

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ASTELLAS PHARMA INC., ASTELLAS
IRELAND CO., LTD. and ASTELLAS
PHARMA GLOBAL DEVELOPMENT, INC.,

Plaintiffs,

vs.

ASCENT PHARMACEUTICALS, INC., MSN
PHARMACEUTICALS INC. and MSN
LABORATORIES PRIVATE LIMITED

Defendants.

1:23CV00486

MEMORANDUM AND ORDER

This matter is before the Court on the Report and Recommendation (“R&R”) regarding Plaintiffs’ motion to dismiss defendants’ counterclaims of inequitable conduct and to strike the related affirmative defenses, issued by Magistrate Judge Eleanor G. Tennyson. [D.I. 293](#), see [D.I. 227](#). Defendant Ascent Pharmaceutical, Inc. (“Defendant” or “Ascent”) has objected to the R&R, [D.I. 297](#), and Plaintiffs Astellas Pharma Inc., Astellas Ireland Co., Ltd. and Astellas Pharma Global Development, Inc. (collectively, “Plaintiffs” or “Astellas”) responded to the objections, [D.I. 317](#). The Court adopts the magistrate judge’s R&R in full, overrules Defendant’s objections, and grants-in-part and denies-in-part Plaintiffs’ motion to dismiss Defendant’s counterclaims of inequitable conduct and to strike the related affirmative defenses.

I. STANDARD OF REVIEW

A district court may modify or set aside any part of a magistrate judge’s order that is “clearly erroneous or contrary to law.” [28 U.S.C. § 636\(b\)\(1\)\(A\)](#); [Fed. R. Civ. P. 72\(a\)](#). The district court “shall make a de novo determination of those portions of the report or

specified proposed findings or recommendations to which objection is made” and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C); *see also* Fed. R. Civ. P. 72(b).

The Supreme Court has construed the statutory grant of authority conferred on magistrate judges under 28 U.S.C. § 636 to mean that nondispositive pretrial matters are governed by § 636(b)(1)(A) and dispositive matters are covered by § 636(b)(1)(B). *Gomez v. United States*, 490 U.S. 858, 873–74 (1989); *see also* Fed. R. Civ. P. 72(a). Under subparagraph (b)(1)(B), a district court may refer a dispositive motion to a magistrate judge “to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition.” 28 U.S.C. § 636(b)(1)(B); *see Equal Emp. Opportunity Comm'n v. City of Long Branch*, 866 F.3d 93, 99–100 (3d Cir. 2017). The product of a magistrate judge, following a referral of a dispositive matter, is often called a “report and recommendation” (“R&R”). *See Equal Employment Opportunity Commission*, 866 F.3d at 99–100. “Parties ‘may serve and file specific written objections to the proposed findings and recommendations’” *Id.* at 99 (quoting Fed. R. Civ. P. 72(b)(2)).

“If a party objects timely to a magistrate judge’s report and recommendation, the district court must ‘make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’” *Id.* (quoting 28 U.S.C. § 636(b)(1)).

II. DISCUSSION

The Court has reviewed the R&R, Defendant’s objection and appeal regarding the report and recommendation, and Plaintiffs’ response to Defendant’s objections to the

R&R. After thorough consideration, the Court affirms the magistrate judge's well-reasoned R&R for the reasons stated therein.

III. CONCLUSION

The Court finds the magistrate judge is correct in all respects and adopts the Report and Recommendation, [D.I. 293](#), in its entirety.

THEREFORE, IT IS ORDERED:

1. Defendant's objections, [D.I. 297](#), are overruled;
2. The Court adopts magistrate judge's Report and Recommendation, [D.I. 293](#), in its entirety; and
3. Plaintiffs' motion to dismiss Defendant's counterclaims of inequitable conduct and to strike the related affirmative defenses, [D.I. 227](#), is granted-in-part and denied-in-part as set forth in the Report and Recommendation, [D.I. 293](#).

Dated this 16th day of October, 2025.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge