

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
GAINESVILLE DIVISION**

SUE FAULKNER AND NICOLA  
TIBBETTS, ON BEHALF OF  
THEMSELVES AND ALL OTHERS  
SIMILARLY SITUATED,

Plaintiffs,

v.

ACELLA PHARMACEUTICALS,  
LLC,

Defendant.

Civil Action No.

2:22-CV-92-RWS

**ORDER**

This case comes before the Court on a discovery dispute that has arisen between Plaintiffs Sue Faulkner and Nicola Tibbetts, on behalf of themselves and all others similar situated, and Defendant Acella Pharmaceuticals, LLC, pursuant to the Court's Standing Order Regarding Civil Litigation [Dkt. 3]. The parties have submitted statements of their positions, which are attached hereto as Exhibit A. In particular, the parties disagree on three of Plaintiffs' discovery requests, which seek: (1) four categories of documents, including the specifications and manufacturing agreements for NP Thyroid, unredacted copies of its FDA communications related to NP Thyroid's defects, testing records, and sales records;

(2) written discovery responses without general or boilerplate objections; and (3) a full and complete corporate disclosure. Acella asked the Court to resolve its Motion to Strike and Stay Class Discovery before turning to this discovery dispute, which the Court has now done. Having considered the record and submissions of the parties, the Court enters the following Order.

First, Plaintiffs have requested that Acella produce four categories of documents: (1) the specifications and manufacturing agreements for NP Thyroid, (2) unredacted copies of its FDA communications related to NP Thyroid's defects, (3) testing records, and (4) sales records. Plaintiffs note that Acella has produced three summary documents, but that they need all of the requested documents to understand how Acella produced its NP Thyroid, the extent of its alleged non-compliance with USP requirements, and which tablets were non-compliant. Plaintiffs also say they need this information to substantiate its positions concerning the commonality, typicality, and ascertainability requirements. Acella argues that these discovery requests are overbroad and constitute improper merits discovery.

The Court believes that Plaintiffs' requests are reasonable. Information responsive to these requests is necessary to determine which of Acella's NP Thyroid lots did not meet applicable USP requirements and who purchased NP

Thyroid from those lots and is therefore entitled to be a member of Plaintiffs' putative class. The fact that Acella has already produced certain documents relevant to its previously-recalled lots is not the end of the story; Plaintiffs and the Court cannot simply take Acella's word for it that they recalled all of the non-compliant NP Thyroid and the rest of it was USP-compliant. Accordingly, Acella is ordered to substantiate its discovery responses for these four categories, subject to applicable statute of limitations concerns (if, for example, the production and sale of certain older NP Thyroid lots could not be timely challenged).

Second, Plaintiffs ask the Court to compel Acella to produce written discovery responses without general or boilerplate objections. Acella asserts that it previously offered to explain each of its objections to Plaintiffs' counsel, but that it would revisit and revise its objections following the Court's ruling on its Motion to Strike. Plaintiffs are correct that this Court prohibits boilerplate and general objections to discovery requests. [Dkt. 3 – Standing Order, at 9]. Instead, “each individual discovery response must be met with every specific objection thereto.” [Id.]. Accordingly, Acella is ordered to revise its discovery responses and replace any general or boilerplate objections with responsive information and documentation or specific objections, where applicable.

Third, Plaintiffs ask the Court to order Acella to file a full and complete corporate disclosure. Acella stated in its response that it would supplement its corporate disclosures to address the citizenship of Alora Pharmaceuticals, LLC. While Acella did in fact file a Supplemental Certificate of Interested Parties and Corporate Disclosure Statement [Dkt. 37], Plaintiffs contend that Acella's supplementation "identifies the putative states of residence of Acella's ultimate owners" but does not "name . . . every" such "individual or entity" as required by the Federal and Local Rules. The Court agrees that Acella's disclosure statement "must name—and identify the citizenship of—every individual or entity whose citizenship is attributed to [Acella]." Accordingly, Acella is ordered to amend its disclosure statement to satisfy this obligation.

**SO ORDERED** this 11th day of July, 2023.



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**RICHARD W. STORY**  
United States District Judge