. Weinsten  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
sbrau@ftc.gov  
Telephone: (202) 326-2774  
Facsimile: (202) 326-3384

*Counsel for Plaintiff Federal Trade  
Commission*



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**FEDERAL TRADE  
COMMISSION,**

**Plaintiff,**

**vs.**

**ACTAVIS, INC., et al.,**

**Defendants.**

**Case Number: 1:09-cv-955-TWT**

**[Proposed] Order of Dismissal with Prejudice**

Before this Court is Plaintiff Federal Trade Commission's Unopposed Motion for Voluntary Dismissal with Prejudice as to Defendants Par Pharmaceutical Companies, Inc. and Paddock Laboratories now known as Paddock Holdings, LLC. After consideration of the Motion, the Court is of the opinion that the motion should be GRANTED.

IT IS HEREBY ORDERED that Plaintiff Federal Trade Commission's claims in the above-captioned action against Defendants Par Pharmaceutical Companies, Inc. and Paddock Laboratories now known as Paddock Holdings, LLC are hereby dismissed with prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure and each party is to bear its own attorneys' fees and costs.

ENTERED and ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2017.

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Honorable Thomas W. Thrash, Jr.