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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE: INCRETIN-BASED
THERAPIES PRODUCTS
LIABILITY LITIGATION

CASE NO. 13md2452-AJB (MDD)

ORDER DENYING WITHOUT
PREJUDICE PLAINTIFFS' EX
PARTE MOTION TO COMPEL
(ECF NO. 350)

On March 7, 2014, Plaintiffs filed an *ex parte* Motion for Determination of Discovery Dispute. (ECF No. 350). This Court's Civil Chambers Rules requires that discovery motions be filed as joint motions. *See* Civil Chambers Rules V.C. The Rules specifically provide:

A party seeking to bring a discovery dispute arising between the parties before the Court must provide the opposing party a reasonable opportunity to contribute to the joint motion. An *ex parte* motion to compel only is appropriate when the opposing party, after being provided a reasonable opportunity to participate, refuses to participate in the joint motion. The *ex parte* motion must contain a declaration from counsel regarding the opportunity provided to opposing counsel to participate in a joint motion. A minimum of 5 business days prior to the anticipated filing date of the Joint Motion is reasonable for a party to participate meaningfully in the preparation of the joint motion.

Id. In the declaration supporting the filing of the motion *ex parte*, Plaintiffs' counsel related that Defendants were provided approximately six days to prepare their portion of the joint motion; that Defendants sought an extension of time which Plaintiffs denied; and, that

1 Defendants supplemented some of the disputed responses. (ECF No.
2 350-2). Plaintiffs included copies of email correspondence regarding the
3 timing issue.

4 The Court finds that Plaintiffs unreasonably denied Defendants a
5 meaningful opportunity to participate in the joint motion. This is
6 complex litigation and there are 48 responses to Interrogatories in
7 dispute. It also is not reasonable for Plaintiffs to expect this Court to
8 rule on disputes for which supplemental responses have been provided.
9 Accordingly, the instant motion is **DENIED** without prejudice to the
10 filing of a joint motion as required by this Court's rules.

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IT IS SO ORDERED.

DATED: March 11, 2014


Hon. Mitchell D. Dembin
U.S. Magistrate Judge