

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 04-CV-1709

AMGEN INC., et. al.,

Defendants.

NOTICE OF MOTION
AND MOTION TO QUASH
DEFENDANTS' NOTICE OF DEPOSITION OF AMERISOURCE BERGEN"

PLEASE TAKE NOTICE, that on August 23, 2007 at 11:15 AM or as soon thereafter as counsel may be heard, the plaintiff State of Wisconsin, by Frank D. Remington, Assistant Attorney General, will move the court pursuant to Wis. Stat § 804.01(3), and in accordance with the proposed case management order¹, for an order quashing the defendants' Notice of Deposition of AmeriSource Bergen.

The grounds for this motion are set forth in Plaintiff's brief in support of its motion to quash.

A call-in number is available to parties desiring to appear by telephone – 1-800-434-7385; passcode 80407824.

¹ The proposed case management order has yet to be signed, but the relevant provision relating to this motion was approved by the court orally from the bench.

Dated this 24th day of August, 2007.



FRANK D. REMINGTON
Assistant Attorney General
State Bar #1001131

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-3542

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 04-CV-1709

AMGEN INC., et. al.,

Defendants.

PLAINTIFF'S BRIEF IN SUPPORT OF ITS
MOTION TO QUASH
DEFENDANTS' NOTICE OF DEPOSITION OF AMERISOURCE BERGEN"

On August 23, 2007 at 2:59 PM in the afternoon, the defendant Schering-Plough Corporation and Warrick Pharmaceuticals Corporation, served on the Plaintiff by LexisNexis a Cross Notice of Deposition of AmeriSource Bergen Corporation for a deposition to be held on Tuesday, August 28, 2007 at 10:00 AM in Costa Mesa, California. Attached to the cross notice was a subpoena issued by a Pennsylvania magistrate and an Amended Notice of Deposition filed in an Alabama lawsuit.

CHRONOLOGY

1. Proceedings are had in Alabama to conduct a deposition AmeriSource Bergen. An action is filed in Pennsylvania for the issuance of a subpoena to domestic corporation AmeriSource Bergen. (dates unknown). According to the order signed by the Pennsylvania judge, the request to

subpoena AmeriSource Bergen is made by all defendants in the Alabama litigation, including Schering-Plough.

2. July 24, 2007. Magistrate in Pennsylvania signs subpoena for deposition to be had in the Alabama litigation in Pennsylvania on August 6, 2007.
3. August 23, 2007, Bristol-Myers Squibb files an Amended Notice of Deposition in the Alabama for a deposition to take place August 28, 2007 in California.
4. August 23, 2007, Schering-Plough files a cross notice of deposition in Wisconsin.

ARGUMENT

The Plaintiff respectfully requests that this court quash this Notice on the following grounds:

1. The defendant failed to give notice to the Plaintiff “as soon as practicable.”

Both parties jointly recommended to this Court that it enter a case management order which directly applies to cross notices of a deposition. In the proposed order it is stated:

“[a] party in this case seeking to cross-notice a deposition in another Average Wholesale Price (AWP) case (e.g., state or federal AWP litigation) shall inform opposing counsel in writing as soon as practicable, preferably not later than two weeks from the date of the scheduled deposition.”

As a practical matter, the defendant gave the Plaintiff essentially one day notice to make arrangements to appear in California for a deposition at ten o'clock in the morning. The defendant violated the case management order it recommended to the court before it has even been signed.

Defendant Schering-Plough may likely argue that it gave Wisconsin notice as soon as possible, given that defendant Bristol-Myers Squibb filed its Amended Notice of Deposition in Alabama at the same time, and possibly because AmeriSource Bergen's allegedly is uncooperativeness. However, there are two problems with that argument. First, no attempt was made to apprise counsel in Wisconsin of any action taken in regard to AmeriSource Bergen prior to yesterday, August 22, 2007. In particular, neither Bristol-Myers Squibb nor Schering-Plough, or any other defendant for that matter, served on Wisconsin the original Notice of Deposition, which would have put Wisconsin on notice. No courtesy call was made giving Wisconsin counsel notice that a cross notice was envisioned regardless of the date as yet to be set. No information was provided to Wisconsin in May, 2007 when Bristol-Myers noticed the deposition of AmeriSource Bergen in Alabama for a deposition to be taken on June 25, 2007.

Second, more importantly, as far back as July maybe even May, it appears that the defendants knew that they were going to cross notice the Alabama deposition in Wisconsin. Paragraph seven of the subpoena issued out of the Pennsylvania court demanded that AmeriSource Bergen testify as to:

“communications between AmeriSource and any State involved in an AWP Litigation, including, but not limited to, the State of Wisconsin regarding the Requests.”

It is a reasonable inference from this provision that the defendants knew from the beginning that they were going to cross notice the deposition in Wisconsin but chose not to advise Wisconsin of such until three working days before the final date selected.

2. The Defendants failed to give Reasonable Notice.

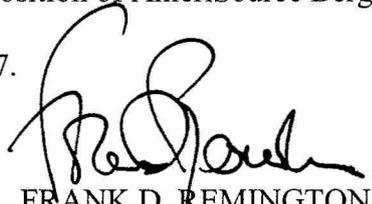
Notwithstanding the case management order, the statutes require litigants to give each other reasonable notice. *See* Wis. Stat. § 805.04(2). The notice was given at 3 PM

on a Thursday. The deposition is to begin on the following Tuesday at 10 AM. The cost and expense to the taxpayers for a walk up airplane ticket is by itself unreasonable given the current state of the budget in Wisconsin.

Appearing by telephone is not an acceptable alternative. Two working days is insufficient time to prepare for a critical deposition. It is not clear whether the deponent has provided documents in advance of the deposition. Even though the defendants may have been denied the opportunity to meet with the deponent prior to its deposition, the State of Wisconsin would like to pursue that option. There is little time to prepare and no time to meet with the deponent prior to its deposition. These factors, effectively deny Wisconsin opportunities it would like to pursue to best represent the citizens of this State in this law enforcement action.

For the reasons stated above, the Plaintiff State of Wisconsin respectfully requests that this court quash the cross notice of deposition of AmeriSource Bergen.

Dated this 24th day of August, 2007.



FRANK D. REMINGTON
Assistant Attorney General
State Bar #1001131

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-3542

Thomas J. Sweeney, III, Esq. (admitted *pro hac vice*)
HOGAN & HARTSON LLP
875 Third Avenue
New York, New York 10022
(212) 918-3000

*Attorneys for Defendant Bristol-Myers Squibb
Company*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Amended Notice of Deposition of Amerisource Bergen Corporation was served upon all counsel of record via electronic service by sending on August 23, 2007 a copy to Lexis Nexis File & Serve for posting and notification to all parties.

/s/Harlan Prater

Harlan I. Prater



Aug 23 2007
2:59PM

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

AMGEN INC, *et al.*,

Defendants.

Case No. 04 CV 1709

**CROSS-NOTICE OF DEPOSITION OF
AMERISOURCE BERGEN CORPORATION**

TO: All Counsel of Record

PLEASE TAKE NOTICE that, pursuant to the Wisconsin Rules of Civil Procedure, the undersigned defendants hereby cross-notice the deposition of Amerisource Bergen, Corporation (“Amerisource”) for purposes of the above-captioned action.

On August 23, 2007, attorneys for Bristol-Myers Squibb Company noticed the deposition of Amerisource for purposes of *In re Alabama Medicaid Pharmaceutical Average Wholesale Pricing*, No. CV-2005-219. This notice is attached. Through this cross-notice, counsel in the above-captioned action are informed that this deposition will also be proceeding for purposes of the above-captioned action.

The deposition will take place before a notary public, or any other officer authorized to administer oaths, at the office of Veritext LLC, 3090 Bristol St., #100, Costa Mesa, CA 92629, on August 28, 2007 beginning at 10:00 a.m. The attached subpoena *duces tecum* directs the witness to appear for the deposition. The deposition will be taken upon cross-examination.

This deposition will be recorded by stenographic and/or sound and visual means. The deposition is being taken for the purposes of discovery, for use at trial, and for such other

purposes as permitted under the Federal Rules of Civil Procedure and the Wisconsin Rules of Civil Procedure.

Dated this 23rd day of August, 2007.

ROPES & GRAY LLP

By:

*Patryk J. Drescher by Janna
Hansen*

Patryk J. Drescher

ROPES & GRAY LLP

700 12th Street, N.W., Suite 900

Washington, DC 20005

(202) 508-4645 (telephone)

(202) 508-4650 (facsimile)

Earl H. Munson, State Bar No. 1008156

BOARDMAN, SUHR, CURRY & FIELD LLP

One South Pinckney Street, Fourth Floor

P.O. Box 927

Madison, WI 53701-0927

(608) 257-9521 (telephone)

(608) 283-1709 (facsimile)

Attorneys for Schering-Plough Corporation and
Warrick Pharmaceuticals Corporation

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2007, a true and correct copy of Schering-Plough Corporation's and Warrick Pharmaceuticals Corporation's Cross Notice of Deposition of Amerisource was served upon all counsel of record via Lexis-Nexis File and Serve.

Patryk J. Drescher by Janna
Patryk J. Drescher *Hansen*



Aug 23 2007 2:59PM

David Newmann (Bar No. 82401)
HOGAN & HARTSON L.L.P.
1835 Market Street, 28th Floor
Philadelphia, PA 19103
(267) 675-4610
Fax: (267) 675-4601
Email: dnewmann@hhlaw.com

Attorney for Defendant/Petitioner
Bristol-Myers Squibb Company

STATE OF ALABAMA,

Plaintiff/Respondent,

v.

BRISTOL-MYERS SQUIBB COMPANY,

Defendant/Petitioner.

COURT OF COMMON PLEAS OF
CHESTER COUNTY

07-06904

No. ~~07-03415~~

FILED
07 JUL 24 09 56 06

SUBPOENA TO ATTEND AND TESTIFY

TO: Amerisource Bergen Corp.
1300 Morris Drive, Suite 100
Chesterbrook, PA 19087

1. You are ordered by the Court to come to the law offices of Conrad O'Brien Gellman & Rohn, 200 N. High Street, 3rd Floor, West Chester, PA 19380, to testify in a deposition in the above case regarding the matters identified in Schedule A to this Subpoena. The deposition shall take place beginning at 10:00 a.m. on August 6, 2007, and you are to remain until excused.

2. Pursuant to Pennsylvania Rule of Civil Procedure 4007.1(e), you are required to serve a designation of one or more officers, directors, or managing agents, or other persons who consent to testify on your behalf with respect to the matters identified below and to set forth, for each person designated, the matters on which each person will testify.

3. If you fail to attend as required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

REQUESTED BY: David Newmann (PA #82401)
Hogan & Hartson L.L.P.
1835 Market Street, 28th Floor
Philadelphia, PA 19103
(267) 675-4610

Thomas J. Sweeney, Esq.
HOGAN & HARTSON LLP
875 Third Avenue
New York, New York 10022
(212) 918-3000

Attorneys for Defendant/Petitioner Bristol-Myers Squibb Company

BY THE COURT.

Date:

7-24-07

Raymond A. Walters

Prothonotary



SCHEDULE A

Definitions and Instructions

As used in the Areas of Inquiry herein, the following terms shall have the meanings set forth below:

1. The words “**And**” and “**Or**” shall mean “and/or.”
2. The term “**Alabama Customer**” shall refer to any entity in Alabama that purchases or has purchased any of the Subject Drugs from You or that has a postal address in Alabama to which You have shipped any of the Subject Drugs, including, but not limited to, pharmacies, physicians and entities owned or operated by the State of Alabama.
3. The term “**Amerisource**,” “**You**,” and “**Your**” shall refer to Amerisource Bergen Corp., its domestic or foreign parents and any of its subsidiaries, divisions, affiliates, joint venture or other entity having at least 10% ownership interest in You; Your agents, independent contractors, directors, employees, officers, and representatives; and merged, consolidated or acquired predecessors; and any other person or entity acting on behalf of Amerisource Bergen Corp.
4. The term “**AWP Pricing Litigation**” shall refer to all litigations involving allegations of the manipulation of the pricing of average wholesale price (“AWP”), including, but not limited to, the following actions: *State of Alabama v. Abbott Laboratories, Inc., et al.*, Civ. No. 2005-219; *State of Alaska v. Alpharma Branded Products Divisions Inc., et al.*, No. 3AN-06-12026 CI; *State of California ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Labs, Inc., et al.*, No. 03-CV-2238, MDL No. 1456, 01-CV-12257-PBS; *State of Florida ex rel Ven-A-Care of the Florida Keys, Inc., et al. v. Alpharma, Inc., et al.*, Civ. No. 98-3032A, MDL No. 1456, 01-CV-12257-PBS; *State of Wisconsin v. Amgen, Inc., et al.*, No. 04 CV 1709; *State of Hawaii v. Abbott Laboratories Inc., et al.*, Civ. No. 06-1-0720-04 EEH; *State of Montana v.*

Abbott Labs., Inc., et al., No. 02-CV-12084-PBS; *State of Nevada v. Abbott Labs., Inc., et al.*, No. 02-CV-12084-PBS; *State of Idaho v. Alparma USPD, Inc., et al.*, No. CV OC 0701847; *The People of the State of Illinois v. Abbott Laboratories, Inc., et al.*, No. 1:06-5528 (N.D. Ill.), MDL No. 1456, 01-CV-12257-PBS; *Commonwealth of Kentucky v. Alparma Inc., et al.*, No. 04-CI-1487; *State of Mississippi v. Abbott Laboratories, Inc., et al.*, Civ. No. G2005-2021, MDL No. 1456, 01-CV-12257-PBS; *State of South Carolina v. Bristol-Myers Squibb Co.*, No. 2007-CP-40-0284; *State of South Carolina v. Sandoz Inc.*, No. 2007-CP-40-0287; No. 2007-CP-40-0285; *City of New York and New York Counties v. Abbott Laboratories, Inc., et al.*, MDL No. 1456, 01-CV-12257-PBS; *County of Nassau v. Abbott Laboratories, Inc., et al.*, MDL No. 1456, 01-CV-12257-PBS; *County of Erie v. Abbott Laboratories, Inc., et al.*, MDL No. 1456, 01-CV-12257-PBS; *The County of Orange v. Abbott Laboratories, Inc. et al.*, MDL No. 1456, 01-CV-12257-PBS; *The County of Oswego v. Abbott Laboratories, Inc. et al.*, MDL No. 1456, 01-CV-12257-PBS; *The County of Schenectady v. Abbott Laboratories, Inc. et al.*, MDL No. 1456, 01-CV-12257-PBS

5. The term “**Communication(s)**” shall refer to all transmissions of information, whether written or oral, and whether verbal or otherwise, including assertions by non-verbal conduct; Communication includes, but is not limited to, notes, letters, memoranda, electronic mail, voicemail, telegrams, invoices, telephone conversations, face-to-face meetings, and other similar forms of communication or correspondence.

6. The term “**Customer**” shall refer to any entity that purchases or has purchased any of the Subject Drugs from You, including, but not limited to, pharmacies, physicians and other retail entities that provide health care services or products to consumers.

7. The term "**Document**" shall refer to any writing or recording of any kind, in any medium, whether written, graphic, pictorial, photographic, electronic, emails, phonographic, mechanical, taped, saved on computer disks, hard drives or data tapes or otherwise, and every non-identical copy. Different versions of the same document, such as different copies of a written record bearing different handwritten notations, are different documents within the meaning of the term as used. In case originals or original non-identical copies are not available, "document" includes copies of originals or copies of non-identical copies as the case may be.

8. The term "**Defendant Manufacturer**" shall refer to the entities identified in Exhibit A (attached hereto).

9. The term "**List Price**" shall refer to any price or suggested price for any Subject Drug communicated by You to an Alabama Customer that is not a transaction price for such Subject Drug.

10. The term "**NDC**" shall refer to the 10-digit national discount code, assigned by the Food & Drug Administration, that identifies, among other things, the package and dosage size for a particular pharmaceutical drug.

11. The term "**Prescription Drug**" shall refer to any drug or other product that requires a prescription, including, but not limited to, "biological" products such as hemophilia factors and intravenous solutions.

12. "**Regarding**," "**Relate(d) to**" and "**relating to**" shall mean relating to, regarding, consisting of, referring to, reflecting, manifesting, prepared in connection with, in comparison to, describing, containing, attesting to, or being in any way legally, logically, or factually connected with the matter discussed, whether directly or indirectly.

13. The term **"Request"** shall refer to any Communication to Amerisource from any state involved in an AWP Pricing Litigation, including, but not limited to, the State of Wisconsin, requesting information, data and/or documents concerning the Subject Drugs or Defendant Manufacturers; such a Request includes, but is not limited to, all subpoenas and civil investigative demand issued by any state involved in an AWP Pricing Litigation, including but not limited to, the State of Wisconsin.

14. **"State of Alabama"** shall refer collectively to any State office, agency or body, including, but not limited to, the Office of the Attorney General, the Department of Public Health, the Alabama Medicaid agency, the State Auditor, the State legislature, legislative committees, all successors and predecessors, and officials, agents, employees, commissions, boards, divisions, departments, agencies, instrumentalities, administrators and other persons or entities acting on their behalf and/or involved in administering, overseeing, or monitoring any State program, including Medicaid, that purchases or provides reimbursement for Prescription Drugs generally and the Subject Drugs, specifically.

15. The term **"Subject Drug(s)"** shall refer to the brand name, trade name or generic products identified, by NDC, in Exhibit B (attached hereto).

16. The term **"State"** shall refer to any state or commonwealth that is a party to AWP Litigation; its Attorney General; any representative of the state or commonwealth or its Attorney General, including but not limited to private outside legal counsel retained or appointed by the state or commonwealth to represent it in AWP Litigation; and any expert or consultant retained by the state or commonwealth, its Attorney General or its outside counsel retained to represent the state or commonwealth in AWP Litigation.

17. Unless otherwise indicated in a specific area of inquiry, the relevant time period for the topics listed herein refer to documents, data and information created from January 1, 1990 to the present and the documents relating to such period even though created before that period.

Areas of Inquiry

1. Amerisource's documents or electronic databases that identify, by NDC, the price and quantity of all sales of Subject Drugs by Amerisource to Alabama Customers during the period January 1, 1990 to the present and the contents thereof, including, but not limited to, the data and information contained therein and how such data and information is compiled.

2. Amerisource's documents, data or other information, that indicate sales to a Customer where the price is nominal in amount and how such data is created, generated or compiled.

3. The categories or fields of data contained in Amerisource's electronic databases, including, but not limited to, prices and other information related to the Subject Drugs, and descriptions of such fields.

4. Information from Amerisource, including, but not limited to, documents and electronic databases, that is available to Alabama Customers and that displays the prices for Subject Drugs including, but not limited to, reference prices, List Prices, catalogue prices, suggested selling price, WACs and AWP's and the process by which each price is set or created by Amerisource.

5. The entities that receive rebates or discounts off of list, catalogue and suggested selling prices, the circumstances in which these rebates or discounts are given,

Amerisource's policies related to such discounts and rebates and all communications with Defendant Manufacturers concerning prices to Alabama Customers.

6. Documents, data or other information produced or gathered in response to any Request, including, but not limited to, all data or other information produced in this action and any information gathered in response to any Request but not produced, and how such data, documents or information was compiled.

7. Communications between Amerisource and any State involved in an AWP Litigation, including, but not limited to, the State of Wisconsin regarding the Requests.

8. Non-privileged communications within Amerisource about any Request.

EXHIBIT A

List of Defendant Manufacturers

Abbott Laboratories, Inc.	IVAX Pharmaceuticals, Inc
Agouron Pharmaceuticals, Inc.	Janssen Pharmaceutical Products, LP
Alcon Laboratories, Inc.	Johnson & Johnson
Allergan, Inc.	King Pharmaceuticals, Inc.
Alpharma, Inc.	McNeil-PPC, Inc
ALZA Corporation	MedImmune, Inc.
Amgen, Inc.	Merck & Co., Inc.
Andrx Corporation	Monarch Pharmaceuticals, Inc.
Andrx Pharmaceutical Co.	Mylan Laboratories, Inc.
AstraZeneca LP	Mylan Pharmaceuticals, Inc.
AstraZeneca Pharmaceutical LP	Novartis Pharmaceuticals Corporation
Aventis Behring, LLC	Novo Nordisk Pharmaceuticals, Inc.
Aventis Pharmaceuticals, Inc.	Organon Pharmaceuticals USA, Inc.
Barr Laboratories, Inc.	Ortho Biotech Products LP
Baxter Healthcare Corporation	Ortho-McNeil Pharmaceutical, Inc.
Baxter International Inc.	Par Pharmaceutical, Inc.
Bayer Corporation	Pfizer, Inc.
Bayer Healthcare, LLC	Pharmacia & Upjohn Company
Bayer Pharmaceuticals Corporation	Pharmacia Corporation
Biovail Pharmaceuticals, Inc.	Purdue Pharma, L.P.
Boehringer Ingelheim Corporation	Purepac Pharmaceutical Company
Boehringer Ingelheim Pharmaceuticals, Inc.	Roche Laboratories Inc.
Bristol-Myers Squibb Company	Roxane Labs, Inc.
DEY, L.P.	Sandoz Inc.
Eisai, Inc.	Sanofi-Synthelabo, Inc.
Eli Lilly and Company	Schering-Plough Corporation
Endo Pharmaceuticals, Inc.	SmithKline Beecham Corporation
ETHEX Corporation	Takeda Pharmaceuticals North America, Inc.
Forest Laboratories, Inc.	TAP Pharmaceutical Products, Inc.
Forest Pharmaceuticals, Inc.	Teva Pharmaceuticals USA, Inc.
Fujisawa Healthcare, Inc.	UDL Laboratories, Inc.
Fujisawa USA, Inc.	Warrick Pharmaceuticals Corporation
G.D. Searle, LLC	Watson Laboratories, Inc.
Geneva Pharmaceuticals, Inc.	Watson Pharma, Inc.
Genzyme Corporation	Watson Pharmaceuticals, Inc.
Gilead Sciences, Inc.	Wyeth Pharmaceuticals, Inc.
Glaxo Wellcome, Inc.	Wyeth, Inc.
GlaxoSmithKline, PLC	ZLB Behring, LLC
Hoffmann-La Roche Inc.	
Immunex Corporation	
IVAX Corporation	

Jul-26-07 11:41pm From-HOGAN & HARTSON LLP

+2676754602

T-684 P.012/015 F-678

EXHIBIT B

CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2007, copies of the attached Subpoena to Attend and Testify to Amerisource Bergen Corporation were served by first class mail, on the following:

i
Clint C. Carter, Esquire
Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.
218 Commerce Street
Montgomery, AL 36104

A. Clay Rankin, III, Esquire
Hand Arendall LLC
3000 AmSouth Bank Building
107 St. Francis Street
P.O. Box 123
Mobile, AL 36602



David Newmann

FILED
07 JUL 24 PM 2:53

FILED
07 JUL 20 PM 3:54
OFFICE OF THE
PROthonary
CHESTER CO., PA

STATE OF ALABAMA,)
)
Plaintiff/Respondent,)
)
v.)
)
BRISTOL-MYERS SQUIBB COMPANY,)
)
Defendants/Petitioner.)

COURT OF COMMON PLEAS OF
CHESTER COUNTY

No. 07-06904

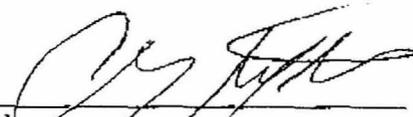
ORDER AUTHORIZING ISSUANCE OF SUBPOENA

This matter having come before the Court on the Petition of Bristol-Myers Squibb Company (on behalf of all Defendants in *State of Alabama v. Abbott Laboratories, Inc., et al.*, Civ-05-219) for an Order authorizing the issuance of a subpoena to Amerisource Bergen Corporation (the "Amerisource"), and it appearing that the Honorable Charles Price, Presiding Judge of Circuit Court of Montgomery County, Alabama has issued a Commission in a pending case captioned *State of Alabama v. Abbott Laboratories, Inc., et al.*, Civ-05-219, authorizing this Court to issue a subpoena commanding Amerisource to testify in a deposition by one or more of its officers, officials, employees, or other representative(s) who are most knowledgeable about and will testify on its behalf as to all maners listed in the subpoena attached to the Petition, and it further appearing that good cause exists,

IT IS on this 24th day of July, 2007,

ORDERED that a subpoena shall issue in the form attached to the Petition as Exhibit 1 commanding Amerisource to testify in a deposition by one or more of its officers, officials, employees, or other representative(s) who are most knowledgeable about and will testify on its behalf as to all matters listed in the subpoena attached to the Petition, such deposition to take place on or before the earlier of August 20, 2007, or ten days after service of the subpoena; and it is further ORDERED that petitioner, Bristol-Myers Squibb Company, may cause the subpoena to be served without further order of this Court.

BY THE COURT,



Judge Edward Griffith, Judge