

**BEFORE THE
UNITED STATES JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

**IN RE: BENICAR (AND OTHER MDL
OLMESTARTAN DRUGS) PRODUCTS
LIABILITY LITIGATION**

§ MDL No. 2606
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§
§

**DEFENDANTS DAIICHI SANKYO, INC. AND DAIICHI SANKYO
US HOLDINGS, INC.'S MOTION FOR EXTENSION OF DEADLINES IN PANEL'S
BRIEFING SCHEDULE**

I. INTRODUCTION

On Thursday, December 18, 2014, Plaintiff Annette Johnson filed a Motion to Transfer and Coordinate 15 federal court actions to a Multi-District Litigation (“MDL”) proceeding. The following day, this Panel issued a Notice of Filing and Publication of Briefing Schedule (“Briefing Schedule”) setting certain briefing and related deadlines. Pursuant to Rule 6.3 of the Rules of Procedure of the U.S. Judicial Panel on Multidistrict Litigation, Defendants Daiichi Sankyo, Inc. and Daiichi Sankyo US Holdings, Inc. (“Daiichi U.S. Defendants”), respectfully request a two-week extension of all deadlines set forth in the Panel’s briefing schedule due to the closure of corporate offices of Defendant Daiichi Sankyo, Inc. and the impending holidays.

The deadlines set by the Panel require that corporate disclosures be filed on January 2, 2015, a notice of appearance on January 5, 2015 and a response to Plaintiffs’ Motion by January 9, 2015. The Panel’s schedule includes two weeks in which the corporate offices of Defendant Daiichi Sankyo, Inc. are closed for the holiday break from December 22, 2014 through January 5, 2015. During this same time period there are four days that the Panel has designated as legal holidays pursuant to the Panel’s Order dated December 9, 2014 and in which defense counsel’s offices will be closed for the holidays. Accordingly, an extension of two weeks of the current

deadlines in which to file corporate disclosures, a notice of appearance and a response to Plaintiffs' Motion will ensure that Defendants' have a fair amount of time to file these pleadings without the disruption of the holidays and ensure that Defendants' interests are protected.

For these and the reasons set forth below, Daiichi U.S. Defendants request for a brief extension should be granted.

II. BACKGROUND

On December 18, 2014, Plaintiff Annette Johnson filed a Motion to Transfer and Coordinate 15 federal court actions to an MDL proceeding. The Panel subsequently published a Briefing Schedule requiring that Defendants file and serve corporate disclosures on Friday, January 2, 2015, a notice of appearance on Monday, January 5, 2015 and a response to Plaintiffs' Motion by January 9, 2015.

The corporate offices of Defendants Daiichi Sankyo, Inc. are closed from December 22, 2014 to January 5, 2015, and the current schedule overlaps with two holidays on December 25, 2014 and January 1, 2015, and two additional legal holidays on December 26, 2014 and January 5, 2015. See Order (12/9/2014), *In re Panel Closed on Friday, December 26, 2014 and Friday, January 2, 2015*, Judicial Panel on Multidistrict Litigation, attached hereto as Exhibit A ("For purposes of computation of time and applications for extensions of time, December 26, 2014, and January 2, 2015, will be considered a "legal holiday." See Fed. R. Civ. P. 6.")

III. ARGUMENT

Rule 6.3(a) of the Rules of the Procedure of the Judicial Panel on Multidistrict Litigation allows for a party to request "extensions of time" of pending deadlines. The Clerk "may act upon any motion" for an extension of time, "at any time, without waiting for a response." Rule 6.3(b). A request to extend a deadline must be filed before the deadline for the filing of a

pleading or performing an act and specifically set forth proposed dates for filing deadlines or completing an act. *Id.*

Motions for extension of time are typically governed by Federal Rule of Civil Procedure 6(b)(1), which states that “[w]hen an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires.” Fed. R. Civ. P. 6(b)(1).

Courts have held that “extension[s] of time normally will be granted in the absence of bad faith on the part of the moving party or prejudice to the adverse party.” *Thompson v. Hartley*, Case No. 1:10-cv-02260-MJS (PC), 2014 U.S. Dist. LEXIS 158786, 2-3 (E.D. Cal. Nov. 7, 2014).

There is good cause to grant Defendants’ request for an extension of the current deadlines. Defendants’ request for a two-week extension of all deadlines is based on the fact that corporate offices of Defendant Daiichi Sankyo, Inc. are closed for two weeks and there are four days (December 25 and 26, 2014 and January 1 and 2, 2015) that are considered by the Panel and many corporate offices, including defense counsel, to be legal holidays. Allowing Defendants’ additional time to file the relevant pleadings will ensure that Defendants’ interests are adequately protected and that they have fair amount of time to prepare the submissions and a response to Plaintiffs’ Motion without the distractions of office closings during the holidays. Defendants propose that the existing deadlines be extended as follows:

January 16, 2015 – Corporate Disclosures Due

January 19, 2015 – Notice of Appearance Due

January 23, 2015 – Defendants’ Response to Plaintiffs’ Motion Due

Plaintiffs will not be prejudiced by this revised schedule. There have been no other requests for extensions, and the present request has been made to accommodate office closures and holidays.

III. CONCLUSION

For the reasons set forth above, Daiichi U.S. Defendants request that this Panel grant a two-week extension of the current deadlines as set forth above to permit the filing of corporate disclosures on January 16, 2015, notices of appearance on January 19, 2015 and response to Plaintiffs' Motion to Transfer on January 23, 2015.

Dated: December 24, 2014

Respectfully submitted,

DRINKER BIDDLE & REATH LLP

By: /s/ Susan M. Sharko
Susan M. Sharko

*Attorneys for Defendants Daiichi Sankyo, Inc., and
Daiichi Sankyo US Holdings, Inc.*

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PROOF OF SERVICE

THIS IS TO CERTIFY that pursuant to Panel Rule 4.1, on December 24, 2014 a true and correct copy of the following documents: **DEFENDANTS DAIICHI SANKYO, INC. AND DAIICHI SANKYO US HOLDINGS, INC.'S MOTION FOR EXTENSION OF DEADLINES IN PANEL'S BRIEFING SCHEDULE** was served on the following via the CM/ECF system, via regular mail, or via electronic mail:

Counsel	Plaintiff(s)	Case Name	Court	Case No.
Eugene P. Yale, Esq. David W. Baumgarten, Esq. Suzanne M. Yale, Esq. YALE & BAUMGARTEN LLP 1450 Frazee Road, Suite 403 San Diego, CA 92108	Susan and Richard Ambler	Ambler et al. v. Daiichi Sankyo, Inc. et al.	USDC SD California	3:14-cv-01475- WQH-BLM
Peter H. Weinberger, Esq. Peter J. Brodhead, Esq. SPANGENBERG SHIBLEY & LIBER, LLP 1001 Lakeside Avenue East, Suite 1700 Cleveland, OH 44114	Brenda D. Baugh	Baugh v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	4:14-cv-02309
Daniel A. Nigh, Esq. LEVIN PAPANTONIO THOMAS MITCHELL RAFFERTY & PROCTOR, P.A. 316 S. Baylen Street, Suite 600 Pensacola, FL 32502	Brenda D. Baugh	Baugh v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	4:14-cv-02309

Counsel	Plaintiff(s)	Case Name	Court	Case No.
Regina Sharlow Johnson, Esq. LOPEZ MCHUGH, LLP 214 Flynn Avenue Moorestown, NJ 08057	Brenda D. Baugh	Baugh v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	4:14-cv-02309
Peter H. Weinberger, Esq. Peter J. Brodhead, Esq. SPANGENBERG SHIBLEY & LIBER, LLP 1001 Lakeside Avenue East, Suite 1700 Cleveland, OH 44114	Pamela Bonner	Bonner v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	5:14-cv-02671
Anthony D. Irpino, Esq. Pearl A. Robertson, Esq. IRPINO LAW FIRM 2216 Magazine Street New Orleans, LA 70130	Bernadette Bujol-Brown	Bujol-Brown v. Daiichi Sankyo, Inc. et al.	USDC ED LOUISIANA	2:14-cv-01762 -HGB-MBN
Peter H. Weinberger, Esq. SPANGENBERG SHIBLEY & LIBER, LLP 1001 Lakeside Avenue East, Suite 1700 Cleveland, OH 44114	Vicki L. Changet	Changet v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	1:14-cv-2782
Peter H. Weinberger, Esq. SPANGENBERG SHIBLEY & LIBER, LLP 1001 Lakeside Avenue East, Suite 1700 Cleveland, OH 44114	Leo B. Charlton	Charlton v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	1:14-cv-2786
Joshua B. Strom, Esq. Tara Sutton, Esq. Munir Meghjee, Esq. Holly Dolejski, Esq. ROBINS, KAPLAN, MILLER & CIRESI L.L.P. 800 LaSalle Avenue 2800 LaSalle Plaza Minneapolis, MN 55402-2015	Deborah and Richard Dirksen	Dirksen et al. v. Daiichi Sankyo, Inc. et al.	USDC CD ILLINOIS	3:14-cv-03318-CSB-DGB

Counsel	Plaintiff(s)	Case Name	Court	Case No.
Peter H. Weinberger, Esq. SPANGENBERG SHIBLEY & LIBER, LLP 1001 Lakeside Avenue East, Suite 1700 Cleveland, OH 44114	Irene Hugley	Hugley v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	1:14-cv-2787
Peter H. Weinberger, Esq. SPANGENBERG SHIBLEY & LIBER, LLP 1001 Lakeside Avenue East, Suite 1700 Cleveland, OH 44114	Annette Johnson	Johnson v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	3:14-cv-02672
Larry D. Helvey, Esq. LARRY HELVEY LAW FIRM 2735 First Avenue SE, Suite 101 Cedar Rapids, IA 52402	Kay Kalawatti & James Scheffler	Kalawatti et al. v. Daiichi Sankyo, Inc. et al.	USDC SD IOWA	4:14-cv-00450- JAJ-RAW
Vincent J. Moccio, Esq. PEARSON, RANDALL & SCHUMACHER, PA 100 South Fifth Street, Suite 1025 Minneapolis, MN 55402	Kay Kalawatti & James Scheffler	Kalawatti et al. v. Daiichi Sankyo, Inc. et al.	USDC SD IOWA	4:14-cv-00450- JAJ-RAW
Peter H. Weinberger, Esq. SPANGENBERG SHIBLEY & LIBER, LLP 1001 Lakeside Avenue East, Suite 1700 Cleveland, OH 44114	Victoria L. Kuhn	Kuhn v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	1:14-cv-2781
Peter H. Weinberger, Esq. SPANGENBERG SHIBLEY & LIBER, LLP 1001 Lakeside Avenue East, Suite 1700 Cleveland, OH 44114	Laura J. Laney	Laney v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	1:14-cv-02515

Counsel	Plaintiff(s)	Case Name	Court	Case No.
Daniel A. Nigh, Esq. LEVIN PAPANTONIO THOMAS MITCHELL RAFFERTY & PROCTOR, P.A. 316 S. Baylen Street, Suite 600 Pensacola, FL 32502	Laura J. Laney	Laney v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	1:14-cv-02515
Peter H. Weinberger, Esq. SPANGENBERG SHIBLEY & LIBER, LLP 1001 Lakeside Avenue East, Suite 1700 Cleveland, OH 44114	Marilyn McCleskey	McCleskey v. Daiichi Sankyo, Inc. et al.	USDC ND OHIO	1:14-cv-2784
Russell D. Yerger, Esq. YERGER LAW FIRM, P.C. 2722 3rd Avenue North, Suite 400 Billings, MT 59101	Doris L. and Willis E. Van Dyke	Van Dyke, et al. v. Daiichi Sankyo, Inc. et al.	USDC MONTANA	1:14-cv-00137- SPW-CSO
Tara D. Sutton, Esq. Gary Wilson, Esq. Munir Meghjee, Esq. Holly Dolejsi, Esq. ROBINS, KAPLAN, MILLER & CIRESI L.L.P. 800 LaSalle Avenue 2800 LaSalle Plaza Minneapolis, MN 55402- 2015	Doris L. and Willis E. Van Dyke	Van Dyke, et al. v. Daiichi Sankyo, Inc. et al.	USDC MONTANA	1:14-cv-00137- SPW-CSO
John W. deGravelles, Esq. J. Neale deGravelles, Esq. Stephanie B. Hulett, Esq. deGRAVELLES, PALMINTEIR, HOLTHAUS & FRUGE, L.L.P. 618 Main Street Baton Rouge, LA 70801- 1910	William H. & Teresa Von Eberstein, Jr.	Von Eberstein et al. v. Daiichi Sankyo, Inc. et al.	USDC LOUISIANA	2:14-cv-00089

Counsel	Plaintiff(s)	Case Name	Court	Case No.
Christopher L. Coffin, Esq. PENDLEY, BAUDIN & COFFIN, L.L. P. 1515 Poydras Street, Suite 1400 New Orleans, LA 70112	William H. & Teresa Von Eberstein, Jr.	Von Eberstein et al. v. Daiichi Sankyo, Inc. et al.	USDC LOUISIANA	2:14-cv-00089

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Dated: December 24, 2014

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By: /s/ Susan M. Sharko

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