

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10

11 IN RE: INCRETIN-BASED THERAPIES  
12 PRODUCTS LIABILITY LITIGATION

Case No.: 13md2452 AJB (MDD)

13 **ORDER DENYING AS MOOT**  
14 **PRIOR MOTIONS TO STRIKE**  
15 **REGARDING THE PREEMPTION**  
16 **SUMMARY JUDGMENT MOTIONS**

(Doc. Nos. 1164, 1193, 1195, 1197,  
1214, 1217)

17  
18 Presently before the Court are several motions to seal related to the parties'  
19 respective summary judgment motions on the affirmative defense of preemption. (Doc.  
20 Nos. 1164, 1193, 1195, 1197, 1214, 1217.) Due to the parties' proposal and the Court's  
21 adoption of comprehensive briefing on motions to seal the summary judgment briefing,  
22 each of the motions to seal noted above are **DENIED AS MOOT**.

23 On June 19, 2015, Plaintiffs filed a motion to seal their motion for summary  
24 judgment and certain supporting exhibits. (Doc. No. 1164.) Plaintiffs' motion to seal  
25 briefly stated their position that Plaintiffs' motion and supporting exhibits on the  
26 affirmative defense of preemption should not be maintained under seal. Having stated  
27 their position against sealing, the Court ordered Defendants to file motions to seal the  
28 information referenced in Plaintiffs' motion for summary judgment and supporting

1 exhibits on July 2, 2015. (Doc. No. 1185.) Thereafter, Novo filed a motion to seal  
2 regarding information it designated as confidential on July 7, 2015, (Doc. No. 1193),  
3 which was followed by similar motions by Merck, (Doc. No. 1195), Amylin and Lilly  
4 (Doc. No. 1197). On July 17, 2015, all Defendants filed a joint motion to seal their  
5 opposition to Plaintiffs' motion for summary judgment and attached exhibits. (Doc. No.  
6 1214.) Similarly, Plaintiffs stated their position against sealing any portion of their  
7 opposition to Defendants' motion for summary judgment in a motion to seal filed the  
8 same date. (Doc. No. 1217.)

9         With multiple motions to seal related to the summary judgment briefing already  
10 pending, the parties jointly moved the Court to adopt a schedule for filing comprehensive  
11 memoranda in support of all motions to seal. (Doc. No. 1230.) The parties proposed filing  
12 comprehensive motions to seal, relating to the summary judgment briefing in its entirety,  
13 as opposed to separately addressing each motion, opposition, and reply. The joint motion  
14 also requested that all previous motions and memoranda concerning sealing portions of  
15 the summary judgment briefing be stayed and require no further response. (Doc. No.  
16 1230, p. 3.)

17         The Court granted the joint motion in its entirety and the parties have since filed  
18 comprehensive motions to seal and opposition, with a comprehensive reply due on  
19 September 11, 2015. Accordingly, the following motions to seal, filed prior to the  
20 adoption of comprehensive briefing on sealing the summary judgment briefing are  
21 **DENIED AS MOOT**: Doc. Nos. 1164, 1193, 1195, 1196, 1197, 1214, 1217.

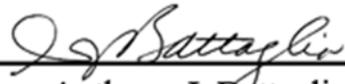
22         Because much of the parties' summary judgment briefing is provisionally lodged  
23 under seal in connection with the now-moot motions to seal, the Clerk of Court is  
24 instructed to maintain Doc. Nos. 1165, 1215, 1218, provisionally under seal at this time.  
25 Documents 1194 and 1196, which were lodged under seal in connection with the now-  
26 moot motions to seal do not contain summary judgment briefing and appear to be  
27 duplicative of the briefing and documents lodged in support of the comprehensive  
28 motions to seal. Accordingly, the Clerk of Court is instructed to **STRIKE** Doc. Nos.

1 1194 and 1196 from the record.

2

3 **IT IS SO ORDERED.**

4 Dated: September 10, 2015

  
\_\_\_\_\_  
Hon. Anthony J. Battaglia  
United States District Judge

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28