

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:  AKORN, INC., <i>et al.</i> ,  Debtors.	Chapter 11  Case No. 20-11177 (KBO) (Jointly Administered)  Re: Docket Nos. 656, 674
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**OBJECTION OF EXELA PHARMA SCIENCES LLC TO SUPPLEMENTAL  
CURE NOTICE TO CONTRACT PARTIES TO POTENTIALLY  
ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

Exela Pharma Sciences LLC (“Exela”), by and through undersigned counsel, hereby objects to *Debtor’s Supplemental Cure Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 674] (the “Supplemental Notice”), and respectfully states as follows:

1. Debtor Akorn Animal Health, Inc. (“Debtor AAH”) is party to a certain Development and Supply Agreement dated February 23, 2017 (the “Contract”) with Exela. Pursuant to the Contract, Exela develops and manufactures certain products for Debtor AAH and Debtor AAH purchases such products pursuant to purchase orders (each a “PO”) issued by Debtor AAH.

2. On May 21, 2020, the Debtors filed their *Motion Seeking Entry of an Order (A) Authorizing and Approving Bidding Procedures, (B) Scheduling an Auction and Sale Hearing, (C) Approving the Form and Manner of Notice Thereof, (D) Establishing Notice and Procedures for Assumption and Assignment of Certain Executory Contracts and Leases, and (E) Granting Related Relief* (the “Sale Motion”) [Docket No. 18].



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3. On June 15, 2020, this Court entered its *Order (A) Authorizing and Approving Bidding Procedures, (B) Scheduling an Auction and Sale Hearing, (C) Approving the Form and Manner of Notice Thereof, (D) Establishing Notice and Procedures for Assumption and Assignment of Certain Executory Contracts and Leases, and (E) Granting Related Relief* [Docket No. 181] (the “Bidding Procedures Order”).

4. Among other things, the Bidding Procedures Order authorizes the Debtors to conduct an auction and sale of the Debtors’ assets pursuant to certain bidding procedures. The Bidding Procedures Order also provides that the Debtors may assume and assign to a successful bidder certain of the Debtors’ executory contracts.

5. In accordance with those procedures, the Debtors provided a cure notice to Exela, after an explicit request by Exela, on August 12, 2020.

6. On August 25, 2020, Exela filed the *Objection of Exela Pharma Sciences LLC to the Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 564] (the “Cure Objection”).

7. By agreement of Exela and the Debtors, the following language was included in the *Order (A) Approving the Asset Purchase Agreement, (B) Authorizing the Sale of Assets, (C) Authorizing the Assumption and Assignment of Contracts and Leases, and (D) Granting Related Relief* [Docket No. 656] (the “Sale Order”):

Notwithstanding anything in this Sale Order and/or the APA related to the Sale and any other associated transaction documents, nothing shall permit or otherwise constitute a finding or effect a sale, an assignment or any other transfer at this time of Exela Pharma Sciences LLC’s (collectively, “Exela”) contracts, agreements, addenda, amendments, quotations, solutions, purchase orders, project plans, and other instruments related thereto (collectively, the “Exela Agreements”), unless and until a further order is entered by this Court, at a subsequent hearing, or as submitted under certification of counsel by agreement of the Debtors, the Purchaser, and Exela, with the burdens and rights of the

parties, including the objections set forth in the *Objection of Exela Pharma Sciences LLC to the Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 564], fully preserved pending entry of such further order.

8. While Exela has already filed a Cure Objection and its rights are explicitly reserved by the Sale Order, out of an abundance of caution, Exela hereby files this supplemental objection to the Supplemental Notice and incorporates the Sale Order and statements and arguments in the Cure Objection.

Dated: September 10, 2020  
Wilmington, Delaware

CROSS & SIMON, LLC

/s/ Kevin S. Mann

Christopher P. Simon (No. 3697)

Kevin S. Mann (No. 4576)

1105 North Market Street, Suite 901

Wilmington, Delaware 19801

Telephone: (302) 777-4200

Facsimile: (302) 777-4224

[csimon@crosslaw.com](mailto:csimon@crosslaw.com)

[kmann@crosslaw.com](mailto:kmann@crosslaw.com)

*Counsel to Exela Pharma Sciences LLC*

**CERTIFICATE OF SERVICE**

I, Kevin S. Mann, hereby certify that, on September 10, 2020, I caused copies of the *Objection of Exela Pharma Sciences LLC to the Supplemental Cure Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* to be served upon all interested parties via CM/ECF and the parties listed on the attached service list via electronic mail.

/s/ Kevin S. Mann

Kevin S. Mann (No. 4576)

**SERVICE LIST**

Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, New York 10022  
Attn: Nicole L. Greenblatt  
[nicole.greenblatt@kirkland.com](mailto:nicole.greenblatt@kirkland.com)

Gibson Dunn & Crutcher  
200 Park Avenue, New York  
New York, 10166  
Attn: Scott J. Greenberg  
Michael J. Cohen  
[sgreenberg@gibsondunn.com](mailto:sgreenberg@gibsondunn.com)  
[mcohen@gibsondunn.com](mailto:mcohen@gibsondunn.com)

Richards, Layton & Finger  
920 N. King Street  
Wilmington, Delaware 19801  
Attn: Paul M. Heath  
Amanda R. Steele  
Zachary I. Shapiro  
Brett M. Haywood  
[heath@rlf.com](mailto:heath@rlf.com)  
[steele@rlf.com](mailto:steele@rlf.com)  
[shapiro@rlf.com](mailto:shapiro@rlf.com)  
[haywood@rlf.com](mailto:haywood@rlf.com)

Kirkland & Ellis LLP  
300 North LaSalle  
Chicago, Illinois 60654  
Attn: Patrick J. Nash, Jr. P.C.  
Gregory F. Pesce,  
Christopher M. Hayes  
[patrick.nash@kirkland.com](mailto:patrick.nash@kirkland.com)  
[gregory.pesce@kirkland.com](mailto:gregory.pesce@kirkland.com)  
[christopher.hayes@kirkland.com](mailto:christopher.hayes@kirkland.com)

Young Conaway Stargatt & Taylor  
1000 North King Street  
Wilmington, Delaware 19801  
Attn: Robert S. Brady  
[rbrady@ycst.com](mailto:rbrady@ycst.com)

Wilmer Cutler Pickering Hale and Dorr LLP  
7 World Trade Center  
250 Greenwich Street  
New York, New York 10007  
Attn: Andrew Goldman  
[andrew.goldman@wilmerhale.com](mailto:andrew.goldman@wilmerhale.com)

Office of the U.S. Trustee  
for the District of Delaware  
844 King Street, Suite 2207  
Lockbox 35  
Wilmington, Delaware 19801  
Attn: Jane M. Leamy  
[Jane.M.Leamy@usdoj.gov](mailto:Jane.M.Leamy@usdoj.gov)

Jenner & Block LLP  
353 N. Clark Street  
Chicago, Illinois 60654  
Attn: Landon Raiford  
William Williams  
[lraiford@jenner.com](mailto:lraiford@jenner.com)  
[wwilliams@jenner.com](mailto:wwilliams@jenner.com)

Saul Ewing Arnstein & Lehr  
1201 North Market Street, Suite 2300  
Wilmington, Delaware 19801  
Attn: Mark Minuti  
Luke Murley  
[mark.minuti@saul.com](mailto:mark.minuti@saul.com)  
[luke.murley@saul.com](mailto:luke.murley@saul.com)