

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MYLAN PHARMACEUTICALS INC.,  
MYLAN SPECIALTY L.P., and MYLAN  
INC.

Plaintiffs,

v.

SANOFI-AVENTIS U.S. LLC and SANOFI-  
AVENTIS PUERTO RICO INC.

Defendants.

Civil Action No. 2:23-cv-836-MRH

**Fed. R. Civ. P. 26(f) REPORT OF THE PARTIES**

Pursuant to Federal Rule of Civil Procedure 26(f), attorneys for Plaintiffs Mylan Pharmaceuticals Inc., Mylan Specialty L.P., and Mylan Inc. (collectively, “Plaintiffs”) and Defendants Sanofi-Aventis U.S. LLC and Sanofi-Aventis Puerto Rico Inc. (collectively, “Defendants”) met and conferred on April 21, 2026, and hereby jointly submit this 26(f) Report.

1. **Identification of counsel and unrepresented parties.** Set forth the names, addresses, telephone and fax numbers and e-mail addresses of each unrepresented party and of each counsel and identify the parties whom such counsel represent:

Plaintiffs Mylan Pharmaceuticals Inc.,  
Mylan Specialty L.P., and Mylan Inc.  
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2. **Set forth the general nature of the case** (patent, civil rights, anti-trust, class action, etc.):

**Plaintiffs' Position:**

This is an antitrust case. Plaintiffs allege that Sanofi unlawfully maintained its monopoly over insulin glargine by misuse of the FDA approval process, forcing the market to adopt a second insulin glargine product (Toujeo), adopting an exclusionary rebating scheme to protect itself from competition while it made the switch to the second product, and retaliating against any customer who tried to make purchases outside the bundle. Plaintiffs alleged that these efforts foreclosed its generic alternative, Semglee, from the market.

**Defendants' Position:**

Defendants deny Plaintiffs' allegations and maintain that all of their conduct was lawful, procompetitive, and consistent with their intellectual property rights and legitimate business practices. Defendants contend that Plaintiffs cannot establish monopoly power in any properly defined relevant market, that any delay in Plaintiffs' market entry was caused by Plaintiffs' own actions, that listing patents in the Orange Book for Lantus and Lantus SoloStar was a reasonable and good faith attempt to comply with the Hatch-Waxman Act and its implementing regulations, that the patent infringement litigation against Mylan is protected under the *Noerr-Pennington* doctrine, and that Plaintiffs' Orange-Book related claims are untimely. In addition, Defendants contend that Plaintiffs cannot establish an unlawful product switch or exclusive dealing based on bundled rebates.

3. **Date Rule 26(f) Conference was held, the identification of those participating therein and the identification of any party who may not yet have been served or entered an appearance as of the date of said Conference:**

Counsel for Plaintiffs and Defendants conferred via video conference on April 21, 2026.

Evan Seite, Jordanne Steiner, and John Schwab attended for Plaintiffs. Rosanna McCalips, Aaron Healey, and Katherine Eayre attended for Defendants.

There are no parties who have not yet been served or who have not yet entered an appearance.

4. **Date of Rule 16 Initial Scheduling Conference as scheduled by the Court:** (Lead Trial Counsel and unrepresented parties shall attend the Rule 16 Initial Scheduling Conference with their calendars in hand for the purpose of scheduling other pre-trial events and procedures, including a Post-Discovery Status Conference; Counsel and unrepresented parties shall attend the Rule 16 Initial Scheduling Conference prepared to discuss the anticipated number of depositions and identities of potential deponents and the anticipated dates by which interrogatories, requests for production of documents and requests for admissions will be served):

The Court has not yet scheduled a Rule 16 Initial Scheduling Conference.

5. **Identify any party who has filed or anticipates filing a dispositive motion pursuant to Fed. R. Civ. P. 12 and the date(s) by which any such anticipated motion may be filed:**

Defendants filed a Motion to Dismiss Plaintiff's Complaint on September 15, 2023. *See* ECF No. 49. Plaintiffs opposed the Motion. *See* ECF No. 59. On January 27, 2026, the Court issued an Order Granting in Part, Denying in Part, and Holding Decision in Abeyance in Part Defendant's Motion to Dismiss. *See* ECF No. 85.

On April 7, 2026, Defendants filed a Motion for Reconsideration or Certification of Interlocutory Appeal and Temporary Stay. *See* ECF No. 105. Plaintiffs filed an Opposition on April 21, 2026. *See* ECF No. 108. Defendants' reply is due on May 6, 2026. *See* ECF No. 109.

The Parties do not currently anticipate any further motion practice pursuant to Fed. R. Civ. P. 12.

6. **Designate the specific Alternative Dispute Resolution (ADR) process the parties have discussed and selected, if any, and specify the anticipated time frame for completion of the ADR process. Set forth any other information the parties wish to communicate to the court regarding the ADR designation:**

The Parties are committed to undertaking ADR at the earliest reasonable opportunity to do so but think that it is premature at this pre-discovery stage of the litigation. The Parties have discussed potential ADR processes, agree that mediation will be the appropriate method for exploring resolution of the case, and are filing contemporaneously herewith the Stipulation Selecting ADR Process pursuant to Local Rule 16.2 and the Court's March 31, 2026 Order, *see* ECF No. 104. The Parties propose providing this Court with a further Joint Status Report regarding their discussions on ADR, including their further views regarding the timing of a mediation session, by no later than 90 days after the date of entry of a Case Management Order.

7. **Set forth any change that any party proposes to be made in the timing, form or requirements of Fed. R. Civ. P. Rule 26(a) disclosures, whether such change is opposed by any other party, whether any party has filed a motion seeking such change and whether any such motion has been ruled on by the Court:**

The Parties agree to make disclosures required by Fed. R. Civ. P. 26(a) within 30 days of the Court's entry of a Case Management Order. That change is unopposed. The Parties have not filed a motion seeking such change.

8. **Subjects on which fact discovery may be needed.** (By executing this report, no party shall be deemed to (1) have waived the right to conduct discovery on subjects not listed herein or (2) be required to first seek the permission of the Court to conduct discovery with regard to subjects not listed herein):

**Plaintiffs' Position:**

Plaintiffs believe discovery into at least the following categories of documents is necessary:

- Sanofi's and other market participants' communications regarding and documents related to insulin glargine products, including Lantus, Toujeo, Semglee, and other related products
- Litigation concerning Lantus, Toujeo, Semglee, and other related products, including

- any patent litigation regarding Lantus and Toujeo, including validity assessments
- Potential and actual Orange Book listing strategies and rationale for Lantus and Toujeo
- Competitive assessments for Toujeo and Lantus, including assessments of generic entry and generic entry plans, including but not limited to actual or potential strategies for protecting, maintaining, or growing Lantus' market share in the United States
- Sanofi's development of, and decision to introduce, Toujeo, including but not limited to therapeutic differences between Toujeo and Lantus, if any
- Pricing, revenue, and profit information for Toujeo and Lantus sales, including after 30-month delay until Semglee market entry and after Semglee market entry
- Congressional inquiries and other investigations into Sanofi's practices regarding Lantus, Toujeo, and other related products including FTC investigations
- Customer profile information for Lantus, Toujeo, Semglee, and other related products
- The sale, sales strategy, distribution, advertising, marketing, and manufacturing of Lantus, Toujeo, Semglee, and other related products
- Documents and other evidence related to any defense raised by Sanofi

**Defendants' Position:**

Defendants anticipate that fact discovery may be needed on the following subjects, among others:

- The development, regulatory approval, and commercialization of Plaintiffs' insulin glargine product (Semglee);
- Plaintiffs' alleged competitive entry strategies and business plans for the injectable insulin glargine market;
- Plaintiffs' pricing, rebating, and contracting practices for Semglee;
- Plaintiffs' relationships with pharmacy benefit managers, payers, and other market participants;
- The alleged damages and causation claims asserted by Plaintiffs;
- The proper scope of any relevant product market;
- Any market conditions or other factors affecting competition in the alleged relevant market;
- Communications between Plaintiffs and third parties, including payers, regarding Semglee and competing products; and
- Documents and information relating to the development, launch, and commercial performance of Semglee.

9. **Set forth suggested dates for the following** (The parties may elect by agreement to schedule a Post-Discovery Status Conference, as identified in Paragraph 12, below, at the conclusion of Fact-Discovery rather than at the conclusion of Expert Discovery. In that event, the parties should provide suggested dates only for the events identified in subparagraphs 9.a through 9.e, below. The parties shall provide such information even if dispositive motions pursuant to Fed. R. Civ. P. 12 have been or are anticipated to be filed. If there are dates on which the parties have been unable to agree, set forth the date each party proposes and a brief statement in support of each such party's proposed date. Attach to this report form a proposed Court Order setting forth all dates agreed to below and leaving a blank for the insertion of a date by the Court for any date not agreed to):

The Parties propose the following case schedules:

<b>Event</b>	<b>Joint Proposal</b>
Rule 16 Conference	Date Set by the Court
Fact discovery begins	Upon entry of a Case Management Order
Deadline to make disclosures required by Fed. R. Civ. P. 26(a)	30 days after entry of a Case Management Order
Joint Status Report regarding the Parties' ADR discussions	90 days after entry of a Case Management Order
Deadline to amend pleadings without seeking leave of court or join any additional parties <sup>1</sup>	180 days before the close of fact discovery
Substantial completion of document productions	The parties will produce documents on a rolling basis and substantially complete their productions 90 days before the close of fact discovery.
Completion of document productions	The Parties propose that the Court not set a deadline for completion of document production, other than the close of fact discovery. Provided, however, that either party may seek leave of court to extend the close of fact discovery for issues related to document productions made after the substantial completion deadline, if good cause is shown.
Deadline to serve privilege logs	60 days before the close of fact discovery

<sup>1</sup> The deadline to join additional parties does not apply to Sanofi S.A. and Aventis Pharma S.A. if either entity is joined as described in ECF 101 and entered by the Court at ECF 103.

<b>Event</b>	<b>Joint Proposal</b>
Deadline to bring fact discovery dispute before the Court	Absent good cause shown, 60 days before the close of fact discovery, except for motions regarding depositions taking place, discovery responses served, document productions made, or privilege logs served (a) within 14 days before this deadline, (b) on this deadline, or (c) after this deadline, which shall be filed within a reasonable period after the deposition giving rise to the dispute occurs or the discovery response giving rise to the dispute is served
Close of fact discovery	12 months from entry of a Case Management Order
Post-fact discovery conference	Within 30 days of the close of fact discovery (or other date to be set by the Court)
Expert reports due on issues for which a party bears the burden of proof	To be set following a post-fact discovery conference
Opposition expert reports due	To be set following a post-fact discovery conference
Rebuttal expert reports due	To be set following a post-fact discovery conference
Deadline to depose experts	To be set following a post-fact discovery conference
Close of expert discovery	To be set following a post-fact discovery conference
Deadline to file <i>Daubert</i> motions and motions for summary judgment	To be set following a post-fact discovery conference
Deadline to file response to <i>Daubert</i> motions and motions for summary judgment	To be set following a post-fact discovery conference
Deadline to file replies in support of <i>Daubert</i> motions and motions for summary judgment	To be set following a post-fact discovery conference

10. If the parties agree that changes should be made to the limitations on discovery imposed by the Federal Rules of Civil Procedure or Local Rule or that any other limitations should be imposed on discovery, set forth such changes or limitations:

**Joint Proposal:**

The Parties propose the following modifications to the presumptive limitations on

discovery set forth in the Federal Rules of Civil Procedure:

Interrogatories: Each side (Plaintiffs or Defendants) may serve a maximum of fifty (50) interrogatories. The same interrogatory posed to different parties on each side shall count as a single interrogatory.

Requests for Admission: Each side (Plaintiffs or Defendants) may serve a maximum of seventy (70) requests for admission. The same request for admission posed to different parties on each side shall count as a single request for admission. Notwithstanding, the Parties may propound an unlimited number of requests for admission of facts demonstrating that documents are authentic, qualify as business records, or are otherwise related to admissibility of documents at trial.

Depositions: Each side (Plaintiffs or Defendants) may take a maximum of 100 hours of deposition testimony of fact witnesses deposed in their individual capacity, or third-party witnesses deposed pursuant to Fed. R. Civ. P. 30(b)(6), provided that: the total number of depositions per side may not exceed twenty-five (25); a 30(b)(6) deposition of a third-party shall count as a single deposition, regardless of the number of witnesses designated to testify; and no single deposition may exceed seven (7) hours on the record, unless the Parties agree or the Court so orders. In addition, each side (Plaintiffs or Defendants) may take a maximum of 21 hours of deposition testimony of the other side pursuant to Fed. R. Civ. P. 30(b)(6). The foregoing does not include depositions of expert witnesses, which will be addressed at the Post-Fact-Discovery conference. Nor does the foregoing include the depositions of Sanofi S.A. as described in ECF 101 and entered by the Court at ECF 103.

If a deposition is cross-noticed, it shall count against both sides (e.g., if Plaintiffs and Defendants both notice the deposition of Company A, Plaintiffs and Defendants have each used 1

deposition). For a cross-noticed deposition, absent good cause shown and leave of Court, each side shall be entitled to 3.5 hours of time. If only one side notices the deposition of a non-party witness, the noticing side will be allowed up to the full amount of time provided by the Federal Rules of Civil Procedure. Should any time remain, the non-noticing party shall be entitled to up to 1 hour of examination.

11. Please answer the following questions in regard to the discovery of electronically stored information (“ESI”):

a. **ESI.** Is either party seeking the discovery of ESI in this case?

Yes.

b. **ESI Discovery Plan.** The Parties have reviewed and discussed the Court’s Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information set forth in “[Appendix LCvR 26.2.C-CHECKLIST](#)” to the Local Rules and:

The Parties will complete an ESI discovery plan no later than 60 days after entry of a Case Management Order.

c. **Preservation.** Have the parties agreed on any protocol for the preservation of electronic data and/or potentially relevant ESI?

No, but the Parties will meet and confer on this issue no later than 60 days after the entry of a Case Management Order.

d. **ADR.** Does any party believe that the exchange of ESI is necessary prior to conducting meaningful Alternative Dispute Resolution (“ADR”) in this case?

Yes.

e. **Clawback Agreement.** The parties have reviewed F.R.C.P. 26(b)(5), F.R.E. 502 and [LCvR 16.1.D](#), Procedures Following Inadvertent Disclosure, and:

The Parties previously included a clawback agreement in the Protective Order. *See* ECF 100.

f. **EDSM and E-Mediator.** Does any party believe that the appointment of an E-Discovery Special Master (“EDSM”) or E-Mediator would help resolve ESI

discovery issues in this case? For further information, see the Court's official website at <http://www.pawd.uscourts.gov>.

The Parties do not currently believe that appointment of an EDSM or E-Mediator would help resolve discovery issues in this case. The Parties will update the Court in the event that their views on this matter change as the case progresses.

12. Set forth whether the parties have elected to schedule the Post-Discovery Status Conference following the completion of Fact Discovery or Expert Discovery; in either event the parties shall be prepared at the Post-Discovery Status Conference to discuss and/or schedule the following: (The parties are *not* required during their Rule 26(f) Conference to consider or propose dates for the items identified below. Those dates will be determined, if necessary, at the Post-Discovery Status Conference. Lead trial counsel for each party and each unrepresented party are required to attend the Post- Discovery Status Conference with their calendars in hand to discuss those items listed below that require scheduling. In addition, a representative with settlement authority of each party shall be required to attend; representatives with settlement authority of any insurance company providing any coverage shall be available throughout the Conference by telephone):
  - a. **Settlement and/or transfer to an ADR procedure;**
  - b. **Dates for the filing of expert reports and the completion of expert discovery as itemized in sub-paragraphs 9.f. through 9.k., above, if the parties elected to defer such discovery until after the Post-Discovery Status Conference;**
  - c. **Dates by which dispositive motions pursuant to Fed. R. Civ. P. 56, replies thereto and responses to replies should be filed;**
  - d. **Dates by which parties' pre-trial statements should be filed;**
  - e. **Dates by which *in limine* and *Daubert* motions and responses thereto should be filed;**
  - f. **Dates on which motions *in limine* and *Daubert* motions shall be heard;**
  - g. **Dates proposed for final pre-trial conference;**
  - h. **Presumptive and final trial dates.**

The Parties have elected to schedule a Post-Discovery Status Conference following the completion of fact discovery and will be prepared to cover the items required at that time.

13. Set forth any other order(s) that the parties agree should be entered by the court pursuant to Fed. R. Civ. P. 16(b) or 26(c):

None at this time.

14. Set forth whether the parties anticipate that the court may have to appoint a special master to deal with any matter and if so, specify the proposed role of any such master and any special qualifications that such master may require to perform such role:

At this time, the Parties do not anticipate that the Court will have to appoint a special master.

15. If the parties have failed to agree with regard to any subject for which a report is required as set forth above, except for proposed dates required in paragraph 9, above, briefly set forth the position of each party with regard to each matter on which agreement has not been reached:

Not applicable.

16. Set forth whether the parties have considered the possibility of settlement of the action and describe briefly the nature of that consideration:

The Parties are willing to engage in good-faith settlement discussions at an appropriate time.

*See supra* ¶ 6. However, the Parties agree that such discussions will be more productive after the Parties have had an opportunity to conduct some initial fact discovery.

Dated: April 30, 2026

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