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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO. 20-md-02924-ROSENBERG

IN RE: ZANTAC (RANITIDINE) .
PRODUCTS LIABILITY . West Palm Beach, FL
LITIGATION. . May 26, 2021
. .
. .

STATUS CONFERENCE and ORAL ARGUMENT (through Zoom)
BEFORE THE HONORABLE BRUCE REINHART
UNITED STATES MAGISTRATE JUDGE

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1 *THE COURT:* All right. Good morning, everyone. This
2 is case number 20-2924, In Re: Zantac (Ranitidine) Products
3 Liability Litigation. We are here this morning for a status
4 conference on one matter and for oral argument on a second
5 matter.

6 The first matter I would like to take up is the
7 status conference relating to proposed modifications to PTOs 54
8 and 60. Who will be representing the Plaintiffs for purposes
9 of that matter?

10 *MR. McGLAMRY:* Your Honor, Mike McGlamry on behalf of
11 Plaintiffs.

12 *THE COURT:* Good morning, Mr. McGlamry.

13 *MR. McGLAMRY:* Good morning, your Honor, thank you for
14 having us.

15 *THE COURT:* Good to see you. On behalf of the brand
16 Defendants?

17 *MR. SACHSE:* Your Honor, Will Sachse on behalf of the
18 brand Defendants. Good morning.

19 *THE COURT:* Good morning. On behalf of the generic
20 Defendants?

21 *MR. HENRY:* Good morning, your Honor, Terry Henry
22 representing Apotex on behalf of generic manufacturers.

23 *MS. THOMPSON:* Good morning, your Honor, Sara Thompson
24 also on behalf of the generic Defendants.

25 *THE COURT:* Good morning, Ms. Thompson. Good morning,

1 Mr. Henry.

2 Any other groups of Defendants who I have mistakenly
3 ignored here who are represented by counsel? Apparently not.

4 Counsel, this matter started about a month or so ago,
5 a little over a month ago, the Plaintiffs submitted a request
6 for modifications to PTO 54 and 60, the Defendants responded,
7 Judge Rosenberg referred the matter to me. Then the parties
8 indicated that they thought perhaps some conferral might narrow
9 the issues or crystalize issues, and so we have been checking
10 in periodically, and I just wanted to see where you all were.

11 I do want to bring this to closure at some point, but
12 again, if you are making good progress and you think there is a
13 reasonable likelihood you will reach agreement in the near
14 future, that is fine. If not, I do want to set a date down for
15 us to bring this to closure.

16 Let me start with Mr. McGlamry on behalf of the
17 Plaintiffs. Mr. McGlamry, from your perspective, where are we?
18 I don't necessarily need to get into the weeds of what you have
19 agreed on and what you haven't agreed on or what the debates
20 and issues are, just kind of a sense of what is the path
21 forward from here.

22 *MR. McGLAMRY:* Thank you, your Honor. Again, Mike
23 McGlamry on behalf of Plaintiffs.

24 Your Honor, as you have kind of indicated, although as
25 I recall, initially the Court asked the parties, both sides, to

1 submit edits to those two PTOs. We submitted edits to both,
2 the generics submitted edits to PTO 60 and the brands objected
3 to our edits of the PTO 54, but we have, as you indicated, had
4 discussions with the special master now for several weeks,
5 including meet and confers and exchanging drafts of sort of a
6 potential modification of PTO 60, and I think we are at an
7 impasse, your Honor. We would ask you to set something.

8 I think what we will do Friday in our reply brief as
9 relates to PTO 30, is that we will make reference to this in
10 the context of the schedule as an overall issue, but we believe
11 we are at an impasse.

12 *THE COURT:* Thank you for clarifying. Your
13 recollection of the history is more accurate than mine.

14 Are you at an impasse as to both PTO 54 and 60, or one
15 or the other? I just want to be clear.

16 *MR. McGLAMRY:* Sure, your Honor, and that is a good
17 question. It's PTO 60.

18 As I recall, and I pulled out the transcript from our
19 last conference when Will was not available, May 11th, and we
20 talked about essentially that we were only focused at this
21 point on PTO 60, and that Ms. Horn had made a comment about
22 that, and then I had responded to say, your Honor, with regard
23 to PTO 54, we believe that we should look at that sort of
24 systemically and we would be in touch with Ms. Horn about that.

25 Nothing has happened further on that, but in terms of

1 sort of the discussions with the special master and the
2 parties, it has only been between us and the generics as per
3 PTO 60.

4 *THE COURT:* So, at least at this point, there is no
5 ripe issue before the Court as to PTO 54; is that correct?

6 *MR. McGLAMRY:* That is correct, your Honor.

7 *THE COURT:* Okay. Thank you for that guidance.

8 Let me turn to Mr. Sachse. I will let you go first on
9 behalf of the brands. Maybe you are not a party to this, this
10 is PTO 60, but I will hear you anyway.

11 *MR. SACHSE:* Sure, your Honor, and I will just echo,
12 Mr. McGlamry is right, we are not ripe on a PTO 54 dispute. I
13 still am optimistic that maybe if 60 gets resolved, litigated
14 or resolved otherwise, I think the 54 issues might fall away as
15 well.

16 *THE COURT:* Okay. I hear you. Let me turn to Mr.
17 Henry.

18 *MR. HENRY:* Thank you, your Honor. Well, in our view,
19 the issue that was raised by the Plaintiffs at the case
20 management conference that started this discussion involved the
21 timeline in which the generic Defendants needed to produce
22 noncustodial documents related to 30(b)(6) depositions. Your
23 Honor, I think we have an agreement on that issue.

24 The reason we are at an impasse, at least from our
25 perspective, is because Plaintiffs have sought to make other

1 changes that, number one, we don't think are needed at this
2 time, and number two, that would impact all parties with
3 respect to, for example, PTO 54. So, we do think we are at an
4 impasse on those other issues.

5 Maybe, as Mr. McGlamry suggested, and maybe I am
6 reading too much into his comments, it makes a lot of sense to
7 us as the generics that maybe we postpone or at least put off
8 until after the PTO 30 issue is resolved whether PTO 60 gets
9 amended as well, because we think whatever happens with PTO 30
10 is going to have an impact on what happens with PTO 60.

11 By the way, the impasse that we have reached at this
12 point is not holding up discovery. Discovery is continuing at
13 a pace, over the last two weeks multiple generic Defendants
14 have continued to produce documents, we have continued to have
15 depositions. Apotex had a deposition just yesterday, there are
16 28 more depositions on the calendar through the end of June, so
17 that nothing is holding up discovery, but perhaps the
18 resolution of the PTO 30 issue will help give us all guidance
19 on what the next step is.

20 *THE COURT:* All right. I want to circle back on the
21 PTO 30 issue in a second, but let me hear from Ms. Thompson.

22 *MS. THOMPSON:* I don't have anything to add beyond
23 what Mr. Henry said, your Honor.

24 *THE COURT:* Very well. Let me turn back to Mr.
25 McGlamry and Mr. Henry. I understand there is a connection

1 between PTO 60, resolution of whatever issues you still have
2 and PTO 30 modifications. What I want to understand, and I
3 will ask Mr. McGlamry first, if the PTO 60 -- which one needs
4 to go first, I guess is my question. If PTO 60 resolution is
5 going to affect one of the factors Judge Rosenberg has to
6 consider in assessing PTO 30, I want to try to resolve PTO 60
7 sooner.

8 If what you are telling me is whatever Judge Rosenberg
9 does on PTO 30, then we can work out PTO 60, then we can go the
10 other way.

11 If what you are telling me is we have to get Judge
12 Rosenberg to come up with a new scheduling order with new
13 deadlines, those deadlines that she is going to put in place in
14 PTO 30 as modified are going to be affected by how we resolve
15 PTO 60, then I would need to know that because I want to do
16 that first. I apologize, that is probably a convoluted
17 question.

18 Mr. McGlamry, to the extent you could understand that
19 question, can you respond to it, please?

20 *MR. McGLAMRY:* Yes, your Honor, Mike McGlamry for
21 Plaintiffs, and maybe I will give a convoluted response.

22 I sort of would start with it depends. Mr. Henry
23 indicated that one of the issues was the timing of the
24 generics' production, and they have given us some dates by
25 which they say is their drop dead back end production dates,

1 which we have said we can't use because, if so, we cannot go
2 with the schedule we proposed to the Court for PTO 30.

3 On the other hand, as you have indicated, if the Court
4 were to rule on PTO 30, as it might typically happen, that
5 would then dictate what the parties had to do, whether that is
6 us or the generics, in terms of getting things done within the
7 time that the Court took into consideration as part of the PTO
8 30 issues.

9 That is why I had indicated when I first started that
10 we intend to include this in our reply on Friday, because I do
11 believe it impacts what the Court's consideration would be
12 about PTO 30.

13 Look, your Honor, I am happy to go either way you want
14 to go with that.

15 *THE COURT:* Okay.

16 *MR. McGLAMRY:* Or do both of them sort of
17 concurrently. Either one is fine with us.

18 *THE COURT:* All right. Ultimately, we all work for
19 Judge Rosenberg, and I will do what she tells me, but I did
20 want to clarify that on the record.

21 Let me hear from Mr. Henry on the same issue.

22 *MR. HENRY:* Your Honor, I think it is instructive for
23 us to look back at PTO 60 for a moment and remember that what
24 we did there was negotiated that agreement somewhat in the
25 dark, we set deposition dates before we really understood the

1 scope of discovery. That has kind of set up this problem we
2 have had where we are trying to shoot to produce documents in
3 advance of depositions that had already been scheduled. Right.
4 So, that was a bit of a problem.

5 We are working through that, but we are trying to
6 avoid that in this second iteration. Right? So, now we are
7 trying to set up to make sure that we can complete the
8 discovery, but what we don't know is what is the ending.
9 Right? That is why, in our view, having PTO 30 resolved will
10 help us set that schedule and get everybody on board.

11 And to be fair, many of the generics are moving
12 forward and getting this discovery done. It is really the
13 folks that have a lot of ANDAs over a lot of years, have a lot
14 of documents that are struggling to keep apace, just as
15 you would expect in any kind of race.

16 *THE COURT:* I understand. We have heard this theme
17 before in the PTO 30 discussions with Judge Rosenberg. I think
18 everyone in good faith sat down a year ago, tried to come up
19 with a schedule, negotiated a joint schedule for this case
20 trying to look into the future and anticipate what the world
21 was going to be like and their ability to access documents,
22 their ability to produce, their ability to review documents,
23 the Plaintiffs' ability to prepare timely for depositions.

24 Sometimes when we predict into the future, we hit it
25 on the bull's eye and sometimes we miss. I think part of the

1 discussion that we have been having collectively over the last
2 few months is we got some of it right and may have missed on
3 some of it. So, collectively the Court and the parties are
4 trying to reboot and rejigger and figure out a better mouse
5 trap here.

6 *MR. McGLAMRY:* Your Honor --

7 *THE COURT:* I'm sorry, Mr. McGlamry, go ahead.

8 *MR. McGLAMRY:* Your Honor, I apologize, I wanted to
9 respond in this sense.

10 *THE COURT:* Yes.

11 *MR. McGLAMRY:* I understood we were not going to get
12 into the weeds, and I don't want the record to reflect that I
13 agree that discovery has proceeded without delay. I disagree
14 with that, and we can go into that in great detail if we wanted
15 to.

16 Ultimately, my concern is this: Whatever time it
17 takes us to get PTO 30, those issues resolved, in my opinion we
18 still have to come back to the generics which, in my opinion,
19 is a very difficult group to get to do anything timely.

20 And so, all of this, you know -- and part of our
21 impasse is the generics say, well, it is premature to discuss
22 this issue, this issue, this issue, and our response is, well,
23 if we don't deal with that now, there is no more time left.

24 And so, my only concern is, I would not want to just
25 wait for whatever length of time it is to get to PTO 30 to then

1 have to circle back, depending on whatever that ruling is, to
2 go back to the generics and say, okay, now that the Court has
3 ruled this, because that may say to them and to us we have to
4 adjust ourselves accordingly, I just think that that is going
5 to lead us down the road to further delay.

6 *THE COURT:* I hear you, I understand that. Here is
7 what I am going to do -- well, here is my proposal, unless
8 anybody feels strongly this is not the right direction to go
9 in.

10 Obviously, what was originally the issue that brought
11 this matter before the Court, seems there has been negotiations
12 and maybe some of those issues have resolved and the issue that
13 needs decision at this point may be different from what you
14 have already briefed for the Court.

15 I think it would be very helpful if the parties could
16 file submissions to the Court laying out what is currently in
17 dispute and what are their current positions as to what is in
18 dispute. Maybe it is very different from what you said before.

19 I think once that is filed, I can look at it and Judge
20 Rosenberg can look at it in the overall context, now having had
21 full briefing on the PTO 30 issues, then the Court will be
22 fully advised on the PTO 60 issues, and the Court can make a
23 decision on the order of operations, how we want to address
24 this, how quickly we want to address it.

25 My personal inclination is I want to get the briefing

1 in from you and then I would be inclined to just set a hearing
2 and resolve the PTO 60 issue in parallel, and if Judge
3 Rosenberg hasn't gotten to the PTO 30 issue or Judge Rosenberg
4 wants to wait for me to resolve the PTO 60 issue, she can do
5 that.

6 On the other hand, if Judge Rosenberg wants me to
7 wait, I will wait, but I don't think she and I can make that
8 decision unless we know what is the current issue, not what was
9 the issue a month ago, what is the current issue.

10 So, anybody disagree that that is a good way to go
11 forward and at least make sure we are focused on the right
12 thing? Mr. McGlamry?

13 *MR. McGLAMRY:* Your Honor, I am fine with that. In
14 fact, if you think we should do that, which I think is a good
15 idea, I think we should do that concurrently with filing our
16 reply brief on Friday so that we don't have to spend time in
17 our reply brief dealing with this. It could be a separate
18 submission, as you have indicated.

19 *THE COURT:* I am fine with that.

20 Mr. Henry and Ms. Thompson, do you feel that gives you
21 enough time to -- I assume you know what your position is and
22 you can articulate it well, but you only have -- what day is
23 today, Tuesday, Wednesday? I can't remember. You have a
24 couple of days, so if Friday is a little tight for you, I will
25 give you a little more time, but I have no problem doing this

1 as a separate round of briefing.

2 Mr. Henry, what is your thought?

3 MR. HENRY: Your Honor, that sounds like a very smart
4 way to go. Maybe if we had until early next week, that way we
5 get to see the Plaintiffs' submission and respond by Monday or
6 Tuesday of next week. I think we know what the issues are, but
7 it is always good to see how they have articulated them in
8 order to respond.

9 MR. McGLAMRY: Your Honor, I object to that. We have
10 been negotiating back and forth these submissions, they know
11 our position, we know their position. If we are going to wait
12 until early next week, let's all wait until early next week.

13 THE COURT: Okay, I hear you. Let me hear from Ms.
14 Thompson.

15 MS. THOMPSON: I agree with what Mr. Henry said, your
16 Honor.

17 THE COURT: Okay. Here is what I am going to do. I
18 am going to have the parties file simultaneous submissions. I
19 am not going to have serial submissions.

20 By five o'clock on Monday, close of business next
21 Monday, five o'clock Eastern time on whatever day that is -- I
22 can't do Monday because that is Memorial Day. Tuesday, by five
23 o'clock, the parties can just submit their position papers as
24 to just identifying what still is in dispute in PTO 60 and what
25 your respective positions are on that.

1 As Mr. McGlamry says, you can probably anticipate each
2 other's positions. If, once the briefing comes in, someone
3 feels strongly that there is something that they must respond
4 to, they can respond to that by Thursday at five o'clock. That
5 way, within a week or so we will have it fully briefed, and I
6 don't believe PTO 30 is going to be resolved before then, so
7 that will give me and Judge Rosenberg the information we need.

8 That will free everybody up to be completely focused
9 on the Motions to Dismiss and then we will go from there.

10 Anything else relating to the PTO 60 issue that the
11 Plaintiffs think we should talk about today, Mr. McGlamry?

12 *MR. McGLAMRY:* No, your Honor, thank you for this.

13 *THE COURT:* Very well. Mr. Henry?

14 *MR. HENRY:* No, your Honor, that covers it. Thank
15 you.

16 *THE COURT:* Ms. Thompson?

17 *MS. THOMPSON:* No, your Honor, thank you.

18 *THE COURT:* Mr. Sachse, you don't really have a dog in
19 this fight quite yet. To the extent you and your clients want
20 to weigh in on this, I will certainly allow you leave to file
21 something on Monday or in response to either side's position.

22 *MR. SACHSE:* I think you're right, Judge, we don't
23 have a dog in this fight just yet, so we will wait to get to
24 54.

25 Before I sign off, I did have one other GSK specific

1 issue, more of a scheduling issue to discuss. I don't know if
2 you want to wait until the end of this conference to handle
3 that.

4 *THE COURT:* No, let's take it now, we are all here.
5 As long as Mr. McGlamry and Ms. Finken are the right people to
6 respond to it, let's take it up.

7 *MR. SACHSE:* Yes, and Ms. Finken is aware of this. I
8 just wanted to alert the Court, you asked earlier, inquired
9 about my health status, so I would say we are at half time
10 right now. I am actually going to be going back out on Friday,
11 I have a surgery scheduled, it will keep me out for at least a
12 few weeks.

13 I did have a meet and confer with Ms. Finken and Ms.
14 Luhana yesterday because we have some deadlines coming up. We
15 have, of course, as you know, what I call the batch record
16 check-in and we made some really good progress in that regard
17 yesterday and got some homeworks from them that we are running
18 down, and I believe we also have technically -- I shouldn't say
19 technically, there is a deadline to substantially complete
20 30(b)(6) depositions of most of our 30(b)(6) deponents by the
21 end of this month.

22 We have conferred with the Plaintiffs and agreed that
23 we are scheduling those for the June and July period because
24 our 30(b)(6) witnesses are based in the U.K., and there is --
25 as you may have heard, there is a European vacation -- I

1 shouldn't call it a vacation, a European work trip upcoming in
2 June and July for all of the parties.

3 I wanted to raise both of those issues with your Honor
4 because I know that we do have, as I said, that reporting
5 deadline on Friday. If we could get an extension of that
6 deadline, and we are happy to submit a joint request in that
7 regard, and I just wanted to sort of alert the Court to what I
8 would consider the resolution of the scheduling, the deposition
9 scheduling issue for those 30(b)(6)'s.

10 *THE COURT:* I apologize, I hadn't focused on it. The
11 deadline for this Friday was to report in, file a notice
12 relating to the batch record issue. Is that what it was?

13 *MR. SACHSE:* That is correct, and it is a deadline
14 that applies both to GSK and to BI. I can't, obviously, speak
15 on behalf of BI, but on behalf of GSK, I can say that I think
16 we are making progress. We are not there, but we are making
17 progress and we have been getting them additional information.

18 *THE COURT:* Okay. I want to keep on top of that. I
19 will set another date for a notice from you.

20 How much time do you think is reasonable to come back
21 around and update the Court on where you are on that?

22 *MR. SACHSE:* This is the tricky part. I'm not sure
23 exactly when I am going to be back up and running.

24 We can say -- let's say two weeks. Would that work,
25 Ms. Finken? And if for whatever reason I am still laid up, I

1 will try to get a proxy who can report.

2 *THE COURT:* Ms. Finken, what are your thoughts on all
3 of this?

4 Let me put it this way -- first of all, Mr. Sachse, I
5 think earlier I said you and your client could file something
6 on Monday. Obviously Monday is a holiday, so Tuesday is what I
7 meant.

8 Secondly, as far as this week is concerned, you don't
9 need to file something, you have just given me your report.
10 You both have lots of other work to do this week, so you don't
11 have to file a notice by this Friday. I will excuse you from
12 that.

13 The only question is whether I should set another date
14 for another notice or whether you all want to kind of trumble
15 along and then let me know if there are issues. I sort of
16 prefer the first, but I understand the logistical problems or
17 challenges, Mr. Sachse.

18 Let me hear from Ms. Finken.

19 *MS. FINKEN:* Tracey Finken on behalf of Plaintiffs.

20 Your Honor, I think it is fine to set a date for
21 another two week check-in. We have contacts at Mr. Sachse's
22 office that he was kind enough to supply us yesterday that we
23 can reach out to in his absence. I told him he does not need
24 to be texting and emailing us from the hospital bed this time.

25 We are making some progress, we did have a productive

1 meet and confer yesterday, so I would agree with Mr. Sachse on
2 that.

3 As far as the 30(b)(6) depositions go, we do have
4 dates certain for some of them in June and July in the U.K.
5 currently. We will see if it sticks, whether they are actually
6 live and in person in the U.K. or they end up being on Zoom,
7 but they are scheduled for the most part.

8 I agree with Mr. Sachse, I don't know how you want us
9 to approach that deadline that is in, I think it is PTO 63, in
10 terms of getting those depositions done by the end of the
11 month.

12 *THE COURT:* I don't recall. Again, I wasn't prepared
13 so I didn't look at PTO 63. There is a deadline to complete
14 GSK's 30(b)(6) depositions by the end of the month?

15 *MS. FINKEN:* Correct.

16 *THE COURT:* If the parties just want to submit a
17 proposed modified order extending that deadline, given your
18 agreement, you can just submit that, a joint motion to extend
19 that deadline, and I will review it.

20 I will just push back the reporting deadline on what
21 we have called the batch record issue until June 11th, which is
22 two weeks. In the interim, if something happens -- it is just
23 a written notice, and the notice can simply be we continue to
24 work, or Mr. Sachse is still in the hospital, or we found
25 someone else competent at Dechert who can actually work on

1 this, so we have actually made more progress. I don't know, I
2 don't know where it will land. That is fine as well.

3 If you want to incorporate that, Ms. Finken, into the
4 proposed PTO 63 modification, we can do one order for that as
5 well.

6 *MS. FINKEN:* Thank you, your Honor.

7 *THE COURT:* Mr. Sachse, the order of the Court is that
8 you are to prioritize your health. This case will go on with
9 or without you and you need to prioritize your health.

10 *MR. SACHSE:* Judge, I promise I will follow that
11 order. Thank you very much.

12 *THE COURT:* Just in case your partners start to
13 complain, you have an order from the Court now.

14 *MR. SACHSE:* I will let them know. I do not want to
15 be held in contempt, so I appreciate that.

16 *THE COURT:* I don't want to send the Marshals to the
17 hospital room to get you.

18 Is there anything further on these issues before we
19 turn to the Sanofi related issues?

20 *MR. SACHSE:* No. Thank you, Your Honor.

21 *THE COURT:* I thank all of you. I will excuse the
22 parties on the PTO 54 and 60 matter. I look forward to getting
23 your briefing next week.

24 At this time let me turn to the second issue that was
25 set for hearing today and that is what we have been calling the

1 Sanofi clawback issues.

2 Let me recognize counsel for the Plaintiffs on this
3 matter.

4 *MR. TROPIN:* This is Daniel Tropin on behalf of
5 Plaintiffs.

6 *THE COURT:* Good morning, Mr. Tropin.

7 *MR. McGLAMRY:* Your Honor, Mike McGlamry for
8 Plaintiffs. I do not intend to engage in this other than from
9 a factual standpoint if anything were to come up about the
10 underlying clawback redactions or PTO 25. Otherwise, Mr.
11 Tropin is going to handle the argument for Plaintiffs.

12 *THE COURT:* Very well. No problem. The parties did
13 notify me of that.

14 On behalf of Sanofi?

15 *MS. CILIBERTI:* Good morning, your Honor, Angelique
16 Ciliberti from Arnold & Porter.

17 *THE COURT:* Good morning, Ms. Ciliberti, good to have
18 you.

19 *MR. AGNESHWAR:* Your Honor, Anand Agneshwar, Arnold &
20 Porter, on behalf of Sanofi. Pursuant to PTO 32, Ms. Ciliberti
21 is a fourth year associate who is going to handle the argument,
22 but as you have pointed out before, that is acceptable. I am
23 here as a backstop.

24 *THE COURT:* I have ultimate confidence Ms. Ciliberti
25 is going to be brilliant. Mr. Agneshwar won't need to clean up

1 any messes, but if he does, that is my procedure and I welcome
2 him to speak if he needs to.

3 All right. With that, Ms. Ciliberti, I am treating
4 this as a motion by Sanofi for leave to file ex parte
5 affidavits and declarations under seal with the Court.

6 I am going to give you the first and last word, and as
7 everyone has made clear, it is your burden on this one.

8 I had one kind of procedural question, if I could, to
9 start with.

10 In looking at PTO 25, it appears that PTO 25 would
11 have required Sanofi to provide a supplemental privilege log to
12 at least log the limited number of documents that we are taking
13 about here. Has that occurred?

14 *MS. CILIBERTI:* Yes, your Honor, we have provided a
15 privilege log to Plaintiffs.

16 *THE COURT:* For these six or seven documents we're
17 talking about?

18 *MS. CILIBERTI:* Right, for the seven clawback
19 documents, they have our privilege log.

20 *THE COURT:* I thought that was interesting, they have
21 the documents, so I'm not sure what the privilege log gives
22 them, but I understand that is what the PTO requires, so I
23 wanted to make sure.

24 With that, I did review the pleadings from both sides,
25 and, Ms. Ciliberti, I will be happy to hear any argument you

1 would like to make at this time.

2 *MS. CILIBERTI:* Thank you, your Honor. May it please
3 the Court. My name is Angelique Ciliberti and I am here
4 arguing on behalf of Sanofi.

5 Your Honor, what Sanofi is asking is to submit a
6 discrete set of explanatory evidence that is going to provide
7 your Honor with what your Honor needs to determine our
8 privilege claims as to the documents subject to the clawback
9 dispute.

10 This request is entirely consistent with how Courts
11 handle these kinds of situations where the privilege claim is
12 not apparent from the face of the document, so the weight of
13 authority is on our side and our ask is entirely in keeping
14 with PTO 25.

15 Now, Plaintiffs have provided no authority, and we are
16 not aware of any, where a Court denied in camera review of
17 evidence that would provide the Court with factual information
18 in order to assess a privilege claim. In fact, your Honor, the
19 case that is the centerpiece to Plaintiffs' brief, the U.S. v
20 Davita case out of the Northern District of Georgia, that case
21 permitted these exact kind of submissions.

22 While Plaintiffs claim that they will be prejudiced if
23 in camera review is permitted, their claims of prejudice are
24 overblown. They have seen the documents that are subject to
25 the clawback, they have a privilege log that provides our basis

1 for our privilege claims and, your Honor, they also have
2 personal representations from outside counsel for Sanofi who
3 were involved in the underlying issues that the documents
4 subject to the clawback were created at the request of counsel
5 for purposes of this litigation.

6 Now, Plaintiffs have told us that this information is
7 not enough, and without additional evidence, if your Honor were
8 to agree with Plaintiffs, Sanofi will not meet its burden, but
9 the only other information that we can provide are the
10 privileged circumstances, including legal strategy, surrounding
11 the creation of these documents, and that is why we are asking
12 the Court for permission to submit a discrete set of evidence
13 that is going to have this information and provide the Court
14 with the tools it needs to make a privilege determination.

15 Federal Courts throughout the country, including in
16 the Southern District of Florida, have permitted these exact
17 kind of submissions. I won't belabor the point too much, your
18 Honor, we have cited a number of cases in our brief, but I do
19 think there are two cases that are worth talking about today.

20 The first case is the opinion from the In Re: Denture
21 Cream litigation, and that was an MDL here in the Southern
22 District of Florida.

23 In that case, there was a dispute over documents that
24 Defendants had withheld as privileged, and Magistrate Judge
25 Andrea Simonton permitted the Defendants to submit evidence ex

1 parte, including ex parte affidavits, and the apartment
2 Defendants did this. They submitted a whole binder's worth of
3 affidavits ex parte and this included affidavits from in-house
4 counsel, as well as affidavits from nonlawyer employees, and
5 the Court used these affidavits to provide context and rule on
6 the privilege claims.

7 And they are very similar, the types of documents at
8 issue are very similar to the ones we have here, including
9 documents where there are no lawyers on them, but documents
10 that reflect nonlawyer employees carrying out the request of
11 counsel.

12 The second case I would like to point your Honor to is
13 the case I alluded to moments ago, U.S. v Davita, 301 F.R.D.
14 676. This is the case that is featured prominently in
15 Plaintiffs' brief.

16 In that case, the party asserting privilege submitted
17 ex parte affidavits and the other party objected. The
18 Court ended up determining that that was a proper submission.
19 The Court explained exactly why on page 686 of that opinion,
20 your Honor, why Courts generally permit the reliance on these
21 ex parte affidavits.

22 In certain circumstances there are going to be
23 documents and emails where they are in shorthand or they
24 contain terms or references that the Court might not
25 understand, and in those circumstances, the Court explains that

1 it is entirely appropriate to submit factual information
2 surrounding the circumstances of those documents.

3 And the Court goes on to explain that when that
4 information is itself privileged, that in camera review is a
5 mechanism that Courts use to review the information, get the
6 information that it needs to make a privilege determination,
7 while also protecting that privilege information.

8 Now, your Honor, Plaintiffs attempt to distinguish
9 these cases by saying, well, there is no PTO 25 in place, but
10 under PTO 25, parties are permitted to submit evidence in
11 support of their privilege claims.

12 Nothing in PTO, as it states, is intended to change
13 the applicable law governing burdens of proof as to privilege
14 claims, and the PTO even cites a case in the Southern District
15 of Florida, the MapleWood Partners case.

16 So, it is clear from the PTO, and how the parties have
17 proceeded from other PTOs, when a pretrial order does not
18 account for a particular situation you look to the Federal
19 rules and you look to the governing case law, and the case law
20 is on our side here.

21 So, now, while our approach is entirely supported,
22 Plaintiffs' lacks support entirely.

23 The cases that they cite, your Honor, where in camera
24 review was denied by the Court, the Court was denying in camera
25 review of the underlying documents subject to the privilege

1 dispute. The Court denied the in camera review because the
2 party failed to meet its burden.

3 That is a completely different situation than what we
4 have here. Sanofi is trying to meet its burden by submitting
5 evidence that is going to provide the Court with the factual
6 context it needs.

7 Now, Plaintiffs' approach, while also being
8 unsupported, puts us between a rock and a hard place.
9 Plaintiffs have asked the Court to order Sanofi to submit all
10 of its evidence up front and permit in camera review only if
11 the Court were to be unable to make the privilege call.

12 So, under Plaintiff's approach, Sanofi has two
13 options. The first option is that we can remove the privileged
14 information from the declarations in evidence, cross our
15 fingers and hope that we meet our burden. The problem, your
16 Honor, is that your Honor recently held in Diamond Resorts that
17 this kind of watered down declaration with broad conclusory
18 statements is insufficient to support a claim of privilege.

19 So, that brings me to our second option, option number
20 two, Sanofi can submit the evidence as is, establish our
21 burden, but waive the privileged information within that
22 evidence. Neither of these options are tenable for Sanofi, and
23 none of the cases that Plaintiffs rely on support such a
24 convoluted, drawn out process.

25 That brings me to my final point, your Honor. The

1 traditional concerns with ex parte review are simply not
2 present here. Generally, when a Court disfavors ex parte
3 review, it is doing so for one of two reasons.

4 The first reason is one that I am sure your Honor can
5 appreciate. Courts do not want to be inundated with hundreds
6 of purportedly privileged documents for it to review. You may
7 recall that you alluded to this concern at a discovery
8 conference back in March when my colleague, Ms. Sharpe, sought
9 your guidance on in camera submissions. You said that you
10 would not want a party to submit 11,000 pages of discovery.

11 That is not what we are doing here. We are not asking
12 the Court to review thousands or even hundreds of documents.

13 What we are asking is for the Court to review a
14 discrete set of factual evidence that does not contain legal
15 argument, but is going to provide the Court with the
16 information it needs surrounding the clawback documents and
17 allow the Court to make a privilege determination.

18 The second concern with ex parte review, your Honor,
19 is one of fairness, the concern that the other party is at a
20 disadvantage because it doesn't have the underlying
21 information.

22 Here, Plaintiffs have seen the documents, they have
23 seen them in their full unredacted forms. They also have a
24 privilege log that provides that basis for our privilege
25 claims, and they also have personal representations from

1 counsel who were involved in the underlying issues that the
2 documents were created at their request for purposes of the
3 litigation.

4 Plaintiffs are not going to be disadvantaged simply
5 because they do not have privileged communications which they
6 are not entitled to surrounding the creation of the clawback
7 documents.

8 But Sanofi will be at a disadvantage if it is not
9 permitted to fully defend its privilege claims by submitting
10 all the evidence it has in order to meet its burden, or if it
11 were to have to risk waiver by submitting the evidence as is
12 with the privileged information.

13 For these reasons, your Honor, Sanofi respectfully
14 asks the Court to permit it to submit the evidence that we
15 identified in our motion for in camera review.

16 That is the end of my affirmative argument, your
17 Honor. I am happy to answer any questions you may have.

18 *THE COURT:* Thank you, Ms. Ciliberti. I do have a
19 couple of questions. Obviously, I haven't seen the proposed
20 submissions that are beyond the documents, the declarations, or
21 whatever else you are going to submit.

22 Are those limited only to factual declarations by
23 counsel or are they going to also include, for example, an
24 email, say, from Mr. Agneshwar to a nonlawyer saying do this,
25 do that? Are they going to include other documentary evidence

1 or are they simply going to be declarations by counsel?

2 *MS. CILIBERTI:* Your Honor, in our opening motion we
3 laid out all the evidence that we would potentially submit, and
4 there are, I believe, five declarations that contain factual
5 information, and then there are two additional privilege
6 documents that Plaintiffs have not seen.

7 *THE COURT:* Okay. I understand. My other question
8 is, Plaintiffs are requesting -- I think in other cases the
9 Courts have done this -- that whatever is filed, you should at
10 least provide to them redacted versions that are, to the extent
11 possible, shorn of privileged information, but otherwise
12 reflect everything else.

13 I can foresee a declaration from -- I think you
14 indicated Mr. Agneshwar may be giving a declaration. He will
15 say I am Anand Agneshwar, I am a partner at Arnold & Porter, I
16 am lead counsel in this litigation, I manage all communications
17 with the client.

18 I would think that wouldn't necessarily need to be
19 redacted, you could provide that, but when you get into this is
20 what I told them, presumably you would want to redact that.

21 Does Sanofi object to providing -- I know you had a
22 footnote in your pleading, but I want to make it clear on the
23 record. Does Sanofi object to providing that sort of redaction
24 even if I allow you to file the ex parte documents?

25 *MS. CILIBERTI:* No, your Honor, Sanofi does not object

1 to providing redacted versions of the evidence that we would
2 submit in camera.

3 *THE COURT:* Okay. Thank you, Ms. Ciliberti. Let me
4 hear from Mr. Tropin and then I will give you the last word.

5 Mr. Tropin, let me turn to you. Good to see you.

6 *MR. TROPIN:* Good to see you, your Honor. This is Dan
7 Tropin on behalf of Plaintiffs.

8 Let's be clear, Plaintiffs' issue with Sanofi's
9 position is that ex parte submissions should not be automatic
10 whenever there is a privilege dispute. Judicial proceedings
11 should be adversarial and transparent as a general rule.

12 Ex parte proceedings of any kind, including on
13 privilege issues, are an exception to that rule, and this
14 exception should not be made lightly, let alone, as Sanofi
15 would have it, automatically. Why? So the opposing party is
16 not forced to litigate blindfolded.

17 To reiterate, and I think this is important,
18 Plaintiffs' position is not that there should never be ex parte
19 submissions, even in this case; instead, ex parte submissions
20 should only happen when absolutely necessary and
21 after traditional and transparent steps are taken, and that is
22 backed up not only in the case law, but also on the record
23 already in this litigation.

24 Here, there has been no showing that ex parte
25 submissions are necessary for this dispute. There has been no

1 showing that Sanofi, for whatever reason, cannot explain what
2 reasons on the surface of the documents are not clear as to
3 privilege with submissions that are not themselves privileged.

4 So, here the parties can litigate privilege issues
5 without ex parte submissions, especially with the in camera
6 review of documents, and this is reflected in PTO 25 which
7 calls for briefing on privilege issues without calling for ex
8 parte submissions of affidavits or other evidence.

9 If PTO 25 contemplated ex parte submissions, as it
10 did with in camera review of privilege documents, then it would
11 say so.

12 And then -- so, only if there is some reason that the
13 Court cannot decide the privilege issue without an ex parte
14 submission, for instance, contrary to the idea that there is
15 two options, both of them bad, here Sanofi could provide the
16 evidence it has that is not privileged and then flag for the
17 Court that its support for the privilege claim is hampered by
18 an inability to properly explain itself, and then the Court
19 could -- if it is absolutely necessary, then there could be an
20 ex parte submission.

21 And to the point about prejudice, that shows, contrary
22 to Sanofi's position, that Plaintiffs' proposal would not in
23 any way prejudice Sanofi. If ex parte submissions are
24 absolutely necessary, then Sanofi will have the opportunity to
25 provide them.

1 The problem is that Sanofi's proposal puts the cart
2 before the horse, and regardless of any argument that
3 Plaintiffs somehow know what is in the ex parte affidavits, the
4 very submission of ex parte affidavits by definition blindfolds
5 Plaintiffs. That is prejudicial and that is why this is a very
6 rare exception to the rule.

7 Let me refer back to what this Court said on
8 March 10th on the record, that the parties shouldn't
9 unilaterally just submit something and say we are submitting it
10 in camera because really -- because in camera is an ex parte
11 proceeding, it is the exception to that rule, and that is for
12 in camera submissions of documents. In camera submissions of
13 affidavits, other evidence that we don't know what is going to
14 be said in them, is even more prejudicial and more necessary
15 where the documents are going to be submitted in camera.

16 We could not agree more with this Court's statement at
17 that hearing, and that Court's statement is echoed almost word
18 for word in Diamond Resorts where this Court said, I don't
19 think it is appropriate for me to have in camera ex parte
20 communications with you when I am conducting the in camera
21 review.

22 So, that again goes explicitly to the context where
23 there is in camera review of documents, that ex parte
24 communications such as ex parte submissions are inappropriate
25 unless they are absolutely necessary.

1 And I think that this same principle is best expressed
2 in *Campero USA*, set in our papers where Judge McAliley -- and
3 this was also repeated in *MapleWood* which, as counsel for
4 Sanofi pointed out a moment ago, is cited in PTO 25, so I think
5 it carries extra importance here -- that "Courts make a
6 principled attempt to try to avoid *ex parte* proceedings,
7 including in camera review of documents, as it is fundamentally
8 contrary to our adversarial system of dispute resolution.

9 "In camera review puts the Court in an undesirable
10 position of attempting to think of arguments that the excluded
11 counsel might make if he or she had access to the documents in
12 question, and the Court can never do the job of counsel as well
13 as counsel can. Thus, it is wise for the Court to not consider
14 an in camera review until the party asserting privilege has
15 done all that it reasonably could to establish privilege."

16 Let me respond momentarily to *Denture Cream* that
17 Sanofi relied on in their papers and a moment ago because In
18 *Re: Denture Cream* has been interpreted by Defendants in a way
19 that is inconsistent with this Court's practice and where we
20 are now. Sanofi is correct that we view *Denture Cream* as
21 inconsistent with PTO 25, and Sanofi is also correct that we
22 have other reasons to distinguish it that we put in our
23 opposition.

24 But more importantly, if you look at the order that
25 was attached as Exhibit A to Sanofi's motion, at page five,

1 paragraph three, where the procedure for ex parte affidavits is
2 laid out, it explicitly says that these ex parte affidavits
3 should only be submitted, quote unquote, if necessary.

4 That is exactly Plaintiffs' position here, that it is
5 not that we are calling for a bright line rule that ex parte
6 affidavits should never be submitted in any privilege dispute
7 if there is some occurrence where it is absolutely impossible
8 to explain why a document is privileged based on the document
9 itself in an in camera review, and whatever other context can
10 be provided without privileged communications such as that this
11 document is relaying advice of counsel, who the counsel is, who
12 the individuals on the document are.

13 In that rare instance it would be necessary to submit
14 ex parte affidavits, but again, here Sanofi has provided
15 nothing of the kind. At most, we have had vague generalities
16 as to what is in these affidavits, and no explanation as to why
17 Sanofi cannot explain itself, and why these documents are
18 privileged without resorting to a rare procedural device that
19 should only be called for where absolutely necessary.

20 And indeed, that is why we cited to Davita which, even
21 though it did call for ultimately redacted affidavits, Davita
22 was unequivocally clear that ex parte proceedings are an
23 exception to the rule in our judicial system and contrary
24 to its adversarial nature, and that in some cases, in some
25 cases, especially given the complicated nature of the matters

1 at issues there, the Court might require further context to
2 understand the claim of privilege.

3 Thus, again, and this is exactly what we are asking
4 for here, Davita allowed ex parte submissions, quote unquote,
5 where necessary. Let me emphasize that again, where necessary,
6 because that ultimately is Plaintiffs' position, not that ex
7 parte affidavits can never be submitted, but that they can only
8 be submitted where necessary, and that here Sanofi has not
9 illustrated why it cannot support its position that these
10 documents are privileged without resort to ex parte
11 submissions.

12 So, ultimately, the Court may consider ex parte
13 submissions for in camera review, but that decision should be a
14 last resort and after traditional and more transparent steps
15 are taken, and let us reiterate that the steps would allow
16 Sanofi to flag the fact that it might need to submit a little
17 bit more in camera for the Court's review in the event that
18 they are unable to properly support with on the record under
19 seal, pursuant to PTO 26, submissions.

20 But on the other hand, following Sanofi's proposal, it
21 will necessarily require that Plaintiffs will be prejudiced by
22 ex parte submissions because they will be left litigating with
23 blinders on.

24 *THE COURT:* Thank you, Mr. Tropin. It sounds like the
25 parties are not actually that far apart on some of these

1 issues. I think everyone agrees there are times when ex parte
2 submissions are appropriate. It is just a question of whether
3 this is one of those, if I am understanding Plaintiffs'
4 argument.

5 The Plaintiffs' position is that Sanofi hasn't done
6 enough to get over that threshold. I guess the question to
7 you, Mr. Tropin, is, what else do you think they need to do?

8 You have a copy of the document, as Ms. Ciliberti
9 points out, you have representations from counsel that counsel
10 was involved, so therefore these are privileged.

11 So, what else do you think they should have to do
12 before I should let them submit ex parte affidavits?

13 *MR. TROPIN:* I think it is actually a pretty simple
14 procedure that can be followed, which is that once the dispute
15 has been crystalized as to whether documents are privileged, as
16 they are here, Sanofi should move to claw them back, submit as
17 agreed upon the documents for in camera review, provide
18 whatever support they can, and then in those papers provide the
19 specific reasons why they are hamstrung, flag them for the
20 Court so the Court doesn't just rule against them, and this
21 erases any chance of prejudice.

22 The Court can look at Sanofi's papers, our opposition,
23 which is great because then we would not be prejudiced in
24 preparing that opposition, and either decide that the record
25 before it is sufficient to rule on the papers and evidence

1 before it, or if further evidence is needed, then the Court can
2 simply order further evidence be submitted in the form of ex
3 parte affidavits because it is absolutely necessary.

4 *THE COURT:* It sounds to me like where you see the
5 hole is that Sanofi hasn't yet established that they can't meet
6 their burden without these ex parte affidavits, that they
7 should have to explain in a bilateral proceeding why they think
8 they can't get there, allow you to argue why they can, and then
9 the Court would rule.

10 If the Court agreed with them, I would allow the ex
11 parte pleadings; and if I agreed with you, I wouldn't allow the
12 ex parte pleadings. Am I understanding your argument
13 correctly?

14 *MR. TROPIN:* Correct. The one thing I would add to
15 that is that it should be folded into the argument about the
16 substance itself to avoid unnecessarily taxing the Court with
17 deciding two separate disputes and two rounds of argument, that
18 Sanofi should simply explain why it thinks it is privileged.

19 If there are reasons that they are unable to
20 articulate properly due to the lack of evidence that would
21 necessarily be privileged itself, then it can flag that for the
22 Court.

23 *THE COURT:* I guess my other question is this. There
24 is a general principle and understanding that the Court as --
25 particularly on preliminary issues, for example, under Rule of

1 Evidence 104, the Court understands what the Court can consider
2 and what the Court can't consider.

3 What would be the harm or the prejudice to the
4 Plaintiffs if I allowed Sanofi to submit the ex parte
5 affidavits along with their briefing on the substantive matter?
6 Presumably in that briefing they are going to explain why I
7 have to look at these other things. Plaintiffs can respond,
8 and then if I need to look at those documents, I will look at
9 them, and I will make clear on the record that I looked at
10 them.

11 If I determine I don't need to look at them, I won't
12 look at them, and I will make clear on the record I didn't look
13 at them.

14 What is the Plaintiffs' argument why that isn't a
15 proper procedure that we could follow here?

16 *MR. TROPIN:* The problem with that procedure would be
17 that, essentially what is being called for here, which is that
18 Plaintiffs are forced, as the opposing party, to litigate
19 blindfolded where Sanofi's submission will refer to matters
20 that Plaintiffs just simply do not have access to, and the
21 Court shouldn't entertain that unless absolutely necessary.

22 *THE COURT:* Your position is, I shouldn't do that in
23 parallel, I should do that sequentially. I should first make
24 them file their motion, establish why they can't meet their
25 burden, and if I accept their argument, after hearing your

1 opposition, that they can't meet their burden without these ex
2 parte affidavits, can't fairly have a chance to meet their
3 burden without these ex parte affidavits, then I should have a
4 second round and allow them to submit the ex parte affidavits,
5 and then I can rule.

6 *MR. TROPIN:* That is absolutely correct, your Honor.

7 *THE COURT:* Thank you. I understand your position,
8 you have made it very clear.

9 Let me go back to Ms. Ciliberti and give her the final
10 word.

11 *MS. CILIBERTI:* Thank you, your Honor. I would like
12 to first address Mr. Tropin's proposed approach.

13 So, under his proposed approach we would have multiple
14 rounds of briefing, which seems inefficient with judicial
15 resources in mind, and also it is inconsistent with the case
16 law.

17 Under the case law, as Mr. Tropin pointed out, quoting
18 MapleWood, "a party must do all that it can to reasonably
19 establish privilege before ex parte review." MapleWood is
20 talking about ex parte review of the underlying document. Here
21 we are trying to provide all the evidence that we can up front
22 in order to meet our burden.

23 I would also like to point out that in U.S. v. Davita,
24 the party there submitted ex parte affidavits right up front.
25 The procedure there, Plaintiffs had filed a motion to compel,

1 and in the Defendants' response brief they submitted their ex
2 parte affidavits, and the Court found that this was proper, and
3 to quote the Court, "Courts generally permit the filing and
4 reliance on ex parte affidavits."

5 *THE COURT:* I understand. Again, I think you all are
6 not that far apart.

7 Do you agree with the Plaintiffs' position that there
8 are essentially two thresholds here? The first threshold is,
9 should you be allowed to submit ex parte affidavits in support
10 of the second threshold, which is meeting your burden of
11 establishing there is actually a privilege here.

12 First of all, do you agree with that concept, that
13 there really are two thresholds that have to be crossed?

14 *MS. CILIBERTI:* I don't believe so, your Honor. Based
15 on the case law, we are permitted to submit ex parte affidavits
16 in support of our burden before -- in order to meet our burden.
17 It is a single process, and it doesn't -- it seems to us that
18 it doesn't make much sense to pare down evidence that this
19 Court has already found to be insufficient to meet a burden of
20 privilege.

21 *THE COURT:* Okay, thank you. I understand.

22 All right. Anything further, Ms. Ciliberti, on behalf
23 of Sanofi?

24 *MS. CILIBERTI:* I would just like to address Diamond
25 Resorts where Mr. Tropin talked about how the Court denied ex

1 parte communication. In that case, the Court was reviewing the
2 underlying documents in camera, and the party asserting
3 privilege asked to submit a memorandum ex parte.

4 To be clear, Sanofi is not asking to submit legal
5 argument, our evidence is very narrowly tailored. We tried to
6 include only the facts necessary to give your Honor the
7 information your Honor needs to assess our claims of privilege.

8 *THE COURT:* Trust me, I am painfully familiar with the
9 Diamond Resorts case and I remember those proceedings very
10 well. In that case, the parties didn't push the issue as hard
11 as it has been pushed in this case and didn't ask for briefing
12 and didn't really frame it quite the same way.

13 While I understand what I said there, and I meant it
14 because I said it, I don't know that it is full square on to
15 the issue presented here, but I do think it has some
16 precedential value that I will take into account.

17 Anything further, Ms. Ciliberti, on behalf of Sanofi?

18 *MS. CILIBERTI:* No thank you, your Honor.

19 *THE COURT:* Anything else, Mr. Agneshwar?

20 *MR. AGNESHWAR:* No, your Honor, I will rest on Ms.
21 Ciliberti's argument.

22 *THE COURT:* Very well. Thank you all very much. I
23 will take this matter under advisement. I know this needs to
24 get resolved quickly. This has been extraordinarily helpful,
25 both the written briefing and the argument here today. I will

1 get an order out as quickly as I can and we will go forward.

2 Thank you all very much.

3 We will be in recess and I will excuse the parties.

4 Thank you.

5 MR. McGLAMRY: Thank you, your Honor.

6 *(Thereupon, the hearing was concluded.)*

7 * * *

8 I certify that the foregoing is a correct transcript
9 from the record of proceedings in the above matter.

10

11 Date: May 27, 2021

12 /s/ Pauline A. Stipes, Official Federal Reporter

13 Signature of Court Reporter

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