

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH 7

DANE COUNTY

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STATE OF WISCONSIN,

Plaintiff,

Case No. 04-CV-1709

Unclassified Civil: 30703

v.

ABBOTT LABORATORIES, et al.,

Defendants.

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**DEFENDANTS MYLAN LABORATORIES INC.'S AND  
MYLAN PHARMACEUTICALS INC.'S RESPONSES AND OBJECTIONS TO  
PLAINTIFF'S NOTICE OF DEPOSITION**

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TO: The State of Wisconsin

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Pursuant to Wisconsin Statute § 804.05(2)(e), the Wisconsin Supreme Court Rules, and the Dane County Circuit Court Rules (the "Wisconsin Rules"), defendants Mylan Laboratories Inc. and Mylan Pharmaceuticals Inc. (collectively, the "Mylan Defendants"), by their undersigned counsel, hereby assert the following responses and objections to Plaintiff's Notice of Deposition (the "Deposition Notice"), dated February 7, 2006 and propounded by plaintiff the State of Wisconsin (the "State"), as follows:

**RESERVATION OF RIGHTS AND GENERAL OBJECTIONS**

The Mylan Defendants expressly incorporate all of the Reserved Rights and General Objections set forth below the specific responses and objections to the Deposition

Notice. Any specific objections provided below are made in addition to these Reserved Rights and a failure to reiterate a Reserved Right below shall not constitute a waiver of that or any other objection.

1. These responses and objections are made without in any way waiving or intending to waive: (a) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, of any documents or information produced in response to the Deposition Notice; (b) the right to object on any ground to the use of the documents or information produced in response to the Deposition Notice at any hearing, trial, or other point during this action; (c) the right to object on any ground at any time to a demand for further responses to the Deposition Notice; or (d) the right at any time to revise, correct, add to, supplement, or clarify any of the responses or objections contained herein.

2. The documents or information supplied pursuant to the Deposition Notice are for use in this action and for no other purpose.

3. The production of documents or information pursuant to the Deposition Notice shall not be construed as a waiver of the confidentiality of any such documents or information.

4. The Mylan Defendants object to the Deposition Notice to the extent that it demands the production of documents or information that are privileged or otherwise protected against discovery pursuant to the attorney-client privilege, the work product doctrine, the joint defense/prosecution privilege, the consulting expert rule, the common interest doctrine, or any other legally recognized privilege, immunity, or exemption from discovery. To the extent that any such protected documents or information are inadvertently produced in response to the Deposition Notice, the production of such documents or information shall not constitute a waiver of the Mylan Defendants' right to assert the applicability of any privilege or immunity to the

documents or information, and any such documents or information shall be returned to the Mylan Defendants' counsel immediately upon discovery thereof.

5. The Mylan Defendants object to the Deposition Notice to the extent that it demands production of documents or information from outside of the statute of limitations applicable to the State's claims in this action, or beyond the time period relevant to this action.

6. The Mylan Defendants object to the Deposition Notice to the extent that it demands production of documents or information containing trade secrets, proprietary or commercially sensitive or other confidential information, and shall not produce documents or information containing any such information unless and until an appropriate protective order or confidentiality agreement is entered in this action.

7. The Mylan Defendants object to the Deposition Notice to the extent that it demands the production of proprietary documents and information of third parties.

8. The Mylan Defendants reserve the right to withhold the production of any responsive documents or information until the Court has ruled on Defendants' Motion to Dismiss in this action. Although the State has argued that discovery should proceed while the Defendants' Motion to Dismiss is pending because, in part, some Defendants in this action have produced documents and answered discovery requests in other Average Wholesale Price ("AWP") litigation, the Mylan Defendants have not been called upon to provide any of the documents or information requested in the State's Deposition Notice to plaintiffs in similar AWP litigation brought against them.

### **SPECIFIC RESPONSES AND OBJECTIONS**

Subject to the Reserved Rights and General Objections, and without waiving and expressly preserving all such rights and objections, which are hereby incorporated into the

response and objection to each request, the Mylan Defendants respond and object to the State's Deposition Notice as follows:

**REQUEST NO. 1:**

Mylan's contracts for the sale of its generic pharmaceuticals with the following customers: Amerisource Bergen, McKesson, Albertsons, Eckard, Cardinal, Walgreens or entities affiliated with, or creations of, these companies e.g., Cardinal Generic Alliance, during the period 1999 to the present, and the manner in which they were secured.

**RESPONSE:**

The Mylan Defendants object to this request on the grounds that it is overly broad and unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The Mylan Defendants also object to this request on the grounds that it is vague and ambiguous, particularly with respect to the language "generic pharmaceuticals." Subject to and without waiving such objection, the General Objections, or the Reserved Rights, the Mylan Defendants will produce a witness knowledgeable about the subject matter of this request at a mutually convenient time and place.

**REQUEST NO. 2:**

The basis for the AWP's and WAC's Mylan reported to First Data Bank and the Red Book from 1993 to the present.

**RESPONSE**

The Mylan Defendants object to this request on the grounds that it is overly broad and unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. The Mylan Defendants also object to this request on the grounds that it is vague and ambiguous, particularly with respect to the language "the basis for, " "AWP's," "WACs, " and "the Red Book. " The Mylan Defendants also object on the ground and to the extent that the request is not limited to a reasonable number of identified drugs. Subject to and without waiving any of these objections, the General Objections, or the Reserved Rights, the Mylan Defendants

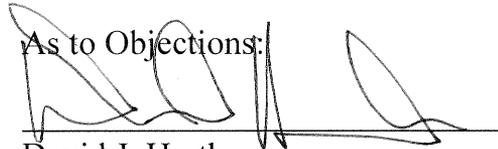
will produce a witness knowledgeable about the subject matter of this request at a mutually agreeable time and place.

**DUCES TECUM DEMAND**

The Mylan Defendants object to this request on the grounds that it is overly broad and unduly burdensome, and duplicative of prior requests, that it is vague and ambiguous, particularly with respect to the language "the basis for," "AWPs," "WACs," and "the Red Book." The Mylan Defendants also object on the ground and to the extent that the request is not limited to a reasonable number of identified drugs. Subject to and without waiving any of these objections, the General Objections, or the Reserved Rights, the Mylan Defendants will produce responsive documents at a mutually agreed time and place.

Dated this 7<sup>th</sup> day of March, 2005.

As to Objections:



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