

EXHIBIT 2

Plaintiffs' First Set of Interrogatories
to Defendant Kevin Barnes

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20 ALLERGAN, INC. and ALLERGAN SALES, LLC
21 (Additional counsel listed on signature page)

22 **UNITED STATES DISTRICT COURT**
23 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
24 **SOUTHERN DIVISION**

25 ALLERGAN, INC., ALLERGAN
26 SALES, LLC,

27 Plaintiffs,

28 v.

FERRUM FERRO CAPITAL, LLC;
KEVIN BARNES,

Defendants.

Case No. SACV 15-00992 JAK (PLAx)

**PLAINTIFFS' FIRST SET OF
INTERROGATORIES TO
DEFENDANT KEVIN BARNES
(NOS. 1-9)**

Judge: Hon. John A. Kronstadt

1 Pursuant to Federal Rule of Civil Procedure 33, Plaintiffs Allergan, Inc. and
2 Allergan Sales, LLC (collectively, “Allergan”), hereby requests that Defendant Kevin
3 Barnes (“Barnes”) respond to the following interrogatories separately, fully, and under
4 oath within thirty (30) days of service. The following definitions and instructions apply.

5 **DEFINITIONS & INSTRUCTIONS**

6 1. “Barnes,” “You,” and “Your” means Kevin Barnes, Including any of his
7 affiliated Entities, any Entity of which he is a member, corporate officer, director, or
8 manager, and all others acting in cooperation with or on behalf of Barnes.

9 2. “FFC” means Ferrum Ferro Capital, LLC, Including all of its corporate
10 locations, and all predecessors, successors, subsidiaries, parents, assigns and affiliated
11 entities (Including sister corporations), all of their past and present directors, officers,
12 employees, agents, representatives, consultants, attorneys, and others acting in
13 cooperation with or on behalf of FFC.

14 3. “Allergan” means “Allergan, Inc. and Allergan Sales, LLC, collectively and
15 individually, Including all of its directors, officers, agents, representatives, employees,
16 consultants, predecessors, subsidiaries, and others acting in cooperation with or on
17 behalf of Allergan.

18 4. “The ’149 patent” means U.S. Patent No. 7,030,149.

19 5. “FDA” means the United States Federal Food and Drug Administration.

20 6. “IPR” means *inter partes* review as codified at 35 U.S.C. § 311.

21 7. “Document” and “Document and Things” incorporate the full meaning of
22 Rule 34 of the Federal Rules of Civil Procedure, and Includes all tangible Things, all
23 originals (or, if originals are not available, identical copies thereof), all non-identical
24 copies of a document, all drafts of final documents, all other written, printed, or
25 recorded matter of any kind, and all other data compilations from which information can
26 be obtained and translated if necessary, that are or have been in Defendant’s actual or
27 constructive custody, possession, or control, regardless of the medium on which they are
28 produced, reproduced, or stored (Including computer programs and files containing any

1 requested information), and any recording or writing, as these terms are defined in Rule
2 1001, Federal Rules of Evidence, as well as any electronic documents Including
3 electronic mail. Any document bearing marks, Including initials, stamped initials,
4 comments, or notations not a part of the original text or photographic reproduction
5 thereof, constitutes a separate document.

6 8. "Entity" or "Entities" means any group, association, organization, firm,
7 corporation, joint venture, trust, or partnership, regardless of whether it is legally
8 recognized.

9 9. "Person" means any natural person or individual as well as any Entity and
10 its agents and employees.

11 10. "Relate," "Related to," "Relating to," or "Concerning" means constituting,
12 pertaining to, mentioning, commenting on, connected with, discussing, describing,
13 identifying, analyzing, explaining, showing, reflecting, dealing with, comprising,
14 consisting of, containing, resulting from, supporting or regarding a particular subject in
15 whole or in part, either directly or indirectly.

16 11. "Including" means including but not limited to.

17 12. "Communication" means any transmission of information, Including every
18 manner or means of statement, utterance, notation, disclaimer, transfer or exchange of
19 information of any nature whatsoever, by or to whomever, whether oral or written,
20 whether face-to-face or by telephone, mail, personal delivery or otherwise, and Including
21 letters, correspondence, conversations, memoranda, dialogue, discussions, meetings,
22 interviews, consultations, agreements and other understandings.

23 13. "Date" means and refers to the exact day, month and year, if ascertainable,
24 or if not, Your best approximation thereof.

25 14. The singular form of a word should be interpreted in the plural as well and
26 vice versa. Any pronoun shall be construed to refer to the masculine, feminine, or
27 neuter gender as in each case as most appropriate.

28 15. The words "and" and "or" shall be construed conjunctively or

1 disjunctively, whichever makes the request more inclusive. The terms “any” and “all”
2 should be given their most inclusive meaning.

3 16. The use of a verb in any tense shall be construed as the use of the verb in
4 all other tenses.

5 17. Where these interrogatories request that Barnes “identify” a
6 communication, Barnes shall: (1) state the date and place of the communication; (2)
7 identify each person who was present at, involved in, or participated in the
8 communication; (3) identify the type of communication (e.g., letter, telegram,
9 conference, meeting, telephone conversation); (4) state the substance of the
10 communication; and (5) identify each document that reports, states, or constitutes the
11 communication.

12 18. Where these interrogatories request that Barnes “identify” a natural person,
13 Barnes shall state with respect to the person: (1) his or her name; (2) his or her present
14 or last-known business or home address; (3) his or her last-known business or home
15 telephone number; and (4) his or her present or last-known employer and his or her
16 present or last-known position.

17 19. Where these interrogatories request that Barnes “identify” a document,
18 Barnes shall: (1) identify all person(s) who drafted or authored the document; (2)
19 identify all person(s) who received, reviewed, or approved the document; (3) state when
20 the document was prepared; (4) state the document’s present location; (5) identify the
21 type of document (e.g., letter, memorandum, tape recording, or other form of
22 document); (6) state the title or provide a description of the document with the
23 specificity required to allow it to be requested by a subpoena or a request for production
24 of documents; and (7) provide any additional information necessary to identify and
25 locate the document.

26 20. In responding to the following interrogatories, You are required to furnish
27 such information as is available to You or within Your control, including but not limited
28 to information in the possession of Your investigators, employees, agents,

1 representatives, guardians, attorneys, investigators for Your attorneys, or any other
2 person or persons acting on Your behalf and not merely information personally known
3 by the individual responding to the interrogatories.

4 21. If You cannot answer the interrogatories in full, please answer them to the
5 extent You can, and specify the portion of any interrogatory to which You are unable to
6 fully respond, and state the facts upon which You base Your contention that You are
7 unable to fully respond to such portion.

8 22. If You respond to any of the interrogatories by referring to documents
9 containing the requested information, please either provide those documents categorized
10 by the interrogatories to which they respond or identify such documents by their
11 production numbers in Your response.

12 23. If in answering these interrogatories, You claim any ambiguity in either the
13 interrogatories or a definition or instruction applicable thereto, identify in Your response
14 the language You consider ambiguous and state the interpretation You are using in
15 responding.

16 24. These interrogatories are submitted for the purpose of discovery and are
17 not to be taken as waiving any objections which may be made at trial to the introduction
18 of evidence on subjects covered by these interrogatories or as an admission of the
19 relevance of materiality at trial of any of the matters covered by these interrogatories.

20 25. The interrogatories set forth herein shall be deemed continuing pursuant to
21 Federal Rules of Civil Procedure 26(e) so as to require supplemental responses if Barnes
22 discovers responsive information after the date of response hereto.

23 **INTERROGATORIES**

24 **INTERROGATORY NO. 1:**

25 Identify each Entity, Including FFC, where you have participated in the strategy,
26 decision-making, preparation, filing, negotiation(s), or settlement discussion(s) Relating
27 to any IPR petition(s) or possible IPR filing(s).

28

1 INTERROGATORY NO. 2:

2 For each Entity identified in response to Interrogatory No. 1, describe in detail
3 Your relationship to the Entity, Including Your ownership interest in each Entity, Your
4 capital contribution(s), percentage ownership, Your job title and job responsibilities, and
5 the specifics of Your role with respect to any possible or filed IPR petition(s).

6 INTERROGATORY NO. 3:

7 Describe in detail all settlement offers or settlement demands You have made,
8 and any negotiations You have participated in Related to not filing, withdrawing,
9 dismissing, or otherwise settling any IPR petition(s) or possible IPR filing(s), Including
10 describing the offer(s) and counteroffer(s) of each negotiation, any settlement(s) reached
11 in each negotiation, and any monies paid or received as a result of each negotiation.

12 INTERROGATORY NO. 4:

13 For each Entity identified in response to Interrogatory No. 1, describe in detail
14 how and to whom any monies Related to any possible or actually filed IPR petition(s)
15 received by each Entity have been distributed, Including specifically Identifying each
16 recipient, and how much each recipient received.

17 INTERROGATORY NO. 5:

18 Describe all efforts by You or any Entity identified in response to Interrogatory
19 No. 1 to fund, research, develop, or market a generic brimonidine tartrate/timolol
20 maleate ophthalmic solution.

21 INTERROGATORY NO. 6:

22 Describe all efforts by You or any Entity identified in response to Interrogatory
23 No. 1 to fund, research, develop, or market any compound regulated by the FDA.

24 INTERROGATORY NO. 7:

25 Describe in detail all Your Communications with any Contract Manufacturing
26 Partner Concerning any compound regulated by the FDA, including a generic
27 brimonidine tartrate/timolol maleate ophthalmic solution.

28

1 INTERROGATORY NO. 8:

2 Describe in detail all Communications You have had with Sandoz, Inc., Hi-Tech
3 Pharmacal Co., Inc., Alcon Laboratories, Inc., Falcon Pharmaceuticals, Ltd., Apotex,
4 Inc., Apotex, Corporation, or Watson Laboratories, Inc., collectively or individually,
5 Relating to any possible or filed IPR petition Concerning any compound regulated by
6 the FDA, Including a generic brimonidine tartrate/timolol maleate ophthalmic solution.

7 INTERROGATORY NO. 9:

8 Describe in detail all the ways You are aware of or plan to use an IPR petition,
9 Including the IPR petition filed against the '149 patent, to generate revenue(s), Including
10 the "multiple pathways to monetization" referenced in your statement on or about
11 March 20, 2015.

12
13 Dated: July 17, 2015

FISH & RICHARDSON P.C.
By: /s/ Michael A. Amon

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on July 17, 2015 to the following individuals via electronic mail and certified U.S. Mail.

Marc John Randazza (mjr@randazza.com)
Randazza Legal Group
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I declare under penalty of perjury that the foregoing is true and correct.
Executed this 17th day of July, 2015, at San Diego, California.

/s/ Michael A. Amon
Michael A. Amon