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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: INCRETIN MIMETICS
PRODUCTS LIABILITY
LITIGATION

) MDL Case No.13md2452 AJB (MDD)
) As to all related and member cases
) ORDER DENYING MOTIONS TO
) SEAL AND STRIKING EXPERT
) REPORTS FROM THE DOCKET
) (Doc. Nos. 850, 852, 854, 880, 882,
) 883)

Presently before the Court are several motions to seal related to the filing of expert reports on the docket. (Doc. Nos. 850, 852, 880, 882, 883.) On December 15, 2014, Plaintiffs filed the reports of G. Alexander Fleming, M.D. and David Madigan, Ph.D., (Doc. Nos. 851, 853), pursuant to the language of the amended scheduling order issued on November 17, 2014 (Doc. No. 809). Defendants Amylin Pharmaceuticals, LLC, Novo Nordisk, Inc., Merck Sharp & Dohme Corp., and Eli Lilly and Company jointly filed the report of Lawrence Goldkind, M.D. (Doc. No. 854.) Due to the Court’s inadvertent adoption of the language contained in the parties’ joint motion, the Court ordered the parties to “file and serve” their expert reports which resulted in the motions to seal currently on the docket. While the Court appreciates compliance with the scheduling order, maintaining the expert reports on the docket undermines the terms of the amended protective order. Further, expert reports are generally not filed with the Court independent of pending motions, and without such context the Court cannot adjudicate the

1 relevance of the reports. Accordingly, the Court cannot rule on the pending motions to
2 seal absent an underlying purpose for filing the reports. The expert reports currently on
3 the docket, (Doc. Nos. 851, 853, 854), are ordered stricken from the docket. All pending
4 motions to seal related to the reports of Dr. Fleming and Dr. Madigan are **DENIED**
5 without prejudice. (Doc. Nos. 850, 852, 880, 882, 883.) Additionally, the Court orders
6 the motions to seal filed by Eli Lilly and Company, Amylin Pharmaceuticals, LLC, and
7 Novo Nordisk, Inc. (Doc. Nos. 882, 883), stricken from the docket as these motions quote
8 from or include as attachments the reports at issue.

9 It is the Court's intention for the parties to strictly follow the amended protective
10 order, (Doc. No. 564), and undertake the processes contained therein moving forward,
11 specifically with respect to filing future motions. No further expert or rebuttal reports are
12 to be filed on the docket independent of a motion. At that time, the parties may renew
13 their objections to the reports, portions thereof, or attachments in the context of the
14 pending motion. The further exchange of expert reports between the parties must be as
15 contemplated by Rule 26 and not filed with the Court. Any language mandating the
16 parties "file and serve" their expert and rebuttal reports contained in the amended
17 scheduling order should be disregarded by the parties.

18 Based on the foregoing, the Court orders as follows:

- 19 1. The pending motions to seal, Doc. Nos. 850, 852, 880, 882, 883, are **DE-**
20 **NIED** without prejudice.
- 21 2. The Clerk of Court is instructed to **STRIKE** Document Nos. 851, 853, 854,
22 882, and 883 from the docket.

23 **IT IS SO ORDERED.**

24
25 DATED: January 16, 2015

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27 _____
28 Hon. Anthony J. Battaglia
U.S. District Judge