

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	
	:	Chapter 11
AKORN, INC., et al.,	:	Case No. 20-11177 (KBO)
	:	(Jointly Administered)
Debtors.	:	
PROVEPHARM, INC.,	:	
	:	Appeals from the Bankruptcy Court
Appellant,	:	
v.	:	Civil Action No. 20-cv-1254 (MN)
	:	BAP No. 20-29
AKORN, INC., et al.,	:	
	:	Civil Action No. 20-cv-1336 (MN)
Appellees.	:	BAP No. 20-37

RECOMMENDATION

At Wilmington this **27th** day of **October , 2020**.

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in these matters;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

Pursuant to the Oral Order of this court at D.I. 3 in 20-1254 MN and D.I. 4 in 20-1336 MN, the parties submitted letters on 10/6/20 and 10/16/20 respectively regarding their positions on mandatory mediation. The letters were not docketed since



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they deal with mediation. Pursuant to the two letters, the parties are not in agreement regarding mediation. This court has reviewed the letters and the bases for the parties' differences regarding mandatory mediation.

Thereafter, the parties filed an unopposed motion to consolidate for procedural purposes only of the above-captioned matters at D.I. 12 in 20-1254 MN, which was granted by an Order entered on 10/19/20 at D.I. 16 in the same case. The Order provided in addition to consolidation for procedural purposes only, that these matters shall be jointly administered by this Court under C.A. No. 20-1254, along with the required caption. See D.I. 16 at 3.

The party opposing mediation request the Court to set a briefing schedule for these appeals.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), these matters, 20-1254 and 20-1336 both MN, be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. The parties are advised of their right to file objections pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1 through this Recommendation.

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng
Chief U.S. Magistrate Judge