

STATE OF WISCONSIN

CIRCUIT COURT
Branch 9

DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

Case No.: 04-CV-1709

v.

ABBOTT LABORATORIES, *et al.*,

Defendants.

**IVAX CORPORATION AND IVAX PHARMACEUTICALS, INC.'S RESPONSES AND
OBJECTIONS TO PLAINTIFF STATE OF WISCONSIN'S EIGHTH SET OF
REQUESTS FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

Pursuant to Wisconsin Rules of Civil Procedure §§ 804.01 and 804.09, Defendants Ivax Corporation and Ivax Pharmaceuticals, Inc. (collectively "Ivax"), by its counsel, hereby respond and object to Plaintiff's Eighth Set for Requests for Production of Documents to All Defendants ("Requests"), dated July 22, 2008, and propounded by Plaintiff State of Wisconsin ("Plaintiff", "Wisconsin" or "State"). Plaintiff's Requests are set forth verbatim below, each of which is followed by Ivax's response. Each response is made subject to the objections and conditions within that response as well as to the General Objections set forth below. Ivax responds as follows:

GENERAL OBJECTIONS

Ivax incorporates all of the General Objections set forth below into its responses to each Request. Any Specific Objections provided are made in addition to these General Objections, and the failure to restate a General Objection below does not constitute a waiver of that or any other objection.

1. These responses 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 these Requests; (b) the right to object on any ground to the use of any documents or information produced in response to these Requests at any hearings or at trial; or (c) the right to object on any ground at any time to a demand for further responses to these Requests and Interrogatories.

2. Ivax reserves the right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein.

3. Ivax has not completed its investigation and discovery in this case. Accordingly, the documents and information produced in response to these Requests are based upon, and necessarily limited by, information now available to Ivax.

4. Ivax states that its responses are subject to the Protective Order entered in this case.

5. Ivax objects to these Requests to the extent they demand the production of documents or information containing trade secrets, or proprietary, commercially sensitive, or other confidential information.

6. Ivax objects to the disclosure, under any circumstance, of trade secret information where the probative value in this litigation is greatly exceeded by the potential harm to Ivax if the information were to fall into the hands of its competitors, and further asserts each and every applicable privilege and rule governing confidentiality to the fullest extent provided by law and the Protective Order entered in this case.

7. Ivax objects to these Requests to the extent they purport to impose duties and obligations on Ivax beyond the duties and obligations under the Wisconsin Rules of Civil Procedure and the applicable local rules. Ivax will comply with its duties and obligations under the Wisconsin Rules of Civil Procedure and the applicable local rules.

8. Ivax states that the information and documents produced in response to these Requests are for use in this litigation and for no other purpose.

9. Ivax objects to these Requests to the extent they seek information that is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence, or are overly broad, unduly burdensome, ambiguous, or vague.

10. Ivax objects to these Requests to the extent they seek information protected by the attorney-client privilege, the work product doctrine, or any other immunity, privilege, or exemption from discovery recognized by any applicable law or rule. To the extent any such protected information is disclosed in response to these Requests, the production of such information is inadvertent and shall not constitute a waiver of Ivax's right to assert the applicability of any privilege or immunity, and any such information and documents shall be returned to Ivax's counsel immediately upon discovery thereof, and any and all copies of the same shall be contemporaneously destroyed.

11. Ivax objects to these Requests to the extent they seek any information beyond Ivax's possession, custody, or control.

12. Ivax objects to these Requests to the extent they call for information that is more appropriately sought from third parties to whom requests have been or may be directed.

13. Ivax objects to these Requests to the extent they call for the production of publicly available documents or documents that could be obtained from Plaintiff's own files or other sources.

14. Ivax objects to these Requests to the extent they explicitly or implicitly characterize facts, events, circumstances, or issues relating to the subject of this litigation.

15. Ivax's responses to these Requests shall not be construed in any way as an admission that any definition provided by Plaintiff is either factually or legally binding upon Ivax. Neither the fact that an objection is interposed to a particular Request nor the fact that no objection is interposed necessarily means that responsive information exists. Ivax's undertaking to furnish information responsive to these Requests is subject to the general provision that Ivax only agrees to provide information to the extent it can be identified on the basis of reasonable diligence.

16. Ivax objects to these Requests to the extent they demand the production of documents or information from outside of the statute of limitations timeframe applicable to the Plaintiff's claims in this action, or beyond the time period relevant to this action. Ivax further objects to these Requests as irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent they purport to require production of documents or seek information relating to a period of time outside the bounds ordered by the Court in this case.

17. Ivax objects to these Requests to the extent they demand production of documents or information relating to Ivax's activities that are outside the scope of the Second Amended (or any subsequently amended) Complaint.

18. Ivax objects to these Requests to the extent they demand production of documents or information relating to Ivax's activities other than those which concern the State of Wisconsin, on the grounds that such documents or information are neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

19. Ivax objects to these Requests to the extent they call for Ivax to restore and produce archived data that presently exists on media no longer used by Ivax and which requires the use of equipment and/or software no longer used or maintained by Ivax, on the grounds that the request is overly broad, unduly burdensome, duplicative, and not reasonably calculated to lead to the discovery of admissible evidence. Ivax further objects to these Requests to the extent they seek production of any data that does not reside in complete form in an active and readily accessible format, is presently unreadable or unusable, or cannot be verified as accurate.

20. Ivax objects to Plaintiff's definition of "You," "Your," and "Your Company" on the grounds that it is overly broad and unduly burdensome. Ivax further objects to this definition to the extent that it purports to include entities and persons that are not parties to this action. Moreover, while Ivax intends to conduct a reasonable search for responsive documents, it hereby states that it will not take any responsibility to search for documents in the possession or control of other persons, including separate corporate entities, on the bases that these documents are beyond Ivax's possession, custody, and control, as well as neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence.

21. Ivax objects to Plaintiff's definition of "Document" on the grounds that it is vague, ambiguous, and overly broad. Ivax further objects to this definition to the extent that it includes documents that are protected by the attorney-client privilege, the work product doctrine,

or any other immunity, privilege, or exemption from discovery recognized by any applicable law or rule. Ivax further objects to this definition to the extent that it seeks to impose obligations on Ivax that are greater than, or inconsistent with, Ivax's obligations under the Wisconsin Rules of Civil Procedure and the applicable local rules. Ivax further objects to this definition to the extent that it purports to include within its scope documents or information containing or consisting of proprietary information, trade secrets, or information of a competitively sensitive nature.

22. Ivax objects to Plaintiff's Definitions generally as vague, ambiguous, and contrary to Plaintiff's own document productions, and as unduly burdensome.

23. Ivax objects to the instructional paragraphs preceding the specific Requests on the grounds that these instructions are vague, ambiguous, and overly broad. Ivax further objects to these instructions as overly burdensome insofar as they purport to impose on Ivax obligations inconsistent with, or greater than, Ivax's obligations under the Wisconsin Rules of Civil Procedure and the applicable local rules.

24. Ivax reserves the right at any time to assert additional objections to these Requests as appropriate, and to amend or supplement its responses based on the results of its continuing investigation.

25. Ivax hereby incorporates by reference as if fully set forth herein any objection or reservation of rights made by any defendant in this action to the extent such objection or reservation of rights is not inconsistent with Ivax's position in this litigation.

26. Ivax objects to these Requests to the extent Ivax has already produced documents to Plaintiff that are fully responsive to these Requests. Ivax hereby expressly incorporates this objection into each and every response to the specific Requests below.

SPECIFIC RESPONSES AND OBJECTIONS

DOCUMENT REQUEST NO. 23: Attached hereto as Exh. 1 is a copy of a blank form entitled “HDMA Standard Product Information Pharmaceutical Products.” Please produce all such forms that you have completed (as to any or all of the information on such forms) for any of your drugs from January 1, 1991 to the present as well as all documents that identify each person or entity, if any (including but not limited to Cardinal Health, McKesson Corporation, or Amerisource Bergen Corporation, or any of their predecessor entities), to whom you sent or provided any such forms and the dates that you sent or provided such forms to any such person or entity.

RESPONSE:

In addition to the General Objections set forth above, Ivax objects to Request No. 23 to the extent that it seeks documents that go beyond the scope and subject matter of Plaintiff’s claims, which are limited to the Target drugs reimbursed in Wisconsin during the Relevant time period. Ivax further objects to the Request to the extent that it seeks documents or information which may be derived or ascertained from documents already within the State’s knowledge, possession, custody and/or control, and to the extent that it seeks production of documents or information from other sources not within the possession, custody or control of Ivax, or that are obtainable by the State with equal or greater facility.

Subject to and without waiving the foregoing, Ivax will undertake a reasonable search for completed “HDMA Standard Product Information Pharmaceutical Products” forms and documents reflecting who Ivax sent these forms to and on what dates Ivax sent these forms, and will produce responsive, non-privileged documents from the Relevant time period that refer to the Ivax Target drugs, to the extent that such documents even exist. To the extent this Request

purports to require more, Ivax objects that the Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

DOCUMENT REQUEST NO. 24:

Any documents reflecting communications with drug wholesalers (including but not limited to Cardinal Health, McKesson Corporation, or Amerisource Bergen Corporation, or any of their predecessor entities) relating to: (a) AWP, SWP, WAC, MAC, FUL, or direct price, or (b) any pricing compendia including but not limited to First DataBank, Medispan, and Red Book.

RESPONSE:

In addition to the General Objections set forth above, Ivax objects to Request No. 50 to the extent that it seeks documents that go beyond the scope and subject matter of Plaintiff's claims, which are limited to the Target drugs reimbursed in Wisconsin during the Relevant time period. Ivax further objects to the Request to the extent that it seeks documents or information which may be derived or ascertained from documents already within the State's knowledge, possession, custody and/or control, and to the extent that it seeks production of documents or information from other sources not within the possession, custody or control of Ivax, or that are obtainable by the State with equal or greater facility.

Subject to and without waiving the foregoing, Ivax will undertake a reasonable search for documents reflecting communications with drug wholesalers about: "(a) AWP, SWP, WAC, MAC, FUL, or direct price or (b) any pricing compendia" and will produce responsive, non-privileged documents from the Relevant time period that refer to the Ivax Target drugs, to the extent that such documents even exist. To the extent this Request purports to require more, Ivax objects that the Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

DOCUMENT REQUEST NO. 25:

Documents relating to any contract or agreement with any health-care provider (including but not limited to retail pharmacies (chain or independent), doctors, or long-term care facilities) to share in the profits earned by such provider in connection with the provider's sale or dispensing of any of your prescription drugs.

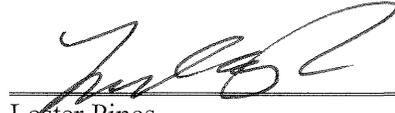
RESPONSE:

In addition to the General Objections set forth above, Ivax objects to Request No. 51 to the extent that it seeks documents that go beyond the scope and subject matter of Plaintiff's claims, which are limited to the Target drugs reimbursed in Wisconsin during the Relevant time period. Ivax further objects to the Request to the extent that it seeks documents or information which may be derived or ascertained from documents already within the State's knowledge, possession, custody and/or control, and to the extent that it seeks production of documents or information from other sources not within the possession, custody or control of Ivax, or that are obtainable by the State with equal or greater facility.

Subject to and without waiving the foregoing, Ivax will undertake a reasonable search for documents reflecting contracts with so-called "healthcare providers" in connection with the provider's sale or dispensing of any of Ivax's prescription drugs and will produce responsive, non-privileged documents from the Relevant time period that refer to the Ivax Target drugs, to the extent that such documents even exist. To the extent this Request purports to require more, Ivax objects that the Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Dated: August 21, 2008

AS TO ALL OBJECTIONS:



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CERTIFICATE OF SERVICE

I, Lester Pines, hereby certify that on this 21st day of August, 2008, a true and correct copy of the foregoing was served on all counsel of record by Lexis Nexis File & Serve®.



Lester Pines