

E-FILE

At Individual Assignment System Part 48
of the Supreme Court of the State of New
York, 400 Carleton Avenue, Central Islip,
NY 11722 on the 3rd day of August, 2021

PRESENT: Hon. Jerry Garguilo
Justice of the Supreme Court

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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**ORDER TO SHOW CAUSE
AND INTERIM TRIAL ORDERS**
Index No. 4000000/2017
Part 48
Hon. Jerry Garguilo

This document relates to:

Suffolk County Case: 400001/2017
Nassau County Case: 400008/2017
State of New York Case: 400016/2018

On reading and filing the annexed Affirmation of Senior Enforcement Counsel John Oleske, dated August 1, 2021, and the exhibits attached thereto, and on motion and on accompanying memorandum of law, it is:


ORDERED, that Defendants Endo Pharmaceuticals, Inc. and Endo Health Solutions Inc., (together, "Endo" or "the Endo Entities") and its counsel in the above-entitled proceeding, Arnold & Porter Kaye Scholer LLP ("APKS"), appear and show cause before IAS Part 48, of the Supreme Court, Suffolk County, at the Courthouse thereof located at 400 Carleton Avenue, Central Islip, NY 11722, on the [6th] 6th day of August, 2021 at 9:30 a.m./p.m., or as soon thereafter as counsel can be heard, why an order should not be entered, pursuant to CPLR §§ 3126, 3215, and 4401; 22 NYCRR § 130-1.1, and this Court's inherent authority:


- (1) Striking Endo's answers and entering a default judgment of liability against each of the Endo Entities on each of Plaintiffs' causes of action for public nuisance;
- (2) Deeming all issues relating to any withheld and/or spoliated documents, testimony or other information as being resolved in Plaintiffs' favor for all purposes in any proceedings under the coordinated index number;
- (3) Precluding Endo from opposing any claims, interposing any defenses, and proffering or objecting to any evidence relating to any such issues in any proceedings under the coordinated index number;
- (4) Authorizing Plaintiffs to obtain expedited discovery from Endo and APKS as to their noncompliance with discovery in this proceeding, and/or any of Endo's operational conduct relating to the discovery at issue;
- (5) Authorizing Plaintiffs to obtain expedited jurisdictional discovery from Endo and APKS as to the knowledge and/or involvement of Endo International plc in connection with such discovery noncompliance and/or any of Endo's operational conduct relating to the discovery at issue;
- (6) Appointing a Special Referee to serve as a discovery monitor for the purpose of facilitating such expedited discovery;
- (7) Awarding Plaintiffs their costs in the form of expenses and reasonable attorneys' fees in prosecuting this action against Endo, dating from Endo's initial responsive filing on November 10, 2017, to the present, to be recoverable jointly and severally from Endo and APKS;
- (8) Awarding Plaintiffs all other appropriate financial sanctions against Endo and APKS on a joint and several basis; and
- (9) Granting such other and further relief as the Court may deem just and proper.

AND IT APPEARING that Plaintiffs' right to a fair trial in the instant proceeding may be prejudiced absent interim orders pursuant to the Court's inherent authority, it is further

ORDERED that pending the hearing of this motion:


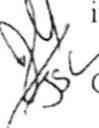
- and further order of the Court*
- ✓ (a) All documents produced by Endo subsequent to the close of discovery in this action are deemed authentic and admissible to the extent any Plaintiff seeks to introduce them in the ongoing trial;
- JSC*

(b) Any Plaintiff may read any portions of any such documents, and explain such documents' source, nature, and connection to other evidence, directly to the jury in the ongoing trial; *subject to further order* 


(c) Endo and all other parties in this action represented by APKS shall deliver to Plaintiffs a list identifying the bates number and the dates, persons, entities and repositories establishing the chain of custody of each responsive document produced by Endo or any such other party after the close of discovery in this action no later than 5:00 p.m. on Tuesday, August 3, 2021, and as relates to any supplement or overlay produced since the close of discovery, Endo or any such other party shall identify each and every document or data entry and field added or supplemented. Endo and APKS shall provide Plaintiffs with all of the above information with respect to any additional productions of responsive documents in writing at the time those productions are made. 

AND IT APPEARING that the hearing on this motion requires testimony and document disclosure by Endo and APKS, it is further

*Reserved
to
any
return
date
JSC* **ORDERED** that Endo shall produce for testimony at the hearing on this motion: (i) Endo's senior-most legal officer with personal knowledge of the matters at issue; (ii) Endo's senior-most operational officer with personal knowledge of the matters at issue; and (iii) Brandon Leatha of Leatha Consulting LLC. In addition, no later than 5:00 p.m. on Tuesday, August 3, 2021, Endo shall also produce to Plaintiffs all documents Endo and/or APKS previously provided to Mr. Leatha in connection with the matters at issue; and it is further

at a date and time to be designated 
ORDERED that APKS shall produce its Partner Joshua M. Davis and Melissa Webberman, its Lead Attorney and Managing Director of APKS's eDiscovery + Data Analytics ("eData") Group, for testimony at the hearing on this motion. 

SUFFICIENT CAUSE to me appearing therefore, it is further

 **ORDERED** that service of a copy of this Order, and the papers on which it was granted, upon Endo and APKS, on or before the 3rd day of August, 2021, shall constitute good and

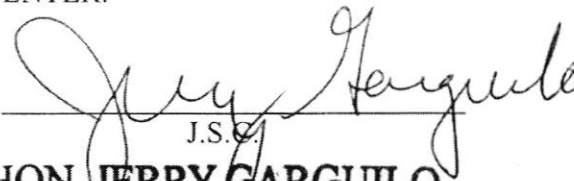
sufficient service thereof, and that answering papers, if any, be served on Plaintiff State of New York two days prior to the return date and time.

GRANTED

AUG 02 2021

Judith A. Pascale
CLERK OF SUFFOLK COUNTY

ENTER:


J.S.C.
HON. JERRY GARGUILO