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[Motion to Amend Pleadings: Relevant Delay is to Trial Date](#)

Posted on July 8, 2009 by

Connetics Corp. v. Pentech Pharms., Inc., No. 07 C 2230, Slip Op. (N.D. Ill. May 8, 2009) (Gottschall, J.).

Judge Gottschall granted defendants' motion to amend their answers to include new invalidity and unenforceability affirmative defenses and counterclaims in this ANDA patent case involving plaintiff's patented pharmaceutical LUXIQ. The Court held that the amended answers and counterclaims were appropriate, although they were sought after the Court's deadline to amend the pleadings for reasons similar to Judge Lienenweber's analysis in a motion to amend adding the same defenses and claims in a related case -- [click here](#) to read the Blog's post on that opinion. Of particular note, the Court held that the delay at issue is delay of the trial, not a party's delay in seeking to amend. In this case, the Court had recently extended fact discovery. So, plaintiffs had time to seek discovery on the defenses and counterclaims without delaying the trial date.

Tags: [ANDA](#), [Cipla](#), [Cobrek](#), [Delay](#), [Gottschall](#), [LUXIQ](#), [Motion to Amend](#), [Pentech](#), [Pleading Requirements](#), [Stiefel Research](#)

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[Amended Pleading Filed Before Deadline to Amend Does Not Prejudice](#)

Posted on July 6, 2009 by

Connetics Corp. v. Pentech Pharms., Inc., No. 08 C 2230, Slip Op. (N.D. Ill. May 8, 2009) (Leinenweber, J.).

Judge Leinenweber granted defendants' motion to amend their answers including new invalidity and unenforceability affirmative defenses and counterclaims in this ANDA patent case involving plaintiff's patented pharmaceutical OLUX. The Court held that the amended answers and counterclaims were appropriate because they were filed before the Court's deadline for amended pleadings, even though the parties briefed the motion to amend as if the amendment was sought after the deadline. Furthermore, defendants did not unduly delay in seeking to amend. The motion to amend was filed within several months of depositions in which new information necessary for the amendments was disclosed. And the litigation was still in its early stages so the amendments would not cause any prejudice.

Tags: [ANDA](#), [Cipla](#), [Cobrek](#), [Connetics](#), [Delay](#), [Leinenweber](#), [Motion to Amend](#), [OLUX](#), [Pentech](#), [Pleading Requirements](#)

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[Experts Allowed to Testify For and Against Party in Concurrent Cases](#)

Posted on March 5, 2009 by

Bone Care Int'l, LLC v. Pentech Pharms., Inc., No. 08 C 1083, Slip Op. (N.D. Ill. Feb. 2, 2009) (Dow, J.).

Judge Dow denied defendants' motion to prevent plaintiffs from using their preferred technical experts in this patent case. Pursuant to a Protective Order, plaintiffs notified defendants of their intent to provide three experts with confidential materials. Defendants objected because defendants had previously retained the same experts in a different patent case in the Northern District. The Court noted that disqualifying experts was a "drastic measure" taken only when the party seeking disqualification proves a substantial relationship between any acquired confidential information and the expert's testimony. The two cases these experts were hired for involve different pharmaceutical formulations for treatment of different conditions. And the experts testified that because of the different technologies, no information gained in defendants' earlier case could impact the present case or benefit defendants in this case. Additionally, the Court noted that defendants did not have a confidential or privileged relationship with the experts.

Tags: [Bone Care International](#), [Cobrek](#), [Disqualification](#), [Dow](#), [Experts](#), [Genzyme](#), [Pentech](#)

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