

# EXHIBIT 1

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Business Court Matters**

**COURT MINUTES**

**August 21, 2018**

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A-18-777312-B	Alvogen Inc, Plaintiff(s) vs. Nevada State of Department of Corrections, Defendant(s)
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**August 21, 2018      9:00 AM      All Pending Motions**

**HEARD BY:** Gonzalez, Elizabeth      **COURTROOM:** RJC Courtroom 03E

**COURT CLERK:** Dulce Romea

**RECORDER:** Jill Hawkins

**PARTIES**

<b>PRESENT:</b>	Bice, Todd L Erwin, Philip R. McDermott, Ann M. Polsenberg, Daniel F.  Reid, Josh M.  Smith, Jordan T. Williams, Jon Colby	Attorney for Plaintiff Attorney for Intervenor Sandoz, Inc. Attorney for Defendants Attorney for Intervenor Hikma Pharmaceuticals USA, Inc. Attorney for Intervenor Hikma Pharmaceuticals USA, Inc. Attorney for Defendants Attorney for Intervenor Sandoz, Inc.
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**JOURNAL ENTRIES**

- PLAINTIFF'S MOTION TO ASSOCIATE COUNSEL (MICHAEL J. FARIS, ESQ.; ALEX R. GRABOWSKI, ESQ.; KENNETH G. SCHULER, ESQ.; AND ANGELA WALKER, ESQ.)...SANDOZ INC.'S MOTION TO INTERVENE AND ORDER SHORTENING TIME

APPEARANCES CONTINUED: Attorney Emily Buchwald for the Plaintiff, observing in the gallery.

PLAINTIFF'S MOTION TO ASSOCIATE COUNSEL (MICHAEL J. FARIS, ESQ.; ALEX R. GRABOWSKI, ESQ.; KENNETH G. SCHULER, ESQ.; AND ANGELA WALKER, ESQ.): There being no objection, COURT ORDERED, motion to associate GRANTED. By accepting this admission, Counsel agrees to submit to jurisdiction and appear without subpoena for any proceedings required by the Court which relate to Counsel s conduct in this matter including motions, depositions, and

PRINT DATE: 08/22/2018

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Minutes Date: August 21, 2018

evidentiary hearings. SCR 42(13)(a). Counsel for Plaintiff to submit an order that includes this language.

SANDOZ INC.'S MOTION TO INTERVENE AND ORDER SHORTENING TIME: Following arguments by Mr. Williams and Mr. Smith, COURT ORDERED, as Mr. Williams was permitted to participate in the injunctive relief hearing the day after this Court was assigned this case, the request to intervene is GRANTED; however, the injunctive relief issues have been addressed.

Court noted footnote no. 2 of the Supreme Court's order lifting the stay. Colloquy regarding discovery for and scheduling the Preliminary Injunction Hearing. Mr. Bice requested a date be set for the hearing so his team can get their schedules straightened out; they would ask for either late September or the first week of October, which works best; setting a date would also give the Supreme Court the comfort they are looking for. Mr. Bice further advised the Defendants have not yet served any discovery.

Court noted a status check has been set regarding discovery for September 10 and that discovery should be done by then. Mr. Smith argued the State needs time to adequately prepare; he had planned for depositions in October and hopefully a date for the hearing in November. Upon Court's inquiry, Mr. Smith anticipated the hearing taking one week; Mr. Bice stated 3 days. COURT DIRECTED the parties to plan to be ready to start the week of September 10th. Following further discussion on the length of the stay, i.e. whether it was 12 days per Mr. Smith or 8 days per Mr. Bice, and proceedings before the Nevada Supreme Court, COURT ORDERED, the September 10th status check will STAND. Parties are to do whatever they need to complete discovery. Parties are further reminded of the shortened deadlines and asked to work with each other despite those deadlines.

Mr. Reid advised Hikma will be filing a motion for TRO. Court noted that when counsel submits it along with an application for order shortening time, the Court will fill in that order.

CLERK'S NOTE: Minutes corrected to reflect that the Court ordered the September 10th status check will STAND, not September 7th, as previously indicated in this minute order. / dr 8-22-18

IN THE SUPREME COURT OF THE STATE OF NEVADA

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STATE OF NEVADA; NEVADA  
DEPARTMENT OF CORRECTIONS;  
JAMES DZURENDA, Director of the  
Nevada Department of Corrections, in his  
official capacity; IHSAN AZZAM, Ph.D,  
M.D., Chief Medical Officer of the State of  
Nevada, in his official capacity; and JOHN  
DOE, Attending Physician at Planned  
Execution of Scott Raymond Dozier in his  
official capacity,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF CLARK;  
AND THE HONORABLE ELIZABETH  
GONZALEZ, DISTRICT COURT JUDGE,

Respondents,

and

ALVOGEN, INC., AND HIKMA  
PHARMACEUTICALS USA, INC.,

Real Party in Interest.

Supreme Court Case No.: 76485

District Court Case No. A-18-777312-B

Electronically Filed  
Aug 22 2018 03:03 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**EMERGENCY MOTION UNDER NRAP 27(e) TO RESCHEDULE ORAL  
ARGUMENT TO THE WEEK OF SEPTEMBER 5, 2018, OR, IN THE ALTERNATIVE,  
TO TEMPORARILY STAY DISTRICT COURT PROCEEDINGS  
IMMEDIATE ACTION REQUESTED**

ANN M. McDERMOTT (Bar No. 8180)

*Bureau Chief*

JORDAN T. SMITH (Bar No. 12097)

*Deputy Solicitor General*

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Regrettably, Petitioners are once more reluctantly compelled to seek this Court’s emergency intervention. After initially contemplating a 120-day discovery period before the preliminary injunction hearing involving *one* pharmaceutical company,<sup>1</sup> the District Court yesterday indicated that it intends to conduct the hearing involving *three* companies during the week of September 10th<sup>2</sup> —the same week that this Court has scheduled oral argument on the Petition—with the parties being allowed to walk across the street to argue the Petition in the middle of the evidentiary proceeding.<sup>3</sup>

The new hearing date is even more rushed than the timeline proposed by Real Party in Interest Alvogen, Inc., which suggested “either late September or the first week of October” for the hearing.<sup>4</sup> Alvogen thought its timeframe “would also give the Supreme Court the comfort they are looking for.”<sup>5</sup> The District Court’s decision to set the hearing earlier than anyone proposed is also at odds with its statements at the July temporary restraining order hearing where it recognized that it would take

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<sup>1</sup> App. 419 (“So it sounds to me like that’s going to be about 120 days’ worth of discovery *between what the two of you want to do.*”) (emphasis added). Two more drug manufacturers have since intervened in the district court proceedings, multiplying the anticipated discovery.

<sup>2</sup> August 21, 2018 Court Minutes, Ex. 1 (“COURT DIRECTED the parties to plan to be ready to start the week of September 10th.”).

<sup>3</sup> As stated by the Court, though a transcript is not yet available.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

“some miracle” for Petitioners to complete their requested discovery “faster than 120 days.”<sup>6</sup>

Under the original preliminary injunction schedule, discovery would have closed in early November with an evidentiary hearing soon afterward.<sup>7</sup> Now, the District Court has shaved off more than two months from the State’s time to adequately prepare and present its defense against three large pharmaceutical companies employing no less than five law firms. Thus, even if this Court needs an evidentiary record (which the Court does *not* because the Petition presents purely legal issues, as the Court’s denial of Alvogen’s countermotion to dismiss the Petition indicates), a hurried and slapdash discovery period followed by a rushed preliminary injunction hearing—all conducted simultaneously with this Court’s expedited writ proceedings—does not honorably fulfill that purpose. This is especially so on an issue of such nationwide public importance presented by this case. The State should be allowed sufficient time to conduct discovery and defend itself, without prejudicing its ability to properly brief and prepare for oral argument on its writ petition—and the District Court should not be permitted to preempt or interfere with proceedings in this Court. Because the evidentiary hearing will literally overlap with this Court’s

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<sup>6</sup> App. 420.

<sup>7</sup> At the August 21, 2018 hearing, Petitioners reemphasized that November was the earliest feasible time for a hearing. (Ex. 1 (“Mr. Smith argued the State needs time to adequately prepare; he had planned for depositions in October and hopefully a date for the hearing in November.”)).

oral argument, it decreases the Petitioners' preparation for both. This schedule prejudices the State and fails to serve the interests of the Court and the Public.

Accordingly, Petitioners request that the Court reschedule oral argument for this Court's sitting to one week earlier, on September 5th or 6th.<sup>8</sup> This would allow Petitioners to better prepare for both oral argument in this Court and the evidentiary hearing in the District Court, and may even afford the Court the opportunity to rule on the existence (or not) of the drug manufacturers' causes of action before the evidentiary hearing.<sup>9</sup>

Alternatively, and respectfully understanding the four to two majority's earlier statements when denying a complete stay, Petitioners request a short, temporary stay of the District Court proceedings only until this Court holds oral argument. A brief and limited stay will allow the State to focus its efforts to draft its reply brief and prepare for oral argument on September 12 to best assist this Court in the writ

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<sup>8</sup> The State is involved in another oral argument scheduled for September 5, 2018, where a Respondent filed an unopposed motion to postpone oral argument. *Bombardier Transportation (Holdings) USA, Inc. v. Nevada Labor Commissioner*, Case No. 71101. The Court has denied the unopposed motion, but based on the earlier unopposed motion, the State believes the parties in the *Bombardier* case would not object if the Court utilized this en banc argument slot and moved the *Bombardier* argument to a later date.

<sup>9</sup> See *NDOC v. Eighth Jud. Dist. Ct. (Dozier)*, 417 P.3d 1117, 2018 WL 2272873 (Nev. 2018) (ruling two days after oral argument); *In re Candelaria*, 126 Nev. 408, 245 P.3d 518 (2010) (Case No. 5514 April 15, 2010, doc. 10-09868: "As this matter warranted our expedited consideration and decision, we enter this order for the purposes of providing the parties immediate resolution. A detailed disposition in this matter will be forthcoming.").

proceedings, and then immediately turn to discovery and preparing for the preliminary injunction hearing in the District Court, if necessary. *See* NRAP 8(c).

Dated: August 22, 2018.

/s/ Jordan T. Smith  
Ann M. McDermott (Bar No. 8180)  
*Bureau Chief*  
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### **NRAP 27(e) Certificate**

I, Jordan T. Smith, declare as follows:

1. I am currently employed in the Office of the Attorney General as the Deputy Solicitor General. I am counsel for Petitioners named herein.

2. I verify that I have read the foregoing Emergency Motion under NRAP 27(e) to Reschedule Oral Argument to the Week of September 5, 2018 or, in the Alternative, to Temporarily Stay District Court Proceedings, and that the same is true of my own knowledge, except for matters stated on information and belief, and as to those matters, I believe them to be true.

3. The facts showing the existence and nature of the emergency are set forth in the Motion. As described above, relief is needed in less than 14 days to avoid irreparable harm. Immediate action is requested.

4. The relief sought in this Motion was presented to the District Court at the hearing on August 21, 2018 and was denied. The State is filing this Motion at the earliest possible time.

5. I have made every practicable effort to notify the Supreme Court and opposing counsel of the filing of this Motion. The State alerted opposing counsel to the filing of this Motion shortly before it was submitted for e-filing. I also called the Clerk of Court's Office before filing. A courtesy copy was emailed to all parties.

6. Below are the telephone numbers and office addresses of the known participating attorneys:

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Counsel for Sandoz Inc. (Proposed Intervenor)

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Executed on this 22nd day of August, 2018, in Las Vegas, Nevada.

/s/ Jordan T. Smith  
Jordan T. Smith (Bar No. 12097)  
*Deputy Solicitor General*

## CERTIFICATE OF COMPLIANCE

I hereby certify that this Motion complies with the formatting requirements of NRAP 27(d) and the typeface and type-style requirements of NRAP 27(d)(1)(E) because this Motion has been prepared in a proportionally spaced typeface using Office Word 2013 in size 14 double-spaced Garamond font. This filing also complies with NRAP 32.

I further certify that I have read this Motion and that it complies with the page or type-volume limitations of NRAP 27(d)(2) and NRAP 32 because, it is proportionately spaced, and does not exceed 10 pages.

Finally, I hereby certify that to the best of my knowledge, information and belief, it is not frivolous or interposed for any improper purpose. I further certify that this Motion complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires that every assertion regarding matters in the record to be supported by appropriate references to the record on appeal. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated: August 22, 2018.

/s/ Jordan T. Smith  
Jordan T. Smith (Bar No. 12097)  
*Deputy Solicitor General*

## CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **EMERGENCY MOTION UNDER NRAP 27(e) TO RESCHEDULE ORAL ARGUMENT TO THE WEEK OF SEPTEMBER 5, 2018, OR, IN THE ALTERNATIVE, TO TEMPORARILY STAY DISTRICT COURT PROCEEDINGS** with the Clerk of the Court for the Nevada Supreme Court by using the appellate CM/ECF system on August 22, 2018.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that a courtesy copy was emailed to counsel for Real Parties in Interest simultaneously with the filing of the foregoing.

A copy was also provided to the following:

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Hon. Elizabeth Gonzalez  
Eighth Judicial District Court  
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/s/ Barbara Fell  
An employee of the  
Office of the Attorney General