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10 PETER S. RINGROSE, and STEPHEN A. SHERWIN

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13
14 IN RE RIGEL PHARMACEUTICALS, INC.
15 SECURITIES LITIGATION

Master File No. CV 09-0546 JSW

CLASS ACTION

**RIGEL AND INDIVIDUAL DEFENDANTS'
SUPPLEMENTAL REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF THEIR MOTION
TO DISMISS CONSOLIDATED COMPLAINT**

Date: December 4, 2009
Time: 9:00 a.m.
Courtroom: 11, 19th floor
Judge: Hon. Jeffrey S. White

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22 This Document Relates To: All Actions
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1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** pursuant to Federal Rule of Evidence 201, Defendants
3 Rigel Pharmaceuticals, Inc. (“Rigel”), James M. Gower, Ryan D. Maynard, Donald G. Payan,
4 Raul R. Rodriguez, Elliott B. Grossbard, Jean Deleage, Bradford S. Goodwin, Gary A. Lyons,
5 Walter H. Moos, Hollings C. Renton, Peter S. Ringrose, and Stephen A. Sherwin (collectively,
6 “Defendants”) hereby request that the Court take judicial notice of the documents identified
7 below in support of Defendants’ Motion to Dismiss Consolidated Complaint. All exhibits are
8 attached to the supporting Supplemental Declaration of Shannon M. Eagan, filed concurrently
9 herewith.

10 Exhibit V: A summary of “Hypertension Guidelines,” published by the National
11 Guideline Clearinghouse, an initiative of the U.S. Department of Health and Human Services,
12 Agency for Healthcare Research and Quality, and available on the National Guideline
13 Clearinghouse website at [http://www.guideline.gov/summary/summary.aspx?doc_id=9531&nbr](http://www.guideline.gov/summary/summary.aspx?doc_id=9531&nbr=5081&ss=15)
14 [=5081&ss=15](http://www.guideline.gov/summary/summary.aspx?doc_id=9531&nbr=5081&ss=15) (last verified on November 28, 2006), and an explanation of the National
15 Guideline Clearinghouse, available at <http://www.guideline.gov/about/about.aspx>.

16 **I. ARGUMENT**

17 When ruling on a motion to dismiss, the court may consider any matter that is subject to
18 judicial notice. *MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986). Judicial
19 notice is appropriate for facts “not subject to reasonable dispute” that are “capable of accurate and
20 ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed.
21 R. Evid. 201(b).

22 **A. The Court Should Take Judicial Notice of Documents Posted on Federal**
23 **Government Websites Which Are Not Reasonably Subject to Dispute.**

24 Judicial notice of Exhibit V is appropriate because the document is not reasonably subject
25 to dispute and because it is “capable of accurate and ready determination by resort to sources
26 whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). Exhibit V is a summary
27 of “Hypertension Guidelines” posted on an official website of the federal government. The
28 National Guideline Clearinghouse website (<http://www.guideline.gov>) is an initiative of the

1 Agency of Healthcare Research and Quality, which is part of the U.S. Department of Health and
2 Human Services. Thus, judicial notice of Exhibit V is appropriate because the document is
3 available on a federal government website and thus, is “not reasonably subject to dispute” and its
4 accuracy is easy to determine “by resort to sources whose accuracy cannot reasonably be
5 questioned.” Fed. R. Evid. 201(b). *See Brocato v. Department of Corrections*, 2009 WL
6 3489367, at *7 (C.D. Cal. Oct. 26, 2009) (judicially noticing U.S. Department of Agriculture
7 Dietary Guidelines for Americans available on federal government website); *Construction*
8 *Laborers Pension Trust of Greater St. Louis v. Neurocrine Biosciences, Inc.*, 2008 WL 2053733,
9 at *6-*7 (S.D. Cal. May 13, 2008) (judicially noticing FDA guidance documents).

10 Further, judicial notice of Exhibit V should also be granted because the information was
11 publicly available to potential investors in the market. *See In re Copper Mountain Sec. Litig.*, 311
12 F. Supp. 2d 857, 864 (N.D. Cal. 2004) (judicially noticing information that was publicly available
13 to investors at the time the defendants allegedly made the false and misleading statements); *In re*
14 *Wet Seal Inc. Sec. Litig.*, 518 F. Supp. 2d 1148, 1159 (C.D. Cal. 2007) (taking judicial notice of
15 documents not referenced in the complaint because they were submitted for the “availability of
16 information to the market . . . rather than for the truth of any matter”). The summary of the
17 Hypertension Guideline was last verified on November 28, 2006, prior to the start of the class
18 period alleged in the Complaint, and thus, was information publicly available to the market at the
19 time the alleged misstatements were made. (Ex. V, “Identifying Information and Availability,”
20 pp. 17-18.) As a result, the Court should take judicial notice of Exhibit V.

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II. CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court take judicial notice of Exhibit V.

Dated: November 12, 2009

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