

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

*In re: Nexium (Esomeprazole Magnesium)  
Antitrust Litigation*

This Document Relates to: All Actions

MDL No. 2409

Civil Action No. 1:12-md-02409-WGY

**DEFENDANTS' PROPOSED SPECIAL JURY VERDICT FORM**

Defendants submit the following proposed special jury verdict form for the upcoming trial in this matter. Defendants reserve the right to revise or amend this proposed verdict form for any reason, including but not limited to rulings made by the Court before, during or after evidence has been received during trial, to respond to any verdict form proposed by Plaintiffs, or to respond to any further proposed verdict form from the Court.

Dated: October 13, 2014

Respectfully submitted,

/s/ J. Douglas Baldridge

J. Douglas Baldridge (*pro hac vice*)

Lisa Jose Fales (*pro hac vice*)

Danielle R. Foley (*pro hac vice*)

Sarah Choi (*pro hac vice*)

VENABLE LLP

575 7th Street, NW

Washington, DC 20004

(202) 344-4000

(202) 344-8300 (fax)

jdbaldridge@venable.com

ljfales@venable.com

drfoley@venable.com

schoi@venable.com

Leslie F. Su (BBO No. 641833)

MINERVA LAW, P.C.

300 Brickstone Square, Suite 201

Andover, MA 01810

(978) 494-4695

leslie.su@minervalawpc.com

*Counsel for Ranbaxy Pharmaceuticals, Inc.,  
Ranbaxy Inc., and Ranbaxy Laboratories, Ltd.*

/s/ Dane H. Butswinkas

Dane H. Butswinkas (*pro hac vice*)

John E. Schmidlein (*pro hac vice*)

Paul B. Gaffney (*pro hac vice*)

WILLIAMS & CONNOLLY LLP

725 Twelfth Street, N.W.

Washington, DC 20005

Ph: 202-434-5000

Fax: 202-434-5029

DButswinkas@wc.com

JSchmidlein@wc.com

PGaffney@wc.com

William A. Zucker, Esq., BBO # 541240

MCCARTER & ENGLISH, LLP

265 Franklin Street

Boston, MA 02110

617.449.6500

617.607.9200 (facsimile)

wzucker@mccarter.com

*Counsel for AstraZeneca LP, AstraZeneca AB,  
and Aktiebolaget Hässle*

/s/ Karen N. Walker

Karen N. Walker, P.C. (*pro hac vice*)  
Rebecca A. Koch (*pro hac vice*)  
KIRKLAND & ELLIS LLP  
655 Fifteenth Street, N.W., Suite 1200  
Washington, D.C. 20005  
Telephone: (202) 879-5000  
Facsimile: (202) 879-5200  
karen.walker@kirkland.com

Jay P. Lefkowitz, P.C. (*pro hac vice*)  
601 Lexington Avenue  
New York, NY 10022  
Telephone: (212) 446-4800  
Facsimile: (212) 446-4900  
jay.lefkowitz@kirkland.com

Laurence A. Schoen, BBO # 633002  
Adam L. Sisitsky, BBO # 637532  
MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY AND POPEO, P.C.  
One Financial Center  
Boston, MA 02111  
Telephone: (617) 542-6000  
Facsimile: (617) 542-2241  
LASchoen@mintz.com  
ALSisitsky@mintz.com

*Counsel for Teva Pharmaceuticals USA,  
Inc. and Teva Pharmaceutical Industries,  
Ltd.*

/s/ Kevin D. McDonald

Kevin D. McDonald (*pro hac vice*)  
JONES DAY  
51 Louisiana Avenue, N.W.  
Washington, D.C. 20001-2113  
Telephone: +1.202.879.3939  
Facsimile: +1.202.626.1700  
kdmcdonald@jonesday.com

Andrew J. Miller (*pro hac vice*)  
BUDD LARNER, PC  
150 JFK Parkway  
Short Hills, NJ 07078-0999  
Telephone: +1.973.379.4800  
Facsimile: +1.973.379.7734  
amiller@buddlerner.com

Michael T. Marcucci (BBO# 652186)  
JONES DAY  
100 High Street, 21st Floor  
Boston, MA 02110-1781  
Office Phone: + 1.617.449.6887  
mmarcucci@jonesday.com

*Counsel for Dr. Reddy's  
Laboratories, Inc. and Dr. Reddy's  
Laboratories, Ltd.*

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

*In re: Nexium (Esomeprazole Magnesium)  
Antitrust Litigation*

This Document Relates to: All Actions

MDL No. 2409

Civil Action No. 1:12-md-02409-WGY

**DEFENDANTS' PROPOSED SPECIAL JURY VERDICT FORM**

**Question 1:**

Have Plaintiffs proved that AstraZeneca made a "large and unexplained payment" to Teva in connection with AstraZeneca's Nexium patent litigation settlement with Teva?

No \_\_\_\_ Yes \_\_\_\_

If you answered "No" to Question 1, please go to the end of the verdict form and sign it, and you need not answer the remaining questions.

**Question 2:**

If you answered "Yes," to Question 1, what was the amount of the payment from AstraZeneca to Teva.

\$ \_\_\_\_\_

**Question 3:**

Have Plaintiffs:

(A) proved that the relevant antitrust market is limited to the market for branded and generic Nexium alone; or

(B) does the evidence otherwise demonstrate that the relevant antitrust market includes a broader group of drugs, including at least other proton pump inhibitor drugs?

\_\_\_\_\_  
Answer A or B

If you answered "B" to Question 3, please go to the end of the verdict form and sign it, and you need not answer the remaining questions.

**Question 4:**

If you answered “Yes” to Question 1 and “A” to Question 3, have Plaintiffs proved that AstraZeneca’s Nexium settlement with Teva was unreasonably anticompetitive, *i.e.*, do any anticompetitive effects of that agreement outweigh any pro-competitive justifications?

No \_\_\_\_\_ Yes \_\_\_\_\_

If you answered “No” to Question 4, please go to the end of the verdict form and sign it, and you need not answer the remaining questions.

**Question 5:**

If you answered “Yes” to Question 4, have Plaintiffs proved that absent any payment you found in Question 2, Teva would have lawfully launched an FDA final approved generic Nexium product prior to the May 27, 2014 patent license start date contained in the Nexium settlement agreement between Teva and AstraZeneca?

No \_\_\_\_\_ Yes \_\_\_\_\_

If you answered “No” to Question 5, please go to the end of the verdict form and sign it, and you need not answer the remaining questions.

**Question 6:**

If you answered “Yes” to Question 5, please specify the date that you find that Teva would have lawfully launched an FDA final approved generic Nexium product absent the payment you found in Question 2.

\_\_\_\_\_  
Month                      Year

**Question 7:**

If you answered “Yes” to Question 5, have Plaintiffs proved that Ranbaxy knowingly and willfully entered into a conspiracy with AstraZeneca and Teva with the purpose and effect of delaying the market entry of generic Nexium?

No \_\_\_\_\_ Yes \_\_\_\_\_

**Question 8:**

If you answered “Yes” to Question 5, have Plaintiffs proved that DRL knowingly and willfully entered into a conspiracy with AstraZeneca and Teva with the purpose and effect of delaying the market entry of generic Nexium?

No \_\_\_\_\_ Yes \_\_\_\_\_

**IF YOU HAVE REACHED A UNANIMOUS VERDICT, THE FOREPERSON WILL SIGN AND DATE THIS VERDICT FORM AND NOTIFY THE U.S. MARSHALL THAT YOU ARE READY TO REPORT YOUR VERDICT TO THE COURT.**

\_\_\_\_\_  
**FOREPERSON**

\_\_\_\_\_  
**DATE**

**CERTIFICATE OF SERVICE**

I, Benjamin M. Greenblum, hereby certify that this document was electronically filed and served using the Court's ECF system on October 13, 2014.

/s/ Benjamin M. Greenblum  
Benjamin M. Greenblum