

STATE OF WISCONSIN

CIRCUIT COURT
Branch 9

DANE COUNTY

STATE OF WISCONSIN,)	
)	
Plaintiff,)	Case No.: 04-CV-1709
)	
v.)	
)	
ABBOTT LABORATORIES, et. al.,)	
)	
Defendants.)	

**AFFIDAVIT OF JAMIE M. McCALL, ESQUIRE IN SUPPORT OF PFIZER INC.'S
MOTION FOR A PROTECTIVE ORDER**

I, Jamie M. McCall, hereby declare and affirm that:

1. I am an associate with Morgan, Lewis & Bockius, LLP. I am also one of the attorneys representing Pfizer Inc. ("Pfizer") in the above-captioned matter. This affidavit is made in support of Pfizer's Motion for Protective Order quashing the Notice for Deposition for Defendant Pfizer Inc. ("Notice of Deposition").
2. I hereby certify that I have made a good faith effort to confer with Plaintiff's counsel and resolve this discovery dispute between Pfizer and Plaintiff without Court involvement. Despite my efforts, the parties have been unable to resolve this discovery dispute without intervention by the Special Master, the Honorable William Eich.
3. On February 1, 2008, Plaintiff served its Notice of Deposition on Pfizer that designated eighteen subject matters that cover a fifteen-year period of time to serve as the basis for the deposition. See Exhibit 1, attached hereto.
4. On February 12, 2008, the parties had a telephonic meet-and-confer to discuss several outstanding discovery matters, including Plaintiff's Notice of Deposition. During the meet-and-

confer, counsel for Pfizer objected to Plaintiff's Notice of Deposition because the subject matters were overly broad and unduly burdensome and dealt with the corporate structure and business practices of Pharmacia – a separately named defendant. Pfizer's counsel further explained that, to the extent known, it would be willing to respond to written interrogatories regarding the subject matters detailed in the Notice of Deposition, but that a deposition of a live witness was unreasonably burdensome and harassing, given the nature of the information sought.

5. Plaintiff, however, did not wish to pursue less burdensome alternatives and insisted that Pfizer produce a corporate designee in Madison, Wisconsin to address all of the topics in the Notice of Deposition.

6. On February 20, 2008, Pfizer provided written objections to Plaintiff's Notice of Deposition on the grounds that it sought information relating to any named defendant other than Pfizer, which is neither relevant nor reasonably calculated to lead to discovery of admissible evidence. *See* February 20, 2008 Letter to J. Archibald, attached hereto as Exhibit 2. Pfizer also objected on the grounds that the Notice of Deposition is unduly burdensome and harassing, as such information (corporate structures, identity of directors, location of documents, etc.) can be provided by less burdensome means. *See id.* Finally, Pfizer objected to the Notice of Deposition to the extent Plaintiff sought information outside the time period at issue in this action. *See id.* Pfizer did, however, once again leave open the possibility of compromise through other less burdensome methods of discovery. *See id.*

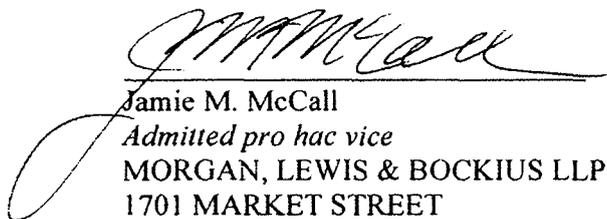
7. On February 21, 2008, Plaintiff provided counsel for Pfizer written notice that it was rejecting this offer.

8. Not able to reach agreement or compromise about the Notice of Deposition, counsel for Pfizer notified Plaintiff of its intention to move for a protective order in accordance with the relevant Wisconsin statutes on February 21, 2008.

9. The factual distinctions between Pfizer and Pharmacia have been maintained throughout the procedural progress of this case in discovery. Pfizer and Pharmacia have offered separate 30(b)(6) and fact witnesses, filed separate pleadings, motions and briefing, and made separate document productions.

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

March 4, 2008


Jamie M. McCall
Admitted pro hac vice
MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
Philadelphia, PA 19103
Tel: (215) 963-5000
Fax: (215) 963-5001

Subscribed to and sworn before
me this 4th day of March, 2008.


Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Diane M. Williams, Notary Public
City Of Philadelphia, Philadelphia County
My Commission Expires Feb. 26, 2010
Member, Pennsylvania Association of Notaries

in writing which topics listed below he or she will testify upon at least 10 business days prior to the deposition date.

The oral examination will continue from day to day until completed and you are invited to attend if you desire

Scope of Time Period

Each subject listed below is intended to cover the time period beginning January

1, 1993 and ending January 31, 2008.

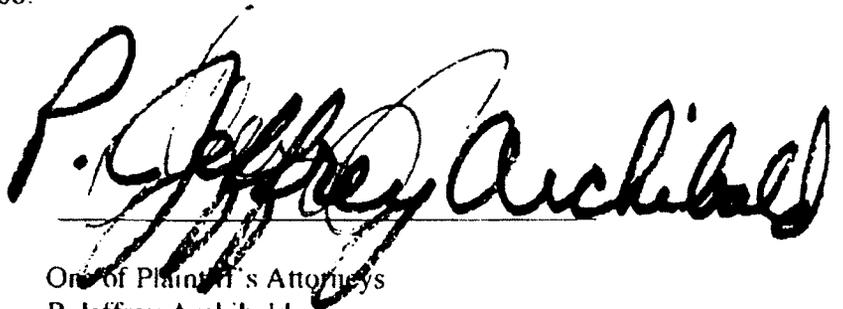
Subject Matters

1. The corporate history and organizational structure of Pfizer and any predecessor entities including, but not limited to, Pharmacia, The Upjohn Company, Pharmacia & Upjohn, Co. Inc., G.D. Searle & Company, Greenstone, LTD., Adria Laboratories, Inc., and Pharmacia Adria.
2. The formal corporate relationship between Pfizer and Pharmacia and each of its subsidiaries including Greenstone, LTD.
3. Identification of whether any of the directors, officers or employees of Pfizer also serve on the board of, act as officers for, or are employed by, any of the companies listed in paragraph 1.
4. The identification of which entity makes pricing and marketing decisions for each of the drugs listed on the targeted drug list (TDL) which is attached as Exhibit A.
5. The types of documents regularly exchanged between each of the companies listed in paragraph 1 and its employees.
6. Identification of Pharmacia's day-to-day manufacturing, marketing or sales activities relating to any of the drugs listed on the TDL.

7. The time, date and location of all sales meetings held by Pharmacia after Pharmacia's acquisition by Pfizer. For each such meeting, identify whether the meeting was held at the same time, place and location of Pfizer's sales meetings.
8. Identification of all of Pharmacia's research and development activities after its acquisition by Pfizer.
9. The existence of documents reflecting or evidencing any policies or practices regarding Pfizer's (or its employees) approval of; or contribution to, pricing actions (including the setting of prices of whatsoever kind or the publication thereof) taken by Pfizer's and its subsidiaries listed in paragraph 1.
10. A description of which company pays the salaries and bonuses of employees of the companies listed in paragraph 1.
11. The location of all manufacturing locations for each entity listed in paragraph 1.
12. The location and function of all non-manufacturing business locations operated by each of the entities listed in paragraph 1.
13. Identification of the employer of the people who have the power to enter contracts on behalf of Pharmacia.
14. General identification of the number, titles and locations of all Pharmacia employees.
15. Identification of which entity employees the sales representatives who market or otherwise promote the drugs listed on the TDL in the field.
16. Identification of which entities listed in paragraph 1 manufactured, marketed or sold each of the drugs listed on the TDL and the time period during which each entity manufactured, marketed or sold a targeted drug.

17. Identification of whether Pfizer assumed liability for the drugs previously manufactured, marketed or sold by all of the entities listed in paragraph 1 upon acquisition of the entity by Pfizer.
18. Identification of the existence, location and format of all hard copy and electronic documents, data, and information relating to the subjects identified in paragraphs 1-17 above.

Dated this 1st day of February, 2008.

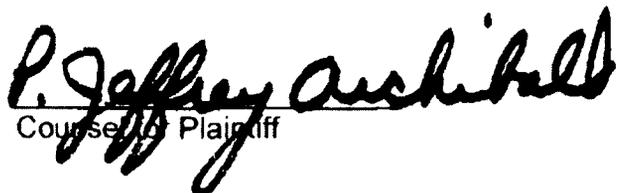


One of Plaintiff's Attorneys
P. Jeffrey Archibald
State Bar # 1006299

Archibald Consumer Law Office
1914 Monroe St.
Madison, WI 53711
E-mail: archibaldlaw@tds.net
Telephone: 608-661-8855
Fax: 608-661-0067

CERTIFICATE OF SERVICE

I hereby certify that I have on this the 1st of February, 2008, electronically served a true and correct copy of the foregoing pleading on all counsel of record by transmission to LexisNexis File & Serve.



Counsel to Plaintiff

Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
Tel: 215.963.5000
Fax: 215.963.5001
www.morganlewis.com

Morgan Lewis
C O U N S E L O R S A T L A W

Jamie M. McCall
215.963.5544
jmccall@morganlewis.com

February 20, 2008

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

P. Jeffrey Archibald, Esquire
Archibald Consumer Law Office
1914 Monroe Street
Madison, WI 53711

Re: State of Wisconsin v. Amgen Inc., et al.,
Case No. 04 CV 1709

Dear Jeff:

Based on our February 12th meet-and-confer and Plaintiff's Notice of Deposition of Defendant Pfizer, Inc. ("Notice of Deposition"), we understand that you seek a Pfizer Inc. ("Pfizer") corporate designee to testify about subject matters that relate to the corporate structure of Pharmacia Corporation ("Pharmacia"). We explained at the meet-and-confer that Pfizer would be willing to respond to written interrogatories regarding the subject matters detailed in your Notice of Deposition, to the extent known by Pfizer, but that a deposition of a live witness was unreasonably burdensome and harassing, given the type of information sought. You indicated this compromise was not acceptable to you and insisted on deposing a Pfizer corporate designee in Wisconsin.

Pfizer objects to your Notice of Deposition on the ground that it seeks information relating to any named defendant other than Pfizer, which is neither relevant nor reasonably calculated to lead to discovery of admissible evidence.¹ Pfizer also objects on the ground that it is unduly burdensome and harassing, as such information (corporate structures, identity of directors, location of documents, etc.) can be provided by less burdensome means. Pfizer further

¹ As we further explained during the meet-and-confer, Pfizer and Pharmacia were completely unrelated and distinct companies for 10 of the nearly 11 years of time Plaintiff has placed at issue. Even after the merger, Pharmacia has maintained its own corporate identity as a subsidiary of Pfizer. Your deposition notice appears to be targeted at issues relating to successor liability and "piercing the corporate veil," but as there has been no question of Pharmacia's ability to pay any judgment in this matter, these issues are simply not relevant.



P. Jeffrey Archibald
February 20, 2008
Page 2

objects to the deposition notice to the extent it seeks information outside the time period at issue in this action.

Please let us know if your position has changed. If you continue to insist that Pfizer produce a witness in Wisconsin to address these issues, we will be forced to seek a protective order from the Court.

Sincerely,



Jamie M. McCall

JMM/by