

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION II
CIVIL ACTION NO. 03-CI-01134

COMMONWEALTH OF KENTUCKY,
ex. rel. GREGORY D. STUMBO, ATTORNEY GENERAL

PLAINTIFF

v.

ABBOTT LABORATORIES, INC.

DEFENDANT

**DEFENDANT ABBOTT LABORATORIES, INC.'S FIRST SET OF
INTERROGATORIES TO THE COMMONWEALTH OF KENTUCKY**

Defendant Abbott Laboratories, Inc. ("Abbott") hereby requests, pursuant to CR 33, that Plaintiff Commonwealth of Kentucky ("Plaintiff") respond to the following Interrogatories (the "Interrogatories"). You are required to respond to these Interrogatories no later than September 15, 2004:

DEFINITIONS

The terms used in these Interrogatories are defined as follows:

1. "Person" shall mean any individual, corporation, partnership, proprietorship, association, organization, governmental entity, group of Persons or any other entity of whatever nature.

2. "Document" shall be defined to the broadest extent permitted by CR 34 and shall mean and refer to any kind of tangible material, whether written, recorded, microfilmed, microfiched, photographed, computerized, reduced to an electronic or magnetic impulse, or otherwise preserved or rendered, and including, but not limited to, papers, agreements, contracts, notes, memoranda, electronic or computer-transmitted messages viewed via monitor, correspondence, letters, e-mails, facsimile transmissions, statements, invoices, record books, reports, studies, analyses, minutes, working papers, charts, graphs, drawings, calendars, appointment books,

diaries, indices, tapes, summaries and/or notes regarding telephone conversations, Personal conversations, interviews, and meetings, and any and all other written, printed, recorded, taped, typed, duplicated, reproduced or other tangible matter in Your possession, custody or control, including, all copies which are not identical to the originals, such as those bearing marginal comments, alterations, notes, or other notations not present on the original Document as originally typed, written, or otherwise prepared.

3. "Communication" shall mean any form of written or oral Communication, including, without limitation, letters, memoranda, electronic mail, voicemail, telegrams, invoices, telephone conversations, face-to-face meetings and other similar forms of Communication or correspondence.

4. "Identify" shall mean, with respect to a Document, to state all of the following information:

(a) The date appearing on such Document, and if no date appears thereon, the answer shall so state and shall give the date or approximate date the Document was prepared;

(b) The Identifying or descriptive code numbers, file number, Bates number, title or label of the Document;

(c) The general nature of the Document (*e.g.*, whether it is a letter, memorandum, drawing, etc.) and the number of pages of the Document;

(d) The name, business address, job title and responsibilities of the author and each Person who made any notation thereon, or who has signed or initialed the Document, or, if it was not signed, the Person who prepared it;

(e) The name, business address, job title and responsibility of the Person to whom the Document was addressed and the name of each Person other than such addressee to whom the Document, or copies thereof, were given or sent;

(f) The general subject matter of the Document;

(g) The location(s) where the Document (and copies) has (have) been stored and the identity of the Person having possession, custody or control of the Document (and copies);

(h) Whether any draft, copy or reproduction of the Document contains any postscript, notation, change, revision, addition, deletion or addendum not appearing on said Document itself, and if so, the response shall give the description as herein defined of each such draft, copy or reproduction;

(i) Whether it is claimed that the Document is privileged or attorney work-product, and if so, the type of privilege claimed, whether the information contained or referred to in such Document is in the possession of any other Person(s), and if so, the identity of such Person(s) and a statement addressing how the information came into their possession, and a statement of all of the circumstances upon which You will rely to support such claim of privilege; and

(j) If any such Document was, but is no longer, in Your possession, custody or control or in existence, state whether it (1) is missing or lost, (2) has been destroyed, (3) has been transferred, voluntarily or involuntarily, to others, or (4) was otherwise disposed of, and in each instance, explain the facts and circumstances surrounding such disposition, Identify the Person(s) who authorized such disposition, and state the date or approximate date of such disposition.

5. "Identify" shall mean, with respect to a natural Person, to state all of the following information:

(a) His or her full name, any nickname and/or alias; and

(b) His or her present residence and business address, and if not known, his or her last known addresses and the last known dates thereof.

6. "Identify" shall mean, with respect to any entity other than a natural Person, to state all of the following information:

(a) The full name or title thereof, any d/b/a, and its state of incorporation (where applicable);

(b) The principal place of business thereof;

(c) The nature or type of entity, if known; and

(d) The principal business thereof.

7. "Concern" and "Concerning" mean referring to, relating to, regarding, constituting, comprising, containing, setting forth, summarizing, reflecting, stating, describing, recording, noting,

embodying, mentioning, studying, analyzing, evidencing, discussing or evaluating, either directly or indirectly.

8. When an Interrogatory asks You to “state the basis” of or for a particular claim, assertion, allegation, or contention, please

(a) Identify each and every Document (and, where pertinent, the section, article, or subparagraph thereof), which forms any part of the source of the party’s information regarding the alleged facts or legal conclusions referred to by the Interrogatory;

(b) Identify each and every Communication which forms any part of the source of the party’s information regarding the alleged facts or legal conclusions referred to by the Interrogatory;

(c) state separately the acts or omissions to act on the part of any Person (Identifying the acts or omissions to act by stating their nature, time, and place and Identifying the Persons involved) which form any part of the party’s information regarding the alleged facts or legal conclusions referred to in the Interrogatory; and

(d) state separately any other fact which forms the basis of the party’s information regarding the alleged facts or conclusions referred to in the Interrogatory.

9. “You,” “Your,” “Plaintiff” or “the Commonwealth” refer collectively to Plaintiff Commonwealth of Kentucky, including but not limited to the Kentucky Cabinet for Health Services, the Office of the Attorney General, the Office of the Inspector General, the Department for Medicaid Services, the Office of the Ombudsman, Drug Management Review Advisory Board, Drug Technical Advisory Committee, Pharmacy and Therapeutics Advisory Committee, the Kentucky Board of Pharmacy, the Legislative Research Commission, officials, agents, employees, commissions, boards, divisions, departments, agencies, instrumentalities, administrators and other Persons or entities acting on its behalf.

10. “Abbott” or “Defendant” means Abbott Laboratories, Inc., along with any predecessor or successor corporation, and any of its past or present officials, officers, representatives, agents, assigns, attorneys, employees, divisions, departments, agencies, affiliates,

subsidiaries, and all other persons or entities acting or purporting to act on its behalf or under its control.

11. "Complaint" means the Amended Complaint filed by You on October 14, 2003.
12. "Manufacturer" means a company that manufactures pharmaceutical products, including, without limitation, Subject Drugs.
13. "Provider" means any entity or physician that provides health care to any Participant or Beneficiary.
14. "HCFA" means the Health Care Financing Administration and all its employees and agents.
15. "CMS" means the Centers for Medicare and Medicaid Services and all its employees and agents.
16. "Subject Drugs" means the products listed in Exhibit 1 of the Complaint and all additional drugs, if any, regarding which You contend that Abbott is liable. Subject Drugs, as used herein, also means those forms of Subject Drugs manufactured by Manufacturers other than Abbott.
17. "Publisher" or "Publishers" refers to any pharmaceutical price reporting/publishing service, including but not limited to, First Data Bank or Blue Book, Medical Economics Co., Inc. or Red Book, and Medispan.
18. "EAC" or "Estimated Acquisition Cost" shall have the meaning ascribed to that term pursuant to 42 C.F.R. § 447.301.
19. "Best Price" shall have the meaning set forth in 42 U.S.C. § 1396r-8(c)(1)(C).
20. "AMP" means "Average Manufacturer Price" and shall have the meaning set forth in 42 U.S.C. § 1396r-8(k)(1).

21. "MAC" or "Maximum Allowable Cost" shall have the meaning ascribed to that term pursuant to 42 C.F.R. § 50.504 or any analogous state statute or regulation.

22. "FUL" means "Federal Upper Limit" and shall have the meaning ascribed to that term pursuant to 42 C.F.R. § 447.332.

23. "Participant" and "Beneficiary" mean a Person for whom You provide health care or health benefits via any program.

24. "PBM" means pharmacy benefits manager.

25. "Benefit Consultant" means any person or entity that provides information, counsel and/or advice to You regarding any medical benefit and/or service provided by You to any Participant or Beneficiary.

26. "Third Party Administrator" means any entity that provides administrative services to You relating to any medical benefit provided to any Participant or Beneficiary.

27. "340B Provider" means any Provider described in Section 340B of the Public Health Act, 42 U.S.C. § 256(b).

28. "AWP" means average wholesale price.

29. "NDC" means national drug code.

30. The terms "and" and "or" have both conjunctive and disjunctive meanings, and the terms "each," "any," and "all" mean "each and every."

GENERAL INSTRUCTIONS

1. The responses, under oath, to each Interrogatory shall include such information as is within Your custody, possession, or control, or that of Your attorneys, investigators, agents, employees, experts retained by You or Your attorneys, or other representatives.

2. Each Interrogatory shall be answered separately.

3. To the extent that the answer to any Interrogatory varies for any of the agencies defined as the "Commonwealth," each agency should answer separately.

4. Unless otherwise specified, provide all of the requested information for the period of January 1, 1993 until the present. If it is necessary to refer to a prior time to fully answer an Interrogatory, please do so.

5. If You cannot answer an Interrogatory after exercising due diligence to secure the information to do so: (a) answer to the extent possible; (b) state Your inability to answer the remainder and the reason therefore; and (c) state whatever information or knowledge You have concerning the unanswered portion; and (d) specify the type of information which Your claim is not available, the reason the information is not available to You, and what You have done to locate such information.

6. If You decline to answer all or part of an Interrogatory based on a claim of privilege or immunity: (a) answer to the extent possible; (b) state the specific grounds for not answering in full and the facts You contend supports Your assertion of a privilege or immunity, providing sufficient information to enable the claim of privilege or immunity to be adjudicated.

7. If You claim that any specific Interrogatory is objectionable, then: (a) Identify the portion of such Interrogatory claimed to be objectionable and state the nature and basis of the objection; (b) Identify any information withheld pursuant to such objections with sufficient particularity and in sufficient detail to permit the court to determine whether information falls within the scope of such objections; and (c) answer any portion of such Interrogatory that is not claimed to be objectionable.

8. In the event You object to any Interrogatory set forth below on the basis of a contention that it is overbroad for any reason, please respond to that Interrogatory as narrowed in

such a way as to render it not overbroad in Your opinion and state the extent to which You have narrowed that Interrogatory for purposes of Your response.

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

10. In these Interrogatories, the singular is meant to include the plural, and vice versa.

11. These Interrogatories shall be deemed continuing and You are required to supplement answers pursuant to the Kentucky Rules of Civil Procedure.

INTERROGATORIES

1. Identify all Persons currently or formerly employed by You, or currently or formerly serving as a contractor to You, likely to have knowledge or information relating to the claims and/or allegations asserted in the Complaint. For each such Person, describe the knowledge or information the Person is likely to have.

ANSWER:

2. Identify all Persons currently or formerly employed by You, or currently or formerly serving as a contractor to You, with any responsibility for, involvement in, or influence on, determining the Kentucky Medicaid reimbursement methodology for prescription drugs generally or for the Subject Drugs. For each such Person, state the subjects of information the Person is likely to have.

ANSWER:

3. Identify all Persons currently or formerly employed by You, or currently or formerly serving as a contractor to You, who possess knowledge about Your decision(s) to use and/or Your actual use(s) of AWP as a benchmark for Kentucky Medicaid reimbursement. For each such Person, state the subjects of information the Person is likely to have.

ANSWER:

4. Identify all Persons currently or formerly employed by You, or currently or formerly serving as a contractor to You, who participated in the establishment, consideration, determination, calculation, or setting of the dispensing fees or fees for other professional services payable in connection with the supply or administration of Subject Drugs by Kentucky Medicaid.

ANSWER:

5. Identify all Persons currently or formerly employed by You, or currently or formerly serving as a contractor to You, who are or were involved in or in any way responsible for the processing of payments of reimbursement claims for the Subject Drugs.

ANSWER:

6. Identify all Persons currently or formerly employed by You, or currently or formerly serving as a contractor to You, who have knowledge of the AMP of any Subject Drug and/or are responsible for administering the Medicaid Rebate Program.

ANSWER:

7. Identify which of your employees or agents knew, at any time up to the filing of this lawsuit, that Kentucky Medicaid reimbursement for prescription drugs exceeds Provider acquisition cost for the drugs, and for each such person describe what they knew and when and how each of these Persons came into possession of such knowledge.

ANSWER:

8. Identify all cabinets, departments, agencies, boards, commissions, organizations, consultants, accountants, task forces or any other entity that has reviewed or analyzed Kentucky Medicaid reimbursement of or expenditures for prescription drugs or dispensing fees and Identify the members of each such entity involved in the review or analysis, the time period of the review or analysis and any analysis, reports or other Documents prepared by those members.

ANSWER:

9. Identify any internal and external assessments, studies, analyses, reviews, reports or audits conducted by or on behalf of You (whether or not performed by You) regarding drug pricing or Kentucky Medicaid reimbursement amounts or rates for prescription drugs, including but not limited to Subject Drugs.

ANSWER:

10. Identify any internal and external assessments, studies, analyses, reviews or audits conducted by or on behalf of You (whether or not performed by You) regarding dispensing fees and/or other fees for professional services related to the supply or administration of prescription drugs, including but not limited to Subject Drugs.

ANSWER:

11. Identify any legislative, regulatory or other changes considered, proposed or adopted, concerning Kentucky Medicaid's reimbursement for prescription drugs, including but not limited to: (a) employing a reimbursement method that does not involve AWP; (b) altering the amount of discount off AWP for the ingredient cost; (c) changing how Kentucky Medicaid obtains AWPs (such as by using AWP sources recommended by the United States Department of Justice or National Association of Medicaid Fraud Control Units); (d) increasing fees for professional services; and (e) requiring Manufacturers to pay a supplemental or additional rebate to the State (on top of the Federal Medicaid rebate). For each proposed or adopted change, state whether the change was adopted, state the reasons why the change was or was not adopted, and Identify all Persons with knowledge regarding the considered, proposed or adopted change.

ANSWER:

12. Identify and describe how, why and when You ceased using the AWPs recommended by the United States Department of Justice or National Association of Medicaid Fraud Control

Units, as noted in the September 2001, HHS-OIG report, entitled "Medicaid's Use of Revised Average Wholesale Prices" (OEI-03-01-00010).

ANSWER:

13. Identify and describe the prescription drug reimbursement methodology employed by any Kentucky agencies or departments that have a prescription drug benefit (besides Kentucky Medicaid) , including but not limited to any agencies or departments that insure employees of Kentucky.

ANSWER

14. Identify any Kentucky "medical care advisory committee" (42 C.F.R. § 431.12(b)), and for each such committee, Identify all members of the Committee, state how and when the committee came into being, describe the actions and recommendations of the committee, and Identify the documents created by the committee.

ANSWER:

15. Identify all Persons who have testified in any legal or legislative forum about Kentucky Medicaid's reimbursement of prescription drugs, costs or reimbursement rates for prescription drugs, pharmacy dispensing fees or other fees for the supply or administration of prescription drugs, and state the legal or legislative forum and date of testimony.

ANSWER:

16. Do You contend that You understood that AWP's published by Publishers reflected actual prices at which Abbott and/or other Manufacturers sold prescription drugs? If so, Identify all Persons currently or formerly employed by You, or currently or formerly serving as a contractor to You who had such an understanding.

ANSWER:

17. Describe at least three specific instances in which Abbott "marketed the spread" to one or more Kentucky Providers as alleged in paragraphs 27-31 of the Complaint, and for each such instance:

- (a) Identify the Abbott employee who marketed the spread;
- (b) Identify the Provider to whom the spread was marketed;
- (c) Identify the drug that was marketed; and
- (d) Identify the place and time of the alleged marketing.

ANSWER:

18. Describe at least three specific instances in which Abbott "used discounts, rebates, free goods, charge-backs, and other financial incentives to induce providers to purchase or administer its drugs," as alleged in paragraph 30 of the Complaint and for each such instance:

- (a) Identify the Abbott employee(s) who engaged in such acts;
- (b) Identify the Provider to whom the alleged inducements were directed;
- (c) Identify the drug that was marketed;
- (d) Identify the “discounts, rebates, free goods, charge-backs, [or] other financial incentives” that were offered; and
- (e) Identify the place and time of the alleged inducement.

ANSWER:

19. Describe each instance in which Abbott “knowingly, willfully, and intentionally concealed its drugs’ true AWP” from Kentucky Medicaid as alleged in paragraph 24 of the Complaint and for each instance:

- (a) Identify what the “true AWP” was;
- (b) State the meaning of the term “true AWP” as used in paragraph 24 of the Complaint;
- (c) Identify the actions of Abbott that constituted a knowing, willful, and intentional concealment;
- (d) Identify any legal basis You rely upon that would require Abbott to disclose any alleged concealment to You.

ANSWER:

20. Describe in detail the factual basis for Your allegation that Abbott manipulated the alleged spread between published AWP and the Provider’s acquisition cost, including the identity of all documents which You have relied upon for this allegation.

ANSWER:

21. Describe each instance in which You requested pricing information directly from Abbott or any other Manufacturer.

ANSWER:

22. Separately as to each Subject Drug manufactured by Abbott, Identify each Provider that submitted a claim for Kentucky Medicaid reimbursement, indicating whether the Provider is or is not a 340B Provider.

ANSWER:

23. Please state, by year and by NDC, the dollar amount paid for reimbursement by Kentucky Medicaid to Providers for each Subject Drug manufactured by Abbott and the amount that You contend You overpaid for such drugs as a result of Abbott's alleged misconduct. Identify all Documents relating to the information provided in response to this Interrogatory.

ANSWER:

24. Please state, by year and by NDC, the dollar amount paid for reimbursement by Kentucky Medicaid to Providers for each Subject Drug manufactured by Manufacturers other than

Abbott. Please provide the yearly dollar amounts both as an aggregate figure and by Manufacturer. Identify all Documents relating to the information provided in response to this Interrogatory.

ANSWER:

25. Please state, by year and by NDC, the total number of units for which reimbursement was paid by Kentucky Medicaid for each Subject Drug manufactured by Abbott. Identify all Documents relating to the information provided in response to this Interrogatory.

ANSWER:

26. Identify, by year and by NDC, the total number of units for which reimbursement was paid by Kentucky Medicaid for each Subject Drug manufactured by a Manufacturer other than Abbott. Please provide the yearly total number of units both as an aggregate figure and by Manufacturer. Identify all Documents relating the information provided in response to this Interrogatory.

ANSWER:

27. Identify, by NDC and by quarter, the Kentucky Medicaid utilization amounts submitted by You to HCFA/CMS for each Subject Drug. This Interrogatory seeks utilization information regarding Subject Drugs manufactured by Manufacturers other than Abbott as well as

utilization information regarding Subject Drugs manufactured by Abbott. Identify all Documents concerning the information provided in response to this Interrogatory.

ANSWER:

28. Identify, by year, the amount paid by Kentucky Medicare beneficiaries to their Providers for each of the Subject Drugs. Please provide each of the yearly dollar amounts requested as an aggregate figure, by beneficiary (if possible) and by Manufacturer (if possible). Identify all Documents concerning the information provided in response to this Interrogatory.

ANSWER:

29. Describe in detail the methods You used to determine reimbursement amounts for each Subject Drug and how those methods changed over time. Answer separately as to claims submitted by 340B Providers versus claims submitted by other Providers. Your answers should include descriptions of:

- (a) the information and documents used by those responsible for establishing reimbursement amounts;
- (b) all reimbursement methodologies actually used; and
- (c) each EAC, FUL and MAC for each Subject Drug, including the process under which each EAC, FUL, and MAC was established, the periods when each EAC, FUL, and MAC was applicable to each Subject Drug, and the periods when each Subject Drug was reimbursed based in whole or in part upon EAC, FUL, or MAC.

ANSWER:

30. Explain the policy reasons for why Kentucky Medicaid calculated reimbursement for the Subject Drugs based on a discount off AWP.

ANSWER:

31. Identify any Kentucky "state plan for medical assistance" (42 U.S.C. 42 C.F.R. 430.0 et seq.), and any proposed or adopted amendments thereto. For each "state plan for medical assistance," Identify:

(a) Each Person who participated in the creation or adoption of such plan, and proposed or adopted amendment thereto, to the extent the Person's activity concerns AMP, MAC, EAC, FUL, Best Price, or other drug pricing information; and

(b) Each document that relates to any such plan, and proposed or adopted amendment, to the extent such document concerns AWP, AMP, MAC, EAC, FUL, Best Price, or other drug pricing information.

ANSWER:

32. State whether, at any time, You made any effort to ascertain any Provider's acquisition cost for any of the Subject Drugs and, if so, describe those efforts in complete detail and Identify the Persons acting on behalf of You who undertook those efforts.

ANSWER:

33. State whether You have, by action, administrative proceeding, or otherwise, sought to recover alleged overpayments from the Providers who allegedly received excessive amounts of

reimbursement as a direct or indirect result of alleged inflated AWP's and, if so, Identify each such action, proceeding or other recovery effort.

ANSWER:

34. If Abbott has ever made a direct representation to You concerning the Subject Drugs, Identify all such representations, including the identity of each Person employed by or acting on behalf of You to whom any such representations were made, each Person employed by or acting on behalf of Abbott who made any such representation, and all documents which contain or reflect any such representations.

ANSWER:

35. If Abbott has ever made a representation to You concerning the meaning of the term AWP, Identify all such representations, including the identity of each Person employed by or acting on behalf of You to whom any such representations were made, each Person employed by or acting on behalf of Abbott who made any such representation, and all documents which contain or reflect any such representations.

ANSWER:

36. Identify all requests by You for supplemental or additional rebates from any Manufacturer, including the identity of each Person making such request, whether the request was

written or oral, the date on which each such request was made, the identity of each Person to whom each request was made, all drugs that any such request concerned, whether an agreement to provide the requested supplemental or additional rebates was a condition to the continued reimbursement by You of any such drugs, and whether an agreement to provide the requested supplemental or additional rebates was a condition to the continued presence of any of Defendant's products on any formulary or list of approved drugs.

ANSWER:

37. Identify each Third Party Administrator, Benefit Consultant and PBM contacted, retained or hired by You in connection with the prescription drug benefit under Kentucky Medicaid.

ANSWER:

38. Identify each Provider who actually received alleged "inflated amounts" of reimbursement from You at any time on account of any alleged fraud, scheme, misrepresentation, negligence, or other culpable conduct by Defendant.

ANSWER:

39. If You contend that Abbott is liable solely by virtue of the existence of a so-called "spread" between the amount reimbursed by Kentucky Medicaid for a prescription drug and the price paid by Providers to acquire such prescription drug then set forth how large You contend the

spread must be (as a percentage of Provider acquisition cost) to constitute grounds for liability. If You contend otherwise, please describe the additional grounds that You contend make Abbott liable.

ANSWER:

40. Identify those portions of Your budget that are impacted by, or otherwise relate to, prescription drug pricing, including but not limited to all budgets, budget proposals and all responses and amendments thereto. For each impacted budget portion, Identify each Person (by full name, address, and business affiliation) currently or formerly employed You who has or had responsibility for, involvement with, or influence on the impacted budget portion and each document that relates to the impacted budget portion.

ANSWER:

41. Identify all contracts, memoranda or understanding or agreements between You and Providers concerning the provision of or reimbursement for the Subject Drugs and prescription drugs generally, including: (a) an identification of the parties to each contract, memorandum of understanding or agreement, the substance of each contract, memorandum of understanding or agreement, (b) each Person (by full name, address, and business affiliation) currently or formerly employed by You who negotiated, authored, executed or otherwise contributed to, the contracts, memoranda of understanding or agreements, and (c) each document that relates to the contracts, memoranda of understanding or agreements.

ANSWER:

42. Identify all contracts, memoranda of understanding, or agreements concerning the processing of reimbursement claims by You for the Subject Drugs and prescription drugs generally, including but not limited to contracts or arrangements concerning data processing and third party administration of claims. For each contract, memorandum of understanding or agreement, Identify the parties to each contract, memorandum of understanding or agreement, the substance of each contract, memorandum of understanding or agreement, each Person (by full name, address, and business affiliation) currently or formerly employed by You who negotiated, authored, executed or otherwise contributed to, the contracts, memoranda of understanding or agreements, and each document that relates to the contracts, of understanding or agreements.

ANSWER:

43. Identify all communications between HCFA/CMS and any other agency of the federal government and You concerning AWP, AMP, MAC, EAC, Best Price, Medicaid, pricing of pharmaceutical products, costs of pharmaceutical products, reimbursement for pharmaceutical products by state programs, or rebates for pharmaceutical products, including the dates of the communications and the identity of the Persons employed by or working on behalf of You and the Federal Agencies who were parties to the communications.

ANSWER:

44. State and explain in detail the specific amount of damages the You have suffered with respect to each count against Abbott as stated in the Complaint. In answering this Interrogatory, You are instructed to provide a liquidated amount pursuant to CR 8.01(2). In Your answer:

(a) describe the methodology You employed in calculating such damages and all assumptions made when calculating such damages; and

(b) Identify all documents supporting such damages and state all factors on which You rely in claiming such damages.

ANSWER:

45. State the AWP used for reimbursement purposes for each NDC of each Subject Drug, including the time period during which the AWP was used.

ANSWER:

46. Identify any Person whom You or Your attorneys expect to use as an expert witness in conjunction with this litigation and, as to each such Person, state:

(a) the subject on which the Person is expected to provide expert testimony;

(b) the substance of the facts and opinions as to which such Person is expected to render an opinion;

(c) the Documents such Person reviewed in connection with rendering his or her opinion;

(d) a summary of the grounds for each such opinion;

(e) each judicial or administrative proceeding in which each such Person has testified or is currently expected to testify;

- (f) the Person's educational, employment and professional background;
- (g) any publications and non-published reports or studies that such Person has authored, co-authored or helped to write or research;
- (h) any other information that You may use to qualify such Person as an expert or that bears on such Person's expertise; and
- (i) whether such Person has been previously retained by You, Your attorneys or their law firms, including, but not limited to the circumstances of such employment.

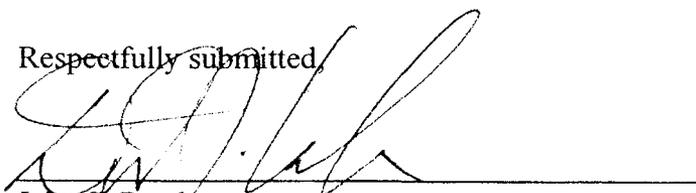
ANSWER:

47. Identify each Person consulted or relied upon, or who provided documents or who otherwise constituted a source of factual information, in connection with the preparation of responses to these Interrogatories, listing with respect to each such person the number(s) of the Interrogatories to which he or she helped to respond or as to which he or she was consulted or relied upon or otherwise constituted a source of factual information.

ANSWER:

Dated 8-2, 2004

Respectfully submitted,



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CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing was served by first-class mail, postage prepaid, to the following on August 2, 2004.

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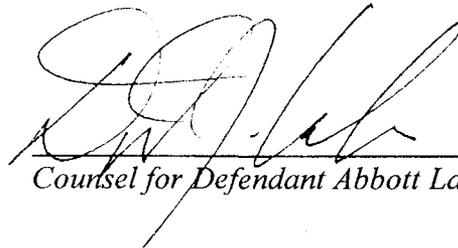
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