

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

THE UNIVERSITY OF UTAH,

Utah,

v.

MAX-PLANCK-GESELLSCHAFT zur FORDERUNG der WISSENSCHAFTEN e.V., a corporation organized under the laws of Germany; MAX-PLANCK-INNOVATION GmbH, a corporation organized under the laws of Germany; WHITEHEAD INSTITUTE FOR BIOMEDICAL RESEARCH, a Delaware corporation; MASSACHUSETTS INSTITUTE OF TECHNOLOGY, a Massachusetts corporation; ALNYLAM PHARMACEUTICALS INC., a Delaware corporation; and ROBERT L. CARET, President of the University of Massachusetts in his official capacity; JAMES R. JULIAN, Executive Vice President and Chief Operating Officer of the University of Massachusetts, in his official capacity; DAVID J. GRAY, Senior Vice President for Administration, Finance & Technology and University Treasurer of the University of Massachusetts, in his official capacity; and JAMES P. MCNAMARA, Executive Director, Office of Technology Management of the University of Massachusetts, in his official capacity, their predecessors and successors in office,

Defendants.

Civil Action No. 1:11-cv-10484

ORAL ARGUMENT REQUESTED

**OFFICIAL CAPACITY DEFENDANTS'
EMERGENCY MOTION TO STAY ALL PROCEEDINGS**

For the reasons stated in the accompanying Memorandum in Support of the Official Capacity Defendants' Emergency Motion to Stay All Proceedings, defendants Robert L. Caret, President of the University of Massachusetts; James R. Julian, Jr., Executive Vice President and Chief Operating Officer of the University of Massachusetts; David J. Gray, formerly Senior Vice President for Administration, Finance, and Technology and Treasurer of the University of Massachusetts; and James P. McNamara, Executive Director, Office of Technology Management for the University of Massachusetts (collectively, the "UMass Official Defendants") move to stay discovery and all proceedings in this Court pending the Federal Circuit's resolution of their interlocutory appeal from the Court's June 11, 2012 Order denying their Motion to Dismiss on sovereign immunity grounds.

Request for Expedited Hearing

The UMass Official Defendants respectfully request that the Court address this Motion on an expedited basis because it seeks an immediate stay of all discovery on the ground that the filing of the Notice of Appeal divests the Court of jurisdiction over all matters relating to the claims asserted against them. Because the Court has allowed a period of only six months for the parties to complete fact discovery, the parties would benefit from a prompt resolution of this Motion.

Request for Oral Argument

Pursuant to Local Rule 7.1(d), the UMass Official Defendants hereby request oral argument on this Motion.

Respectfully submitted,

ROBERT L. CARET, JAMES R. JULIAN,
DAVID J. GRAY and JAMES P.
MCNAMARA

By their attorney,

Martha Coakley
Attorney General for the Commonwealth
of Massachusetts

/s/ Thomas F. Maffei
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Dated: July 2, 2012

Certificate Pursuant to Local Rule 7.1(a)(2)

I, Thomas F. Maffei, hereby certify that counsel conferred and attempted in good faith to resolve or narrow the issues raised herein.

/s/ Thomas F. Maffei
Thomas F. Maffei

Certificate of Service

I, Thomas F. Maffei, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on July 2, 2012.

/s/ Thomas F. Maffei

Thomas F. Maffei