



Feb 13 2008
5:04PM

STATE OF WISCONSIN

CIRCUIT COURT
Branch 9

DANE COUNTY

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

**PHARMACIA CORPORATION’S RESPONSES AND OBJECTIONS TO
PLAINTIFF STATE OF WISCONSIN’S SIXTH SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

Pursuant to Wisconsin Rule of Civil Procedure 804.09, defendant Pharmacia Corporation (“Pharmacia”), by its attorneys, objects and responds to Plaintiff’s Sixth Set for Requests for Production of Documents to All Defendants (“Requests”) as follows:

PRELIMINARY STATEMENT

1. These responses and objections are made solely for the purposes of this action and no other purpose. Each response is made without in any way waiving or intending to waive: (i) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, information or documents produced in response to these Requests; (ii) the right to object on any ground to the use of the documents or information produced in response to the Requests at any hearings or at trial; or (iii) the right to object on any ground at any time for further responses to the Requests; (iv) its right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein; and (v) and to any and all other objections that may be applicable at a trial or other hearing or proceeding, all of which objections and grounds are expressly reserved and may be interposed at the time of trial.

2. Pharmacia has not completed its investigation and discovery relating to this case. The specific responses set forth below and any production made pursuant to the accompanying document requests are based upon, and necessarily limited by, information now available to Pharmacia.

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

4. Pharmacia objects to these Requests to the extent they call for the production of documents or information protected from disclosure under the attorney-client privilege, the work product 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 these Requests, the production of such documents or information shall not constitute a waiver of Pharmacia's 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 Pharmacia's counsel immediately upon discovery thereof.

5. Pharmacia objects to these Requests to the extent that they seek production of publicly available documents or information, or that which Plaintiff can obtain from other sources.

6. Pharmacia's responses to these Requests are submitted without prejudice to Pharmacia's right to produce evidence of any subsequently discovered fact. Pharmacia accordingly reserves its right to produce further responses and answers as additional facts are ascertained.

7. Pharmacia's responses to these Requests contain information subject to the Protective Order entered on November 29, 2005 in this matter and must be treated accordingly.

8. Pharmacia objects to these Requests to the extent that they seek to impose discovery obligations that are broader than, or inconsistent with, Pharmacia's obligations under the Wisconsin Rules of Civil Procedure.

9. Pharmacia objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in these Requests. Pharmacia's response that it will produce documents in connection with a particular request, or that it has no responsive documents, is not intended to indicate that Pharmacia agrees with any implication or any explicit or implicit characterization of facts, events, circumstances, or issues in the Requests or that such implications or characterizations are relevant to this action.

10. Pharmacia objects to each Request to the extent that it calls for the identification or production of documents or information not relevant to the issues in this action and is not reasonably calculated to lead to the discovery of admissible evidence.

11. Pharmacia objects to the definition of "Documents" on the grounds that it is vague and ambiguous and to the extent that it seeks to impose obligations beyond those imposed by the applicable Wisconsin Rules of Civil Procedure. Pharmacia further objects to this definition to the extent that it purports to require Pharmacia to identify or produce documents or data in a particular form or format, to convert documents or data into a particular file format, to produce documents or data on any particular media, to search for and/or produce or identify documents or data on back-up tapes, to produce any proprietary software, data, programs or databases, to violate any licensing agreement or copyright laws, or to produce data, fields, records, or reports about produced documents or data. The production of any documents or data

or the provision of other information by Pharmacia as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

12. Pharmacia objects to each Request to the extent that it calls for production of documents or information not within its possession, custody, or control or are more appropriately sought from third parties to whom requests have been or may be directed.

13. Pharmacia objects to each Request to the extent that it calls for information that is confidential, proprietary, and/or a trade secret of a third party. Any such materials produced will be subject to the Protective Order entered in this action.

14. Pharmacia objects to each Request to the extent that it seeks disclosure of information that is a matter of public record, is equally available to the Plaintiff, or is already in the possession of the Plaintiff.

15. Pharmacia objects to the definition of the time-period covered by the Requests to the extent it encompasses any time-period after June 3, 2004, the date Plaintiff filed its original Complaint in this case.

16. Pharmacia objects to Plaintiff's "Definitions" and "Instructions" to the extent Plaintiff intends to expand upon or alter Pharmacia's obligations under the Wisconsin Rules of Civil Procedure. Pharmacia will comply with applicable rules of civil procedure in providing its responses and objections to the Requests.

17. Pharmacia expressly incorporates the above General Objections into each specific response to the Requests set forth below as if set forth in full therein. The response to a Request shall not operate as a waiver of any applicable specific or general objection to the Request.

RESPONSES AND OBJECTIONS TO SPECIFIC REQUESTS

DOCUMENT REQUEST NO. 20: The following documents relating to the Together Rx programs:

- (a) contracts or written agreements with providers (including doctors and retail pharmacies);
- (b) documents identifying or relating to the reimbursement to participating providers (including doctors and retail pharmacies) for the ingredient cost of covered prescription drugs, including but not limited to, any formula for reimbursement based on the average wholesale price (“AWP”) of such drugs;
- (c) documents identifying or relating to the amount of the dispensing fee paid to participating providers (including doctors and retail pharmacies) for covered prescription drugs;
- (d) documents identifying or relating to the eligibility requirements for participation in the Together Rx programs; and
- (e) documents identifying your prescription drugs covered by the Together Rx programs.

RESPONSE TO DOCUMENT REQUEST NO. 20:

Notwithstanding the foregoing General Objections, which are incorporated herein by reference, and without waiving them, Pharmacia responds to Document Request No. 20 that based upon a reasonable search, Pharmacia does not have documents responsive to this Request because it does not participate in the Together Rx program.

DOCUMENT REQUEST NO. 21: All documents relating to any program of yours that provides, or is marketed as providing, a discount or savings to consumers for any of your prescription drugs. Examples of such programs are Novartis Savings Program a/k/a the Novartis Care Plan (Novartis Care Card), Pfizer for Living Program (Pfizer Share Card), Pfizer U Share Prescription Drug Discount Card, and the GlaxoSmithKline Orange Card. This request includes, but is not limited to, the following documents:

- (a) contracts or written agreements with providers (including doctors and retail pharmacies);

- (b) documents identifying or relating to the reimbursement to participating providers (including doctors and retail pharmacies) for the ingredient cost of covered prescription drugs, including but not limited to, any formula for reimbursement based on the AWP of such drugs;
- (c) documents identifying or relating to the amount of the dispensing fee paid to participating providers (including doctors and retail pharmacies) for covered prescription drugs;
- (d) documents identifying or relating to the eligibility requirements for participation in the program; and
- (e) documents identifying your prescription drugs covered by the program.

RESPONSE TO DOCUMENT REQUEST NO. 21:

In addition to its General Objections, which are incorporated herein by reference, Pharmacia objects to this Request on the grounds that it is overly broad, unduly burdensome, and the following phrases are vague, ambiguous, and undefined: “any program of yours that provides, or is marketed as providing,” “a discount or savings,” and “consumers.” Pharmacia further objects to this Request to the extent it seeks documents relating to programs that “provide, or [are] marketed as providing, a discount or savings to” consumers of Pharmacia’s products because such documents are neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence.

February 13, 2008

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Attorneys for Pharmacia Corporation

Certificate of Service

I, Jamie M. McCall, hereby certify that on this day of 13th day of February 2008, a true and correct copy of Pharmacia Corporation's Responses and Objections to Plaintiff's Sixth Set of Requests for Production of Documents to All Defendants was served on all counsel of record by Lexis Nexis File & Serve®.

/s/ Jamie M. McCall
Jamie M. McCall