IN RE: REGLAN LITIGATION	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: ATLANTIC COUNTY CASE NO. 289 MASTER DOCKET: ATL-L-3865-10 CT CIVIL ACTION **PROTECTIVE ORDER OF CONFIDENTIALITY AS BETWEEN PLAINTIFFS AND FORMER MANUFACTURERS AND/OR DISTRIBUTORS OF REGLAN® AND/OR METOCLOPRAMIDE - CASE MANAGEMENT ORDER NO. 9**

RECEIVED AND FILED
JAN 11 2011
ATLANTIC COUNTY LAW DIVISION

1. The purpose of this Protective Order of Confidentiality (hereinafter "Protective Order") is to govern the production and distribution of documents and other materials used in this litigation. This Protective Order is between all plaintiffs in this litigation to whom documents or other materials are produced pursuant to this Protective Order ("Plaintiffs" or "Receiving Parties") and former manufacturers and/or distributors of Reglan® and/or metoclopramide, Defendants Wyeth LLC, Wyeth Pharmaceuticals Inc., Wyeth Holdings Corporation, Schwarz Pharma, Inc., PLIVA, Inc., Duramed Pharmaceuticals (n/k/a Teva Women's Health, Inc.), United Reseach Laboratories, Inc., The Harvard Drug Group LLC, The Harvard Drug Group LLC d/b/a Major Pharmaceuticals, Acura Pharmaceuticals, Inc. (formerly known as Halsey Drug Co., Inc.), and Rugby Laboratories, Inc. (incorrectly sued as Rugby Pharmaceuticals, Inc.) ("Defendants" or

Pharmaceuticals, LLC ("Defendants" or "Producing/Designating Parties"), and any other defendants who join in this Order by the deadline set forth below in Paragraph 16.

2. New Jersey law shall govern all aspects of this Protective Order. For purposes of this Order a document is a PROTECTED document if it satisfies New Jersey standards for nondisclosure to the public.

3. To expedite the production of documents in this litigation, the documents produced by Defendants in *In Re: Reglan®/Metoclopramide Litigation*, Court of Common Pleas, Philadelphia County, No. 1997 (hereinafter the "Philadelphia litigation") prior to the date of this Order will be produced in this litigation within thirty (30) days of the entry of this Protective Order. Documents produced in the Philadelphia litigation after the entry of this Protective Order will be produced in this litigation within ten (10) days of their production in the Philadelphia litigation. The designation placed on the documents produced in the Philadelphia litigation – "CONFIDENTIAL – SUBJECT TO AGREED PROTECTIVE ORDER" – will remain on the documents produced in this litigation. Documents produced in this litigation shall be governed in all aspects by this Protective Order for purposes of this litigation and not the protective order entered in the Philadelphia litigation.

4. Documents or any other materials produced in this litigation not previously produced in the Philadelphia litigation that a Producing/Designating Party believes are protected from disclosure under New Jersey law should be labeled "CONFIDENTIAL – SUBJECT TO AGREED PROTECTIVE ORDER" (also referred to herein as "PROTECTED" or "CONFIDENTIAL") at the time they are produced.

5. Documents and any other materials designated as "CONFIDENTIAL – SUBJECT TO AGREED PROTECTIVE ORDER" shall be revealed only to (1) counsel of record for the parties in this litigation, (2) paralegals or secretarial employees under the direct

supervision or employ of counsel of record in this action, (3) retained experts and consultants of the parties, (4) outside copy and document processing entities or persons retained by any party in connection with the litigation, (5) parties or current or former employees, subcontractors, or independent contractors of parties, and (6) treating physicians and other healthcare providers, except as follows:

a. Any Defendant may make available for inspection or submit to the Food and Drug Administration ("FDA") or any other governmental agency any of its documents or materials pursuant to said agency's specific request.

b. Plaintiffs shall be allowed to share documents produced pursuant to this Protective Order documents with co-counsel in the Pennsylvania and California State Court Reglan®/ metoclopramide litigation who agree in writing to be bound by this Protective Order (this does not negate any obligations that these co-counsel may have pursuant to protective orders that are in place in those jurisdictions), and with witnesses and expert witnesses, including prospective witnesses and consulting experts, subject to the provisions of this Protective Order.

The parties agree that the documents or other materials designated as "CONFIDENTIAL – SUBJECT TO AGREED PROTECTIVE ORDER" may be revealed to additional persons by agreement, which shall not be unreasonably withheld. Plaintiffs' counsel shall advise any expert witnesses retained by Plaintiffs or treating physicians to whom documents or other materials designated as "CONFIDENTIAL – SUBJECT TO AGREED PROTECTIVE ORDER" are disseminated of the existence of this Protective Order and the prohibition against copying or disseminating protected documents or materials by providing to each such individual a copy of the letter attached hereto as Exhibit A signed by Plaintiffs' counsel in a particular case.. Plaintiffs' counsel of record in a particular case shall maintain copies of these letters.

6. This Protective Order shall apply to and govern all documents and any other materials designated by a Producing/Designating Party or expert as "PROTECTED" whether or not such documents or materials are informally produced or produced in response to formal discovery requests. The Producing/Designating Party may designate those specific

answers to interrogatories, responses to other discovery requests, and excerpts of deposition testimony as confidential and protected by this Protective Order. Any information that is designated "PROTECTED" shall be immediately and at all times hereafter maintained and kept confidential, as provided by this Protective Order.

7. This Protective Order shall not be construed as a waiver by any party of the right to contest the designation of documents or materials as "PROTECTED" under this Protective Order. Any party desiring to contest the "PROTECTED" designation of specific documents or materials, or desiring to submit documents labeled "CONFIDENTIAL – SUBJECT TO AGREED PROTECTIVE ORDER" to the Court shall give the Producing/Designating Party notice in writing, including the bates number and/or specific description of any such document or other materials. Unless the Producing/Designating Party agrees to remove the "PROTECTED" designation on the documents or materials which are the subject of the contest, the parties shall meet and confer and make a good faith effort to resolve the dispute within seven days of such notice. If, after sevendays of such notice, no resolution is achieved, the Producing/Designating Party shall promptly request a hearing with the Court and file any necessary moving papers expeditiously. The Court's determination of whether or not a "PROTECTED" designation should be maintained will be governed by New Jersey law. The burden of proving the confidential and proprietary nature of any "PROTECTED" designation as contemplated throughout this Protective Order shall rest solely with the Producing/Designating Party. Pending a Court determination, no documents or materials designated as "PROTECTED" under this Protective Order shall be disseminated other than as provided by this Protective Order unless otherwise ordered by the Court, or as stipulated by the relevant parties.

8. Any and all documents and materials produced by Defendants in this litigation that were produced by Defendants on or before the entry of this Protective Order as

provided in paragraph 3 or were previously designated as "CONFIDENTIAL" or "PROTECTED" pursuant to the terms of a Court Order, can remain "CONFIDENTIAL" or "PROTECTED" solely for the sake of efficiency in Defendants' production of such documents and materials in this litigation. Defendants will not be subject to any penalties by this Court if it is determined at a later date that such designations are overly broad. If, however, a party in this litigation elects to contest a "CONFIDENTIAL" or "PROTECTED" designation of any of the above referenced documents or materials, a determination of whether such designation should be maintained will be made by this Court pursuant to paragraph 8 of this Protective Order.

9. If original documents or materials are to be produced for inspection, the Producing/Designating Party has the right to have persons identified in paragraph 5 present during the inspection by the Receiving Party. The original documents or materials produced under the terms of this Protective Order shall remain in the custody and control of the Producing/Designating Party at all times.

10. Absent Court Order to the contrary, all documents and materials and copies of documents and materials (including documents on a portable media such as CDs and DVDs) marked "CONFIDENTIAL – SUBJECT TO AGREED PROTECTIVE ORDER" subject to this Protective Order shall be either destroyed or returned and surrendered to the Producing/Designating Party upon the conclusion of the last case in this litigation. Conclusion shall be construed as (1) the date 60 (sixty) days following the entry of a final, non-appealable order disposing of the last case in this litigation, or (2) the settlement of the last case in this litigation. In the event the Receiving Party elects to destroy documents, materials and/or copies thereof that are subject to this Protective Order upon the conclusion of the last case in this litigation , its counsel of record shall so certify that said documents, materials and/or copies thereof have been destroyed in a certified letter to the

Producing/Designating Party's counsel of record. The Receiving Party shall make a reasonable effort to retrieve any document or other material subject to this Protective Order from any party or non-party witness to whom such document or other material has been given, and shall notify the Producing/Designating Party of the failure to retrieve any such document or material. Such notification shall include descriptive detail of any document or other material not returned. Counsel, however, shall not be required to return any pretrial or trial records regularly maintained by that counsel in the ordinary course of business, but such records will continue to be maintained "CONFIDENTIAL" and in conformity with Paragraph 4 this Protective Order.

11. All counsel shall at all times keep secure all notes, abstractions or other work product derived from or containing protected information, shall be obligated to maintain the confidentiality of such work product, and shall not disclose or reveal the contents of said notes, abstractions, or other work product after the documents and materials are returned and surrendered.

12. This Protective Order shall remain in full force and effect and each person subject to this Protective Order shall continue to be subject to the jurisdiction of this Court, for the purposes of this Protective Order, in perpetuity, and the Court shall not be divested of jurisdiction of any person or of the subject matter of this Protective Order by the occurrence of conclusion of the last case in this litigation or by the filing of a notice of appeal or other pleading that would have the effect of divesting this Court of jurisdiction of this matter generally.

13. No person who examines any document or material protected by this Protective Order shall disseminate orally, or by any other means, any protected information other than as permitted by this Protective Order.

14. All portions of deposition transcripts that relate to information protected by this Protective Order may be designated as "PROTECTED". Any party may designate specific pages as confidential by written notification to all counsel within fifteen (15) days of the receipt of the written deposition transcript. If any party wishes to contest the designations being marked confidential, the procedures outlined in paragraph 8 of this Protective Order shall apply. Such designated portions will be kept confidential, shall not be made a part of the public record, and may, if requested, be separately transcribed.

15. If another court or an administrative agency subpoenas or otherwise orders production of one or more "PROTECTED" documents or materials that a Receiving Party has obtained under the terms of this Protective Order, the person to whom the order, subpoena or other process is directed shall within forty-eight hours of receipt of the order, subpoena or other process notify the Producing/Designating Party's counsel of record in writing via fax and overnight delivery of all of the following: (1) the "PROTECTED" document or material that is requested for production in the subpoena; (2) the date on which compliance with the subpoena is requested; (3) the location at which compliance with the subpoena is requested; (4) the identity of the party serving the subpoena; and (5) the case name, jurisdiction and index, docket, complaint, charge, civil action or other identification number or other designation identifying the litigation, administrative proceeding or other proceeding in which the subpoena or other process has been issued. In no event shall a "PROTECTED" document or material be produced prior to the expiration of ten (10) business days following transmission of written notice to the Producing/Designating Party's counsel of record. Furthermore, the person receiving the subpoena or other process shall cooperate with the Producing/Designating Party in any proceeding related thereto.

16. Any party to this Protective Order for good cause shown may apply to the Court for modification of this Protective Order. Alternatively, this Protective Order may be

modified by consent of the parties in writing. This Protective Order shall continue in force until amended or superseded by express order of the Court, and shall survive any final judgment or settlement in this action. Any party desiring to join this protective order can do so until February 16, 2011 by submitting a letter indicating same to the Court with a copy to all parties to this Order.

IT IS SO ORDERED:

Dated Jan 11, 2011

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

EXHIBIT A

Dear _____:

Please be advised that any documents provided to you or shown to you that are stamped "CONFIDENTIAL – SUBJECT TO AGREED PROTECTIVE ORDER" are being provided to you pursuant to Case Management Order No. 7(a), Protective Order of Confidentiality as Between Plaintiffs and Defendants_____, signed by the Honorable Carol E. Higbee, P.J. Cv. on [**DATE**] in the *In Re: Reglan Litigation*, Case No. 289, Master Docket No.: ATL-L-3865-10 CT (N.J. Sup. Ct., Atlantic County) ("Order").

Pursuant to the terms of the Order, you are prohibited from copying and/or disseminating these documents and/or materials in any form, including in hard copy, electronically, or by verbally communicating any information contained therein, to anyone.. If you do not agree to abide by these restrictions, please return the enclosed documents and/or materials to me immediately. Otherwise, please return them to my office at the conclusion of this litigation. Thank you for your cooperation.

Very truly yours,

[Plaintiffs' counsel of record]