
STATE OF WISCONSIN,

Plaintiff,

Case No.: 04-CV-1709

v.

ABBOTT LABORATORIES, *et al.*,

Defendants.

**SICOR 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, Defendant Sidor Inc. ("Sidor"), by its counsel, hereby responds and objects 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 Sidor'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. Sidor responds as follows:

GENERAL OBJECTIONS

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

3. Sicor 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 Sicor.

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

5. Sicor 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. Sicor 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 Sicor 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. Sicor objects to these Requests to the extent they purport to impose duties and obligations on Sicor beyond the duties and obligations under the Wisconsin Rules of Civil

Procedure and the applicable local rules. Sicor will comply with its duties and obligations under the Wisconsin Rules of Civil Procedure and the applicable local rules.

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

9. Sicor 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. Sicor 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 Sicor's right to assert the applicability of any privilege or immunity, and any such information and documents shall be returned to Sicor's counsel immediately upon discovery thereof, and any and all copies of the same shall be contemporaneously destroyed.

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

12. Sicor 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. Sicor 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. Sicor 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. Sicor'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 Sicor. 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. Sicor's undertaking to furnish information responsive to these Requests is subject to the general provision that Sicor only agrees to provide information to the extent it can be identified on the basis of reasonable diligence.

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

18. Sicor objects to these Requests to the extent they demand production of documents or information relating to Sicor'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. Sicor objects to these Requests to the extent they call for Sicor to restore and produce archived data that presently exists on media no longer used by Sicor and which requires the use of equipment and/or software no longer used or maintained by Sicor, on the grounds that the request is overly broad, unduly burdensome, duplicative, and not reasonably calculated to lead to the discovery of admissible evidence. Sicor 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. Sicor objects to Plaintiff's definition of "You," "Your," and "Your Company" on the grounds that it is overly broad and unduly burdensome. Sicor 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 Sicor 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 Sicor'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. Sicor objects to Plaintiff's definition of "Document" on the grounds that it is vague, ambiguous, and overly broad. Sicor 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. Sicor further objects to this definition to the extent that it seeks to impose obligations on Sicor that are greater than, or inconsistent with, Sicor's obligations under the Wisconsin Rules of Civil Procedure and the applicable local rules. Sicor 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. Sicor objects to Plaintiff's Definitions generally as vague, ambiguous, and contrary to Plaintiff's own document productions, and as unduly burdensome.

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

24. Sicor 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. Sicor 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 Sicor's position in this litigation.

26. Sicor objects to these Requests to the extent Sicor has already produced documents to Plaintiff that are fully responsive to these Requests. Sicor 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, Sicor 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. Sicor 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 Sicor, or that are obtainable by the State with equal or greater facility.

Subject to and without waiving the foregoing, Sicor will undertake a reasonable search for completed "HDMA Standard Product Information Pharmaceutical Products" forms and documents reflecting who Sicor sent these forms to and on what dates Sicor sent these forms,

and will produce responsive, non-privileged documents from the Relevant time period that refer to the Sicor Target drugs, to the extent that such documents even exist. To the extent this Request purports to require more, Sicor 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, Sicor 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. Sicor 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 Sicor, or that are obtainable by the State with equal or greater facility.

Subject to and without waiving the foregoing, Sicor 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 Sicor Target drugs, to the extent that such documents even exist. To the extent this Request purports to require more, Sicor

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, Sicor 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. Sicor 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 Sicor, or that are obtainable by the State with equal or greater facility.

Subject to and without waiving the foregoing, Sicor 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 Sicor's prescription drugs and will produce responsive, non-privileged documents from the Relevant time period that refer to the Sicor Target drugs, to the extent that such documents even exist. To the extent this Request purports to require more, Sicor 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