

THE STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
<i>ex rel.</i>	§	
VEN-A-CARE OF THE	§	
FLORIDA KEYS, INC.	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
ABBOTT LABORATORIES INC.,	§	
B. BRAUN MEDICAL INC., AND	§	
BAXTER HEALTHCARE	§	
CORPORATION	§	
	§	
<i>Defendants.</i>	§	201 <sup>st</sup> JUDICIAL DISTRICT

**ABBOTT LABORATORIES INC.'S RESPONSES  
TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

TO: Plaintiff The State of Texas, by and through Raymond C. Winter, Assistant Attorney General, P.O. Box 12548, Austin, Texas 78711.

Plaintiff Ven-A-Care of the Florida Keys, Inc., by and through its attorneys of record, John E. Clark, Goode Casseb Jones Riklin Choate & Watson, 2122 North Main Avenue, P.O. Box 120480, San Antonio, Texas 78212-9680, and James J. Breen, The Breen Law Firm, P.A., P.O. Box 297470, Pembroke Pines, Florida 33029-7470.

Pursuant to the Texas Rules of Civil Procedure, specifically but not limited to Rule 197, Defendant Abbott Laboratories Inc. ("Abbott"), by its attorneys, responds to Plaintiffs' First Set of Interrogatories directed to Abbott ("Interrogatories") as follows:

**PRELIMINARY STATEMENT & OBJECTIONS**

1. Abbott's investigation for information in response to Plaintiffs' Interrogatories continues, and its responses to these Interrogatories are based on information available at this time. Abbott reserves the right to supplement and/or amend these responses at any time prior to trial.

2. The information supplied herein is for use in this litigation and for no other purpose.

3. Abbott's specific objections to each interrogatory are in addition to the general limitations and objections set forth in this and subsequent sections, which form a part of the response to each and every interrogatory and are set forth here to avoid the duplication and repetition of restating them for each response.

4. Abbott objects to these Interrogatories because they are overly broad, unduly burdensome, not relevant to the subject matter of this action, and not reasonably calculated to lead to the discovery of admissible evidence to the extent they seek information relating to drugs other than Abbott's drugs listed in Exhibit A to the Second Amended Petition and to the extent they seek information regarding drugs that are not reimbursed by Texas Medicaid.

5. Abbott objects to these Interrogatories because they are overly broad, unduly burdensome, not relevant to the subject matter of this action, and not reasonably calculated to lead to the discovery of admissible evidence to the extent they seek information relating to a thirteen-year time period that extends far beyond the period for which Plaintiffs seek damages.

6. Abbott objects to these Interrogatories because they are overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence to the extent they seek information concerning activities outside of the United States. Unless otherwise noted, all responses are limited to activities within the fifty United States, not including foreign territories.

### **OBJECTIONS TO DEFINITIONS**

1. Abbott objects to the definition of "document" because it is vague and ambiguous, because it is unduly burdensome, and to the extent that it exceeds or fails to comply with the requirements of the Texas Rules of Civil Procedure, including Rule 196.4.

2. Abbott objects to the definition of “Abbott Entity,” “Abbott,” “you” or “your company” because it is overly broad, unduly burdensome and seeks information that is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

3. Abbott objects to the definition of “Identified Drugs” because it is overly broad, unduly burdensome and seeks information that is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs have identified twenty-two pages of drugs for which they seek discovery. But many of these drugs have not been named in the Second Amended Petition and thus are not at issue in this action. Abbott further objects to the definition of “Identified Drugs” to the extent it seeks information regarding drugs that are not reimbursed by Texas Medicaid. Additionally, on April 30, 2004, Hospira, Inc. (“Hospira”) was spun-off from Abbott Laboratories. As part of that transaction, Hospira acquired Vancomycin HCl and Sodium Chloride 0.9% Irrigation. Therefore, as of April 30, 2004, those drugs became Hospira drugs. Abbott will produce information related only to Abbott’s drugs listed in Exhibit A to the Second Amended Petition.

4. Abbott objects to the definition of “Specified Time Period” because it is overly broad, unduly burdensome and seeks information that is neither relevant to the subject matter of this action nor reasonably calculated to the discovery of admissible evidence.

5. Abbott objects to the definition of “Identify” because it is overly broad and unduly burdensome to the extent that it exceeds or fails to comply with the requirements of the Texas Rules of Civil Procedure.

6. Abbott objects to the definition of “AMP” as vague and ambiguous because 42 U.S.C. § 1396r-8 has been amended over time.

7. Abbott objects to the definition of “Application” because it is overly broad, unduly burdensome, vague, ambiguous, and seeks information that is neither relevant to the subject matter of this action nor reasonably calculated to the discovery of admissible evidence to the extent it is not limited to Texas.

8. Abbott objects to the definition of “Governmental Officials” because it is vague, ambiguous, overly broad and unduly burdensome, particularly to the extent it includes “any person who is an employee, agent or representative of any national, state, local or municipal government.”

9. Abbott objects to the definition of “Best Price” because, in this context, Plaintiffs’ reference to 42 U.S.C. § 1396r-8 is vague and ambiguous. The current version of 42 U.S.C. § 1396r-8 has at least two different definitions of “Best Price.” Additionally, 42 U.S.C. § 1396r-8 has been amended over time, making Plaintiffs’ definition vague and ambiguous.

10. Abbott objects to the definition of “person” because it is vague and ambiguous.

11. Abbott objects to the term “Price Representation” as overly broad, vague and ambiguous, particularly with respect to the terms “price,” “representations” and “special price.”

### **OBJECTIONS TO INSTRUCTIONS**

1. Abbott objects to Paragraphs 2, 3, 4, 6 and 7 of Plaintiffs’ “General Instructions” to the extent they exceed or alter the scope of permissible discovery under the Texas Rules of Civil Procedure. Abbott will respond to these Interrogatories in accordance with the Texas Rules.

2. Abbott objects to Paragraph 5 of Plaintiffs’ “General Instructions” requesting information for the “Specified Time Period” of “January 1, 1991 to the date on which you respond to a particular interrogatory.” The Second Amended Petition seeks damages for the period of September 1, 1995 to the present. Accordingly, information relating to the period

before September 1, 1995 is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence, and Plaintiffs' request for such information is overly broad and unduly burdensome. Subject to and without waiving any of its objections, Abbott will produce information relating to the period of September 1, 1995 to the present.

### **INTERROGATORIES**

The foregoing statement and objections (collectively referred to herein as the "preliminary objections") are incorporated by reference into each of the following responses:

#### **INTERROGATORY NO. 1:**

- (A) *Identify each Abbott Entity that performed a marketing function at any time during the Specified Time Period as to each Identified Drug. For the purposes of these interrogatories, "a marketing function" includes but is not limited to the preparation, implementation, review, communication, and/or records maintenance of product launch materials, press releases, information published on corporate websites, information published in wholesaler software programs, marketing plans, market share research, reports of sales and marketing activities of competitors, product packaging recommendations, marketing strategies, advertising materials, telemarketing materials, advertising budgets, sales forecasts, marketing staff evaluations, market trend reports, and reports describing the marketing activities of any Abbott Entity's employees, officers, agents, contractors, affiliates, or consultants.*
  
- (B) *If an Abbott Entity identified above performed a marketing function for less than all of the Identified Drugs and/or for a time period shorter than the Specified Time Period, identify by NDC Number the Identified Drug(s) for which the Abbott Entity performed a marketing function, describe each marketing function performed, and specify the time period during which each marketing function was performed.*

**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action.

Abbott further objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence in seeking information regarding Abbott's drugs not listed in Exhibit A to the Second Amended Petition.

Abbott further objects to this interrogatory because the term "marketing function" is vague, ambiguous and overly broad, particularly to the extent it includes "the preparation, implementation, review, communication, and/or records maintenance" of a list of activities, some of which have nothing to do with marketing.

Abbott further objects to this interrogatory because it assumes facts not in evidence, namely that Abbott performs all of the activities listed in Interrogatory 1. By responding to this interrogatory, Abbott does not represent that it performs all of the activities listed.

Subject to and without waiving any of its objections, Abbott states that Abbott Laboratories had marketing responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from September 1, 1995 to October 2, 1997, and Abbott Laboratories Inc. has marketing responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from October 2, 1997 to the present.

**INTERROGATORY NO. 2:**

- (A) *Identify each Abbott Entity that performed a sales function at any time during the Specified Time Period as to each Identified Drug. For the purposes of these interrogatories, "a sales function" includes but is not limited to the making of sales calls on customers or potential customers, and the preparation, implementation, review, communication, and/or records maintenance of client lists, sales staff training presentations and materials, competitive sales research and/or reports, sales strategies, documentation of sales calls and/or customer inquiries, customer service reports, sales reports, sales goals, sales projections, sales management reports, sales meeting materials, telemarketing sales scripts, sales staff evaluations, sales staff travel budgets, sales staff travel reimbursement records, sales forecasts, and reports describing the sales activities of any Abbott Entity's employees, officers, agents, contractors, affiliates, or consultants.*

- (B) If an *Abbott Entity* identified above performed a sales function for less than all of the *Identified Drugs* and/or for a time period shorter than the *Specified Time Period*, identify by *NDC Number* the *Identified Drug(s)* for which the *Abbott Entity* performed a sales function, describe each sales function performed, and specify the time period during which each sales function was performed.

**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action.

Abbott further objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence in seeking information regarding Abbott's drugs not listed in Exhibit A to the Second Amended Petition.

Abbott further objects to this interrogatory because the term "sales function" is vague, ambiguous and overly broad, particularly to the extent it includes "the preparation, implementation, review, communication, and/or records maintenance" of a list of activities, some of which have nothing to do with sales.

Abbott further objects to this interrogatory because it assumes facts not in evidence, namely that Abbott performs all of the activities listed in Interrogatory 2. By responding to this interrogatory, Abbott does not represent that it performs all of the activities listed.

Subject to and without waiving any of its objections, Abbott states that Abbott Laboratories had sales responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from September 1, 1995 to October 2, 1997, and Abbott Laboratories Inc. has sales responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from October 2, 1997 to the present.

**INTERROGATORY NO. 3:**

- (A) *Identify each Abbott Entity that performed a pricing function at any time during the Specified Time Period as to each Identified Drug. For the purposes of these interrogatories, “a pricing function” includes but is not limited to the setting of product prices, rebates, credits, contract prices, discounts, bonuses, and any other price reductions, and the preparation, implementation, review, communication, and/or records maintenance of price lists, price reports, Price Representations, price updates, price change notifications, reports containing prices to various classes of trade, forecasts and/or projections of price movement, information submitted to or published by Price Reporting Services, reports of competitors’ prices, pricing recommendations, pricing strategies, reports of pricing trends, and reports describing the pricing activities of any Abbott Entity’s employees, officers, agents, contractors, affiliates, or consultants.*
- (B) *If an Abbott Entity identified above performed a pricing function for less than all of the Identified Drugs and/or for a time period shorter than the Specified Time Period, identify by NDC Number the Identified Drug(s) for which the Abbott Entity performed a pricing function, describe each pricing function performed, and specify the time period during which each pricing function was performed.*

**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action.

Abbott further objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence in seeking information regarding Abbott’s drugs not listed in Exhibit A to the Second Amended Petition.

Abbott further objects to this interrogatory because the term “pricing function” is vague, ambiguous and overly broad, particularly to the extent it includes “the preparation, implementation, review, communication, and/or records maintenance” of a list of activities, some of which have nothing to do with pricing.

Abbott further objects to this interrogatory because it assumes facts not in evidence, namely that Abbott performs all of the activities listed in Interrogatory 3. By responding to this interrogatory, Abbott does not represent that it performs all of the activities listed.

Subject to and without waiving any of its objections, Abbott states that Abbott Laboratories had pricing responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from September 1, 1995 to October 2, 1997, and Abbott Laboratories Inc. has pricing responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from October 2, 1997 to the present.

**INTERROGATORY NO. 4:**

- (A) *Identify each Abbott Entity that performed a manufacturing function at any time during the Specified Time Period as to each Identified Drug. For the purposes of these interrogatories, “a manufacturing function” includes but is not limited to combining, refining, compounding, processing, bottling, and/or packaging pharmaceutical ingredients to create a finished pharmaceutical product.*
- (B) *If an Abbott Entity identified above performed a manufacturing function for less than all of the Identified Drugs and/or for a time period shorter than the Specified Time Period, identify by NDC Number the Identified Drug(s) for which the Abbott Entity performed a manufacturing function, describe each manufacturing function performed, and specify the time period during which each manufacturing function was performed.*

**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action.

Abbott further objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence in seeking information regarding Abbott’s drugs not listed in Exhibit A to the Second Amended Petition.

Abbott further objects to this interrogatory because manufacturing information is not relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

Abbott further objects to this interrogatory because it is vague and ambiguous, particularly with respect to the terms “manufacturing function,” “combining,” “refining,” “compounding” and “processing.”

Abbott further objects to this interrogatory because it assumes facts not in evidence, namely that Abbott performs all of the activities listed in Interrogatory 4. By responding to this interrogatory, Abbott does not represent that it performs all of the activities listed.

Subject to and without waiving any of its objections, Abbott states that Abbott Laboratories has manufacturing responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from September 1, 1995 to the present.

**INTERROGATORY NO. 5:**

- (A) *Identify each Abbott Entity that performed an accounting function at any time during the Specified Time Period as to each Identified Drug. For the purposes of these interrogatories, “an accounting function” includes but is not limited to the preparation, implementation, review, approval, communication, and/or records maintenance of product profitability analyses, reports reflecting customer chargebacks, sales data, price tracking reports, financial forecasts, calculations of AMP and Best Price for Medicaid Rebate reports, reports of product prices to various classes of trade, revenue reports, profit and loss statements, sales forecasting reports, and all other financial reports reflecting the prices of or the revenue derived from the sale of the Identified Drugs.*
- (B) *If an Abbott Entity identified above performed an accounting function for less than all of the Identified Drugs and/or for a time period shorter than the Specified Time Period, identify by NDC Number the Identified Drug(s) for which the Abbott Entity performed an accounting function, describe each accounting function performed, and specify the time period during which each accounting function was performed.*

**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action

and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action.

Abbott further objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence in seeking information regarding Abbott's drugs not listed in Exhibit A to the Second Amended Petition.

Abbott further objects to this interrogatory because the term "accounting function" is vague, ambiguous and overly broad, particularly to the extent it includes "the preparation, implementation, review, communication, and/or records maintenance" of a list of activities, some of which have nothing to do with accounting.

Abbott further objects to this interrogatory because it assumes facts not in evidence, namely that Abbott performs all of the activities listed in Interrogatory 5. By responding to this interrogatory, Abbott does not represent that it performs all of the activities listed.

Subject to and without waiving any of its objections, Abbott states that Abbott Laboratories had accounting responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from September 1, 1995 to the October 2, 1997 and Abbott Laboratories and Abbott Laboratories Inc. have accounting responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from October 2, 1997 to the present.

**INTERROGATORY NO. 6:**

- (A) *Identify each Abbott Entity that performed a contracting function related to the Identified Drugs during the Specified Time Period. For the purposes of these interrogatories, "a contracting function" includes but is not limited to the drafting, negotiation, preparation, implementation, review, approval, execution and/or maintenance of any and all contracts and records regarding contracts for the sale, distribution, manufacturing, marketing, and purchase of the Identified Drugs.*

- (B) If an *Abbott Entity* identified above performed a contracting function for less than all of the *Identified Drugs* and/or for a time period shorter than the *Specified Time Period*, identify by *NDC Number* the *Identified Drug(s)* for which the *Abbott Entity* performed a contracting function, describe each accounting function performed, and specify the time period during which each accounting function was performed.

**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action.

Abbott further objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence in seeking information regarding Abbott's drugs not listed in Exhibit A to the Second Amended Petition.

Abbott further objects to this interrogatory because the term "contracting function" is vague, ambiguous and overly broad, particularly to the extent it includes activities that have nothing to do with contracting.

Abbott further objects to this interrogatory because it assumes facts not in evidence, namely that Abbott performs all of the activities listed in Interrogatory 6. By responding to this interrogatory, Abbott does not represent that it performs all of the activities listed.

Subject to and without waiving any of its objections, Abbott states that Abbott Laboratories had contracting responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from September 1, 1995 to October 2, 1997, and Abbott Laboratories Inc. has contracting responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from October 2, 1997 to the present.

**INTERROGATORY NO. 7:**

- (A) *Identify each Abbott Entity that received or was credited with any portion of the proceeds from the sale of the Identified Drugs during the Specified Time Period.*
- (B) *If an Abbott Entity identified above received or was credited with a portion of the proceeds from the sale of less than all of the Identified Drugs and/or for a time period shorter than the Specified Time Period, identify by NDC Number the Identified Drug(s) for which the Abbott Entity received or was credited with sales proceeds, and specify the time period during which the sales proceeds were received or credited.*

**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action.

Abbott further objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence in seeking information regarding Abbott's drugs not listed in Exhibit A to the Second Amended Petition.

Abbott further objects to this interrogatory because it is vague and ambiguous, particularly with respect to the phrase "received or was credited with" sales proceeds.

Subject to and without waiving any of its objections, Abbott states that proceeds from the sale of the Abbott drugs listed in Exhibit A to the Second Amended Petition were attributed to Abbott Laboratories from September 1, 1995 to October 2, 1997, and proceeds from the sale of the Abbott drugs listed in Exhibit A to the Second Amended Petition are attributed to Abbott Laboratories Inc. from October 2, 1997 to the present.

**INTERROGATORY NO. 8:**

- (A) *Identify each Abbott Entity that performed a government affairs or governmental relations function at any time during the Specified Time Period as to each*

*Identified Drug.* For the purposes of these interrogatories, “a government affairs or governmental relations function” includes but is not limited to: (1) meeting, writing to, or speaking with state or federal government employees or officials; (2) preparing, reviewing, providing information for, authorizing, communicating, and/or maintaining records of *Price Representations* made to state or federal governmental agencies; (3) directly or indirectly via price and data reporting services (e.g. First Data Bank, RedBook, Medispan, etc.), corresponding with state or federal government agencies and/or officials; (4) *applications* to be listed on Medicaid formularies; (5) applications for Food and Drug Administration (FDA) approval; (6) *AMP* and *Best Price* reports made to the federal government; (7) and, reports or testimony to state or federal governmental bodies.

- (B) If an *Abbott Entity* identified above performed a governmental affairs or governmental relations function for less than all of the *Identified Drugs* and/or for a time period shorter than the *Specified Time Period*, identify by *NDC Number* the *Identified Drug(s)* for which the *Abbott Entity* performed a government affairs or governmental relations function, describe each government affairs or governmental affairs function performed, and specify the time period during which each government relations or governmental affairs function was performed.

**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action.

Abbott further objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence in seeking information regarding Abbott’s drugs not listed in Exhibit A to the Second Amended Petition.

Abbott further objects to this interrogatory because the term “governmental affairs or governmental relations function” is vague, ambiguous and overly broad, particularly to the extent it includes communications “directly or indirectly via price and data reporting services.”

Abbott further objects to this interrogatory because it is argumentative, particularly to the extent it suggests that Abbott communicates or provides information to the government “directly or indirectly via price and data reporting services.”

Abbott further objects to this interrogatory because it assumes facts not in evidence, namely that Abbott performs all of the activities listed in Interrogatory 8. By responding to this interrogatory, Abbott does not represent that it performs all of the activities listed.

Subject to and without waiving any of its objections, Abbott states that Abbott Laboratories had government affairs responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from September 1, 1995 to October 2, 1997. Abbott Laboratories and Abbott Laboratories Inc. have government affairs responsibilities for the Abbott drugs listed in Exhibit A to the Second Amended Petition from October 2, 1997 to the present.

**INTERROGATORY NO. 9:**

- (A) *Identify each Abbott Entity that has stored and/or maintained documents or data about the Identified Drugs during the Specified Time Period.*
- (B) *If an Abbott Entity identified above has stored and/or maintained documents or data about some, but not all of the Identified Drugs and/or for a time period shorter than the Specified Time Period, identify by NDC Number the Identified Drug(s) for which the Abbott Entity stored and/or maintained documents or data, describe with specificity the categories of documents and data the Abbott Entity stored and/or maintained, and specify the time period during which each category of documents and/or data was stored or maintained.*

**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action.

Abbott further objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to

lead to the discovery of admissible evidence in seeking information regarding Abbott's drugs not listed in Exhibit A to the Second Amended Petition.

Abbott further objects to this interrogatory because it is vague and ambiguous, particularly with respect to the term "categories of *documents*."

Subject to and without waiving any of its objections, Abbott states that Abbott Laboratories stored and/or maintained documents or data about the Abbott drugs listed in Exhibit A to the Second Amended Petition from September 1, 1995 to October 2, 1997, and Abbott Laboratories and Abbott Laboratories Inc. store and/or maintain documents or data about the Abbott drugs listed in Exhibit A to the Second Amended Petition from October 2, 1997 to the present.

**INTERROGATORY NO. 10:**

*Identify each person who in any way assisted with the preparation of the responses to these Interrogatories. With respect to each such person, specify the number of each Interrogatory that person assisted in answering, the person's job title (if the person has had more than one job title during the *Specified Time Period*, give each title and the corresponding dates the title was held), and the *Abbott Entity* for which that person works or has worked (if the person has worked for more than one *Abbott Entity* during the *Specified Time Period*, specify each *Abbott Entity* the person worked for and the corresponding dates the person was employed by that *Abbott Entity*).*

**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action and seeks information concerning persons and entities that have no relationship to Abbott's drugs listed in Exhibit A to the Second Amended Petition.

Abbott further objects to this interrogatory because it seeks information protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving any of its objections, Abbott states that Joseph Fiske, Director, Pricing and Planning, Abbott Laboratories Inc.; Lynn E. Leone, Manager, Contract Program Integrity, Hospira, Inc.; Frank Loughery, Assistant Corporate Controller & Divisional Vice President, Abbott Laboratories; and Dale Johnson, Divisional Vice President, State Government Affairs, Abbott Laboratories and Abbott's counsel participated in preparing answers to these interrogatories.

**INTERROGATORY NO. 11:**

*Identify each corporate officer and/or director of each and every Abbott Entity during the Specified Time Period.*

**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action and seeks information unrelated to the claims made in this case.

Abbott further objects to this interrogatory because it seeks information in the public domain.

Subject to and without waiving its objections, Abbott refers to [www.abbott.com](http://www.abbott.com) and other publicly available sources in response to Interrogatory No. 11.

**INTERROGATORY NO. 12:**

*Identify by case number, style, and court in which it is pending each and every lawsuit involving pharmaceutical pricing to which an Abbott Entity has been a named party during the Specified Time Period.*

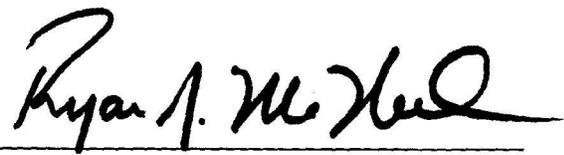
**ANSWER:** In addition to its preliminary objections, Abbott objects to this interrogatory because it is overly broad, unduly burdensome, not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence, particularly to the

extent it seeks information over a thirteen-year period that extends beyond the period at issue in this action and seeks information generally related to price reporting.

Abbott further objects to this interrogatory because it seeks information in the public domain.

Abbott further objects to this interrogatory because the phrase “involving pharmaceutical pricing” is overly broad, vague and ambiguous.

Subject to and without waiving any of its objections, Abbott states that it is a named party in the following pending litigation related to alleged reporting of prices of Abbott products that are used for Medicare, Medicaid and third party payor reimbursement: *In re Pharmaceutical Industry Average Wholesale Price Litigation* (MDL 1456) Civil Action No. 01-CV-12257 PBS, D. Mass, including actions transferred to MDL 1456; *Commonwealth of Kentucky v. Abbott Laboratories Inc.*, Civil Action No. 03-CI-1134, Franklin Circuit Court, KY; *State of Nevada v. Abbott Laboratories Inc., et al.*, Case No. CV-N-02-0080-ECR-RAM, Second Judicial District Court, Washoe County, NV; *State of Ohio v. Dey, Inc., et al.*, Case No. A0402047, Court of Common Pleas, Hamilton County, OH; *Commonwealth of Pennsylvania v. TAP Pharmaceutical Products, Inc., et al.*, No. 212 MD 2004, Commonwealth Court of Pennsylvania; *State of Texas ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories Inc., et al.*, Cause No. GV401286, District Court, Travis County, TX; *State of West Virginia v. Warrick Pharmaceuticals Corp., et al.*, Case No. 01-C-3011, Circuit Court of Kanawha County, WV; *State of Wisconsin v. Abbott Laboratories Inc., et al.*, Case No. 3:04-477, W.D. Wisc.; *City of New York v. Abbott Laboratories Inc., et al.* Case No. 04-CV-06504, S.D.N.Y; *Peralta v. Abbott Laboratories Inc.*, Case No. BC 259587, Superior Court for the State of California, Los Angeles County; and *Robert J. Swanston v. TAP Pharmaceutical Products Inc., et al.*, Case No. CV-2002-004988, Superior Court of the State of Arizona, Maricopa County.



Craig F. Simon  
Texas State Bar No. 00784968  
Ryan J. McNeel  
Texas State Bar No. 24032851  
JONES DAY  
2727 North Harwood Street  
Dallas, Texas 75201  
(214) 220-3939 Telephone  
(214) 969-5100 Facsimile

ATTORNEYS FOR ABBOTT  
LABORATORIES INC.

Of Counsel:

James R. Daly  
Toni-Ann Citera  
JONES DAY  
77 West Wacker  
Chicago, Illinois 60601-1692  
(312) 782-3939 Telephone  
(312) 782-8585 Facsimile

R. Christopher Cook  
JONES DAY  
51 Louisiana Avenue, N.W.  
Washington, D.C. 20001-2113  
(202) 879-3939 Telephone  
(202) 626-1700 Facsimile

VERIFICATION

My name is Joseph E. Fiske. I am currently employed by Abbott Laboratories Inc. ("Abbott") as Director, Pricing & Planning. I am authorized by Abbott to verify these interrogatory responses for Abbott. Abbott's responses were prepared from Abbott's records, files and information kept by the company in the regular and ordinary course of its business, with the assistance of persons regularly in the employ of or retained by Abbott. The persons in the employ of or retained by Abbott charged with responsibility for supervising the gathering of the information contained in these responses have reported to me that, subject to inadvertent or undiscovered errors, these responses are true and correct, being based on and necessarily limited by the records, files and information still in existence, presently recollected and thus far discovered. Subject to these limitations, I state that these responses are true and correct to the best of my knowledge, information and belief.

I declare under the penalty of perjury that the foregoing is true and correct.

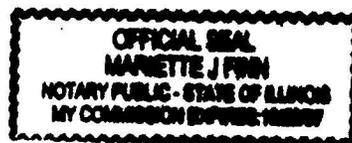
Joseph E. Fiske

STATE OF Illinois )  
COUNTY OF Lake )

SUBSCRIBED AND SWORN TO before me, a Notary Public, this 20<sup>th</sup> day of September, 2004.

October 29, 2007  
My Commission Expires

Mariette J. Finn  
Notary Public for the  
State of Illinois



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was served on this 20<sup>th</sup> day of September, 2004 as follows to:

*via facsimile and certified mail*

Raymond C. Winter, Esq.  
Assistant Attorney General  
Post Office Box 12548  
Austin, Texas 78711-2548  
Fax Number: 512-499-0712

*via certified mail*

C. Michael Moore, Esq.  
Locke, Liddell & Sapp, LLP  
2200 Ross Avenue, Suite 2200  
Dallas, Texas 75201-8001

*via certified mail*

Merle M. DeLancey, Esq.  
Dickstein Shapiro Morin & Oshinsky LLP  
2101 L. Street NW  
Washington, DC 20037-1526

*via certified mail*

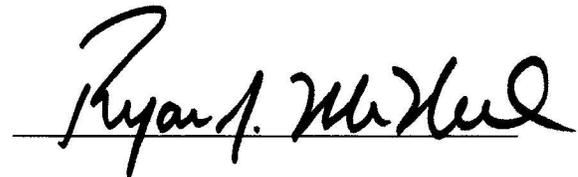
James J. Breen, Esq.  
The Breen Law Firm, P.A.  
Post Office Box 297470  
Pembroke Pines, Florida 33029-7470

*via certified mail*

C. Jarrett Anderson, Esq.  
Anderson LLC  
1300 Guadalupe, Suite 103  
Austin, Texas 78701

*via certified mail*

John E. Clark, Esq.  
Goode Casseb Jones, Riklin Choate &  
Watson  
2122 North Main Avenue  
San Antonio, Texas 78212

  
\_\_\_\_\_