

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

TEVA PHARMACEUTICALS USA, INC.,

*Plaintiff,*

v.

MICHAEL CONWAY, in his official capacity as Commissioner of the Colorado Division of Insurance; PHILIP J. WEISER, in his official capacity as Attorney General of the State of Colorado; PATRICIA A. EVACKO, ERIC FRAZER, RYAN LEYLAND, JAYANT PATEL, AVANI SONI, KRISTEN WOLF, and ALEXANDRA ZUCCARELLI, in their official capacities as members of the Colorado State Board of Pharmacy,

*Defendants.*

Case No.: 23-cv-2584-DDD-SKC

**RULE 41 STIPULATION OF DISMISSAL**

WHEREAS, on October 3, 2023, Plaintiff Teva Pharmaceuticals USA, Inc. (“Plaintiff”), filed a Complaint and Motion for Preliminary Injunction (“PI Motion”) against Michael Conway, in his official capacity as Commissioner of the Colorado Division of Insurance (the “Commissioner”) and Philip J. Weiser, in his official capacity as Attorney General of the State of Colorado (the “AG”). Plaintiff’s Complaint and PI Motion seeks an injunction preventing the AG and the Commissioner from enforcing section 3 of House Bill 23-1002 (the “reimburse-or-resupply requirement”).

WHEREAS, on October 25, 2023, the AG and the Commissioner filed a joint response in opposition to the PI Motion, which stated that the Commissioner “is entitled to sovereign immunity from suit because he has no particular duty to enforce the Affordability Program’s penalties against

Teva” for violations of the reimburse-or-resupply requirement, and that “the Pharmacy Board members are the Colorado officials directly responsible for enforcing that requirement because it resides in Article 280 of Title 12, C.R.S.” *See* Dkt. No. 20 at 8.

WHEREAS, on October 31, 2023, Plaintiff filed an amended Complaint to add as defendants the members of the Colorado State Board of Pharmacy (“Pharmacy Board”), in their official capacity.

WHEREAS, the parties have agreed to resolve Plaintiff’s claims against the Commissioner pursuant to the terms of this Stipulation.

IT IS HEREBY STIPULATED AND AGREED, by and among the parties, through their undersigned counsel, as follows:

1. The Commissioner does not have authority to enforce section 3 of House Bill 23-1002 against pharmacies or manufacturers and will not seek to enforce section 3 of House Bill 23-1002 against Plaintiff.
2. The Pharmacy Board members have authority to enforce section 3 of House Bill 23-1002.
3. Plaintiff’s claims against solely the Commissioner are voluntarily dismissed with prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.
4. Plaintiff and the Commissioner shall bear their own attorneys’ fees, costs, and expenses.

Dated: November 17, 2023

/s/ Alexandra I. Russell

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