Glenn S. Kerner, Esq.
GOODWIN PROCTER LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018-1405
Tel: (212) 813-8800
Fax: (212) 355-3333
gkerner@goodwinprocter.com

*Attorneys for Defendant*
*Teva Pharmaceuticals USA, Inc.,*
*Barr Pharmaceuticals LLC and*
*Barr Laboratories, Inc.*

FILED

JAN 18 2013

Carol E. Higbee, P.J.Cv.

| | |
|---|---|
| IN RE: FOSAMAX LITIGATION | SUPERIOR COURT OF NEW JERSEY<br>LAW DIVISION: ATLANTIC COUNTY |
| APPLIES TO ALL CASES | CASE NO. 282 |

**CASE MANAGEMENT ORDER**

**THIS MATTER** having come before this Court by teleconference on December 12, 2012, and the parties having consented to the form and entry of this Order, and for good cause shown,

**IT IS** on this 18 day of January, 2013 **ORDERED** as follows:

1. On March 16, 2012, the Generic Defendants filed a Motion for Judgment on the Pleadings on the issue of federal preemption pursuant to the United States Supreme Court's ruling in *PLIVA, Inc. v. Mensing*, 564 U.S. ___, 131 S. Ct. 2567 (2011), *reh'g denied.*

2. On February 6, 2012, the Court entered a Case Management Order staying Generic Defendants' obligation to answer or otherwise respond to complaints filed on or after January 20, 2012 in the above-captioned consolidated proceeding pending decision on the

foregoing Motion. The Court further ordered that cases subject to the stay shall not be procedurally dismissed pursuant to R. 1:13-7.

3. Due to changes in the computer system that tracks procedural dismissals pursuant to R. 1:13-7, in order to prevent procedural dismissals of cases with notices of dismissal issued after December 31, 2012 the parties may stipulate to a consent order staying Generic Defendants' obligation to answer or otherwise to respond until May 1, 2013. A model consent order is attached hereto as Exhibit A.

4. Plaintiffs' attorneys who receive notices of dismissal as to Generic Defendants should e-mail copies of those notices, along with an executed consent order, to counsel designated for the Generic Defendant named on the notice, as well as Kate Seib of Goodwin Procter LLP (at kseib@goodwinprocter.com), within 14 days of receipt. Within 14 days of receiving such a notice and executed consent order, Counsel for Generic Defendants will complete and submit the consent order to the Court. Counsel designated for the Generic Defendants are set forth in Exhibit B attached hereto.

Carol E. Higbee P.J.Cv.

# EXHIBIT A

[INSERT ADDRESS BLOCK]

| | | |
|---|---|---|
| IN RE: FOSAMAX LITIGATION | : | SUPERIOR COURT OF NEW JERSEY |
| | : | LAW DIVISION: ATLANTIC COUNTY |
| APPLICABLE TO ALL CASES LISTED ON SCHEDULE "A" | : | CASE CODE 282 |
| | : | **ORDER BY CONSENT TO STAY ANSWERS BY GENERIC DEFENDANTS** |

It is hereby stipulated and agreed by and between the attorneys for the plaintiffs, and the attorneys for defendant [insert name], subject to the Court's approval, and pursuant to the teleconference with the Court on December 12, 2012 that:

1. Generic Defendants' duty to file a responsive pleading or otherwise move in response to the Complaints listed on the attached Schedule A is stayed until May 1, 2013, or such other date as the Court may set following its ruling on Generic Defendants' Motion to Dismiss; and

2. Any related lack of prosecution deadline applicable to these cases be extended to the same date.

[INSERT PLAINTIFF'S COUNSEL]

*Attorneys for Plaintiffs*

By:_____

[INSERT DEFENSE COUNSEL]

*Attorneys for Defendant [insert name]*

By: _____

IT IS SO ORDERED, this _____ day of _____, 2013.

_____

Honorable Carol E. Higbee, P.J. Cv.

**SCHEDULE "A"**

[Insert case name, docket number and named defendants]

# EXHIBIT B

**Counsel for Generic Defendants**

**GOODWIN PROCTER LLP**
Glenn S. Kerner
Kate D. Seib
The New York Times Building
620 Eighth Avenue
New York, New York 10018-1405
Tel: (212) 813-8800
Fax: (212) 355-3333
gkerner@goodwinprocter.com
kseib@goodwinprocter.com

George E. McDavid
Shana E. Russo
**REED SMITH LLP**
136 Main Street, Suite 250
Princeton Forrestal Village
Princeton, New Jersey 08540
Tel: (609) 987-0050
Fax: (609) 951-0824
gmcdavid@reedsmith.com
srusso@reedsmith.com

***Attorneys for Defendants Teva Pharmaceuticals USA, Inc., Barr Pharmaceuticals LLC, and Barr Laboratories, Inc.***

**HARRIS BEACH PLLC**
Frederick H. Fern
Kelly E. Jones
One Gateway Center, Suite 2500
Newark, New Jersey 07102
(973) 848-1244
KJones@HarrisBeach.com

Shook Hardy & Bacon
Harvey L. Kaplan
Madeleine M. McDonough
Sarah E. West
255 Grand Blvd.
Kansas City, Missouri 64108
(816) 421-6550
swest@shb.com

***Attorneys for Mylan, Inc. and Mylan Pharmaceuticals, Inc.***

Charles A. Fitzpatrick, III, Esquire
Arthur B. Keppel, Esquire
**RAWLE & HENDERSON LLP**
The Widener Building
One South Penn Square, 16th Floor
Philadelphia, PA 19107
cfitzpatrick@rawle.com
akeppel@rawle.com
Tele: (215) 575-4200
Fax: (215) 563-2583

***Attorneys for Apotex Corp.***

**STINSON MORRISON HECKER LLP**
Sandra J. Wunderlich
7700 Forsyth Boulevard, Suite 1100
St. Louis, Missouri 63105-1821
Telephone: (314) 863-0800
Facsimile: (314) 863-9388
E-mail: swunderlich@stinson.com

and

Jeffrey A. Cohen
**FLASTER/GREENBERG P.C.**
Commerce Center
1810 Chapel Avenue West
Cherry Hill, NJ 08002-4609
Telephone: (856) 661-1900
Facsimile: (856) 661-1919
E-mail: jeffrey.cohen@flastergreenberg.com

***Attorneys for Defendant-Appellee Sun Pharmaceutical Industries, Inc.***

**BLANK ROME LLP**
TERRY M. HENRY
LAURIE A. SALITA
BLANK ROME LLP
ONE LOGAN SQUARE,
130 N. 18TH STREET
PHILADELPHIA, PA 19103
thenry@blankrome.com
salita@blankrome.com

***Co-Counsel for Watson Pharmaceuticals, Inc.,***
***Watson Laboratories, Inc. and Cobalt Laboratories, Inc.***

Janet L. Poletto
**Hardin Kundla McKeon & Poletto**
673 Morris Avenue
Springfield, New Jersey 07081
(973) 912-5222 Telephone
(973) 912-9212 Facsimile

Habib Nasrullah
Stephanie A. Reedy
**Wheeler Trigg O'Donnell LLP**
370 Seventeenth Street, Suite 4500
Denver, Colorado 80202
(303) 244-1800 Telephone
(303) 244-1879 Facsimile

***Attorneys for Defendant Northstar Rx LLC***

Ernest Koschineg, Esquire
Carolyn Purwin, Esquire
**Kent&McBride, P.C.**
1617 JFK Boulevard, Suite 1200
Philadelphia, PA 19103
cpurwin@kentmcbride.com

***Attorneys for Defendant Aurobindo Pharma, USA***