

STATE OF WISCONSIN,)	
)	
Plaintiff,)	
)	
v.)	Case No. 04-CV-1709
)	
AMGEN INC., <i>ET AL.</i> ,)	
)	
Defendants.)	
)	

**ABBOTT LABORATORIES' OBJECTIONS
TO THE STATE OF WISCONSIN'S SECTION
804.05(2)(e) NOTICE OF DEPOSITION**

Defendant Abbott Laboratories ("Abbott") by its attorneys, and pursuant to Wisconsin Stat. §§ 804.05(2)(e) and 804.05(4)(b), submits the following objections to the State of Wisconsin's ("Plaintiff") Notice of Deposition of Defendant Abbott Laboratories, Inc. ("Notice").

GENERAL OBJECTIONS TO NOTICE

A. Abbott generally objects to the Notice to the extent that the State is seeking to depose Abbott's corporate representatives before the State files a proper amended complaint that complies with the directives of the Court's April 3, 2006 Partial Order and Decision ("Order").

B. Abbott generally objects to the Notice to the extent it seeks information that is protected from disclosure by the attorney-client privilege, any medical records privilege, the attorney work-product doctrine, the joint-defense privilege, the consulting expert privilege, third-party confidentiality agreements or protective orders, and/or any other applicable privilege, rule or doctrine.

C. Abbott generally objects to the Notice to the extent it exceeds the scope of discovery permitted under the Wisconsin Rules of Civil Procedure, Wisconsin law, and applicable Court Rules or Orders.

D. Abbott generally objects to the Notice to the extent: (a) the discovery sought by any topic is unreasonably cumulative or duplicative, or is obtainable from some other source (including, but not limited to, a public source) that is more convenient, less burdensome, or less expensive; and (b) compliance with any topic would be unduly burdensome, unduly expensive, harassing, annoying or oppressive.

E. Abbott generally objects to any implications and to any explicit or implicit characterization of the facts, events, circumstances, or issues in the areas of inquiry. Any response by Abbott is not intended to indicate that Abbott agrees with any such implications or characterizations, or that such implications or characterizations are relevant to this litigation.

F. Abbott's objections to the Notice are made without in any way waiving: (a) the right to object, on the grounds of competency, relevancy, materiality, privilege, or other grounds of admissibility as evidence for any purpose in any subsequent proceeding in this action or any other action; and (b) the right to object on any ground to other discovery requests involving or relating to the subject matter of the Notice.

G. Abbott incorporates any objections to the Notice made by its co-defendants, as if set forth herein.

H. Abbott objects to the areas of inquiry to the extent they seek testimony for the time period of 1993 to the present as overly broad, unduly burdensome and neither relevant nor likely to lead to the discovery of admissible evidence. Further, Abbott objects to providing any

testimony relating to events or transactions that occurred after the State filed its original complaint on June 3, 2004.

I. Abbott objects to the areas of inquiry to the extent they seek testimony that is not limited to the “deposition drugs” identified in the Notice. Furthermore, Abbott objects to the identified “deposition drugs” as overly broad and unduly burdensome in that they contain over 190 separate NDCs.

J. Abbott objects to the areas of inquiry to the extent they are directed to “each of the Defendants” and will only respond as to Abbott.

K. Abbott objects to the Notice to the extent it seeks testimony related to “any” of Abbott’s “subsidiaries.” Abbott will only respond as to the defendant in this case, Abbott Laboratories.

L. Abbott objects to the Notice to the extent that it demands the production of documents, and hereby incorporates by reference all the objections asserted in Abbott Laboratories’ Responses to Plaintiff’s First Set of Requests for Production of Documents and Abbott Laboratories’ Responses to Plaintiff’s Written Discovery Request No. 3.

M. Abbott objects to producing any witness in response to the Notice after the deadline for the close of fact discovery set by the Court.

OBJECTION TO LOCATION OF DEPOSITION

In addition to its General Objections, Abbott objects to the deposition of its corporate representatives taking place in Madison, Wisconsin. Pursuant to Wis. Stat. § 804.05(3)(b)(6) any Abbott corporate representatives will be made available in or around Chicago or Lake Forest, Illinois.

OBJECTIONS TO AREAS OF INQUIRY

Subject to and in accordance with the foregoing General Objections, Abbott responds as follows:

1. The evidence or information, if any, about which it is aware, which shows that any of the drugs listed on the attached sheet (“deposition drugs”) were purchased by retail pharmacies at a price equal to or greater than the then current Average Wholesale Price (AWP) published in either First Data Bank or the Red Book in any year from 1993 to the present.

RESPONSE: In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the phrase “the then current Average Wholesale Price (AWP)” and the terms “shows;” and “retail pharmacies” (ii) is overly broad, unduly burdensome and harassing to the extent it seeks testimony relating to this area of inquiry dating back more than 13 years and seeks testimony regarding over 190 separate NDCs; and to the extent it would purport to require Abbott’s witness to analyze each of Abbott’s sales of the deposition drugs; (iii) seeks information that is neither relevant nor reasonably calculated to lead to discovery of admissible evidence; and (iv) seeks testimony regarding information that is outside of Abbott’s possession, custody, or control.

2. The evidence or information about which it is aware which shows, or which defendant believes may tend to show, that the published AWP was higher than the price pharmacies were actually paying for any of the deposition drugs in each year from 1993 to the present.

RESPONSE: In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the phrases “which defendant believes may tend to show” and “actually paying” and the terms “shows;” and “pharmacies” (ii) is overly broad, unduly burdensome and harassing to the extent it seeks testimony relating to this area of inquiry dating back more than 13 years and seeks testimony regarding over 190 separate NDCs; (iii) seeks information that is neither relevant nor reasonably calculated to lead

to discovery of admissible evidence; and (iv) seeks testimony regarding information that is outside of Abbott's possession, custody, or control.

3. What contacts Abbott Laboratories Inc., or its subsidiaries, have had with First Data Bank or the Red Book about any of the deposition drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the term "contacts;" (ii) is overly broad and unduly burdensome to the extent that it seeks testimony relating to this area of inquiry over an undefined period of years and is not limited to the deposition drugs; and (iii) seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

4. Whether Abbott Laboratories Inc., or any of its subsidiaries, ever communicated to either First Data Bank or the Red Book that the published Average Wholesale Prices of their drugs were neither a price that was actually an average of wholesale prices, nor a price that was actually paid by the retail classes of trade and, if so, when such communication took place and of what they consisted.

RESPONSE: In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous particularly with respect to the terms terms "actually an average of wholesale prices", "retail classes of trade" and "consisted;" (ii) is overly broad and unduly burdensome particularly to the extent it seeks testimony related to this area of inquiry over an undefined period of time and is not limited to the deposition drugs; and (iii) seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

5. The Average Manufacturer's Price (AMP) reported to the federal government of each of the targeted drugs in each year since 1993.

RESPONSE: In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous particularly with respect to the term "targeted drugs;"

(ii) is overly broad and unduly burdensome in that it seeks testimony relating to this area of inquiry dating back more than 13 years and is not limited to the deposition drugs; (iii) seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; (iv) seeks information that is already in the State's possession, custody or control; and (v) seeks information that is more properly requested through a written request for production of documents.

6. Any evidence which shows that the actual average wholesale price at which any of the targeted drugs sold in any given year was greater than the AMP.

RESPONSE: In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous particularly with respect to the terms "actual average wholesale price" and "targeted drugs;" (ii) is overly broad, unduly burdensome and harassing to the extent it seeks testimony relating to this area of inquiry over an undefined period of time and is not limited to the deposition drugs, and to the extent it would purport to require Abbott's witness to calculate an "actual average wholesale price" for each of Abbott's drugs; and (iii) seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

GENERAL OBJECTIONS TO DUCES TECUM DEMAND

Abbott incorporates its General and Areas of Inquiry Objections from above.

OBJECTIONS TO SPECIFIC REQUESTS

1. all evidence or information showing that any of the targeted drugs was sold at a price equal to or greater than the published AWP from 1993 to the present.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is vague and ambiguous particularly with respect to the terms "showing," "targeted drugs," and "sold"; (ii) is overly broad, unduly burdensome and harassing in that they

seek documents dating back more than 13 years, and are not limited to documents relating to the “deposition drugs;” and (iii) seeks documents and information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Abbott further objects to the extent this request is wholly duplicative of Plaintiff’s Requests for Production. Abbott directs Plaintiff to its Responses to same, specifically its Responses to Requests for Production numbers 1, 2, and 3.

2. for the same period all evidence or information showing that actual average wholesale prices of its targeted drugs were less than the published AWP.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is vague and ambiguous particularly with respect to the term “actual average wholesale prices”; (ii) is overly broad, unduly burdensome and harassing in that they seek documents dating back more than 13 years, and are not limited to documents relating to the “deposition drugs;” and (iii) seeks documents and information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Abbott further objects to the extent this request is wholly duplicative of Plaintiff’s Requests for Production. Abbott directs Plaintiff to its Responses to same, specifically its Responses to Requests for Production numbers 1, 2, and 3.

3. for the same time period any evidence of communications between Abbott Laboratories, Inc. and the Red Book about or concerning any of the targeted drugs.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is vague and ambiguous; (ii) is overly broad, unduly burdensome and harassing in that they seek documents dating back more than 13 years, and are not limited to documents relating to the “deposition drugs;” and (iii) seeks documents and information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Abbott

further objects to the extent this request is wholly duplicative of Plaintiff's Requests for Production. Abbott directs Plaintiff to its Responses to same, specifically its Response to Request for Production number 5.

4. for the same time period the reported AMP's of each targeted drug,

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is vague and ambiguous; (ii) is overly broad, unduly burdensome and harassing in that they seek documents dating back more than 13 years, and are not limited to documents relating to the "deposition drugs;" and (iii) seeks documents and information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Abbott further objects to the extent this request is wholly duplicative of Plaintiff's Requests for Production. Abbott directs Plaintiff to its Responses to same, specifically its Responses to Requests for Production numbers 1, 2, and 3.

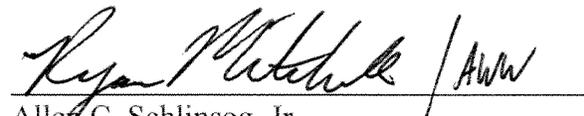
5. for the same time period any evidence defendant has showing that the actual average wholesale price of any of the targeted drugs was greater than the reported AMP.

RESPONSE: In addition to its General Objections, Abbott objects to this request because it: (i) is vague and ambiguous; (ii) is overly broad, unduly burdensome and harassing in that they seek documents dating back more than 13 years, and are not limited to documents relating to the "deposition drugs;" and (iii) seeks documents and information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Abbott further objects to the extent this request is wholly duplicative of Plaintiff's Requests for Production. Abbott directs Plaintiff to its Responses to same, specifically its Responses to Requests for Production numbers 1, 2, and 3.

Dated: May11, 2006

Respectfully submitted,

DEFENDANT ABBOTT LABORATORIES



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