

STATE OF WISCONSIN,

Plaintiff,

Case No.: 04-CV-1709

v.

ABBOTT LABORATORIES, et. al.,

Defendants.

**TEVA PHARMACEUTICALS USA, INC.’S RESPONSES AND OBJECTIONS TO
PLAINTIFF STATE OF WISCONSIN’S FIFTH SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

Pursuant to Wisconsin Rule of Civil Procedure 804.09, Defendant Teva Pharmaceuticals USA, Inc. (“Teva”), by its counsel, hereby objects and responds to Plaintiff’s Fifth Set for Requests for Production of Documents to All Defendants (“Requests”), dated June 27, 2007, and propounded by Plaintiff State of Wisconsin (“Plaintiff”, “Wisconsin” or “State”). Plaintiffs’ Requests are set forth verbatim below, each of which is followed by Teva’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. Teva responds as follows:

GENERAL OBJECTIONS

Teva expressly incorporates all of the General Objections set forth below into the Specific Objections for each Request. Any specific objections provided are made in addition to these General Objections and failure to reiterate 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 information produced in response to these Requests; (b) the right to object on any ground to the use of the 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 for further responses to these Requests.

2. Teva reserves the right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein.
3. Teva has not completed its investigation and discovery in this case. Accordingly, 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 Teva.
4. Teva states that its responses are subject to all applicable protective orders, including the May 11, 2005 Protective Order entered in this case, case management orders, and other directives of courts of competent jurisdiction.
5. Teva objects to the Requests to the extent that they demand the production of documents or information containing trade secrets, or proprietary, commercially sensitive or other confidential information.
6. Teva 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 Teva 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 the law and the Protective Order entered into by Defendants and Plaintiff in this litigation on May 11, 2005.

7. Teva objects to the Requests to the extent they purport to impose duties and obligations on Teva beyond the duties and obligations under the Wisconsin Statutes, Rules of Civil Procedure and the applicable local rules. Teva will comply with its duties and obligations under the Wisconsin Statutes, Rules of Civil Procedure and the applicable local rules.
8. Teva states that the information and documents supplied herein are for use in this litigation and for no other purpose.
9. Teva objects to these Requests to the extent that 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. Teva objects to Plaintiff's Requests to the extent that 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 that any such protected information is inadvertently disclosed in response to these Requests, the production of such information shall not constitute a waiver of Teva's right to assert the applicability of any privilege or immunity, and any such information and documents shall be returned to Teva's counsel immediately upon discovery thereof.

11. Teva objects to Plaintiff's Requests to the extent that they seek any information beyond Teva's possession, custody, or control.
12. Teva objects to Plaintiff's Requests to the extent that they call for information that is more appropriately sought from third parties to whom requests have been or may be directed.
13. Teva objects to the Requests to the extent that they call for the production of publicly available documents or documents that could be obtained from Plaintiff's own files or other sources.
14. Teva objects to Plaintiff's Requests to the extent that they explicitly or implicitly characterize facts, events, circumstances, or issues relating to the subject of this litigation.
15. Teva's responses to Plaintiff's Requests shall not be construed in any way as an admission that any definition provided by Plaintiff is either factually or legally binding upon Teva. 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. Teva's undertaking to furnish information responsive to Plaintiff's Requests is subject to the general provision that Teva only agrees to provide information to the extent that it can be identified on the basis of reasonable diligence.
16. Teva objects to the Requests to the extent that they demand the production of documents or information from outside of the relevant and binding statute of limitations timeframe applicable to the Plaintiff's claims in this action ("the Relevant time period"). Teva further objects to the Requests to the extent they purport to require Teva to produce

documents relating to drugs other than those the State alleges are attributable to Teva and are specifically at issue in this litigation. Teva objects to the Requests as irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent that they purport to require production of documents or seek information relating to a period of time after the filing of the original Complaint on or around June 3, 2004.

17. Teva objects to the Requests to the extent they demand production of documents or information relating to Teva's activities that are outside the scope of the Complaint.
18. Teva objects to the Requests to the extent that they demand production of documents or information relating to Teva's activities other than those which concern the State, 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. Teva objects to Plaintiff's definition of "You", "Your" and "Your Company" on the grounds that it is overly broad and unduly burdensome. Teva further objects to this definition to the extent that it purports to include entities and persons that are not parties to this action.
20. Teva objects to Plaintiff's definition of "Document" and "Documents" on the grounds that it is vague, ambiguous, and overbroad. Teva 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 applicable doctrine or privilege. Teva further objects to this definition to the extent that it seeks to impose obligations on Teva that are greater than, or inconsistent with, Teva's obligations under the Wisconsin Statutes, Rules of

Civil Procedure and the applicable local rules. Further, Teva 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.

21. Teva objects to the instructional paragraph preceding the specific Requests on the grounds that these instructions are vague, ambiguous, and overly broad. Teva further objects to these instructions as overly burdensome insofar as they purport to impose on Teva obligations inconsistent with, or greater than, Teva's obligations under the Wisconsin Statutes, Rules of Civil Procedure and the applicable local rules.
22. Teva reserves the right to assert additional objections to these Requests as appropriate to amend or supplement these objections and responses in accordance with the applicable local rules and court orders and based on the results of its continuing investigation.
23. Teva 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 Teva's position in this litigation.

SPECIFIC REQUESTS AND OBJECTIONS TO DOCUMENT REQUESTS

DOCUMENT REQUEST NO. 14:

All documents relating to lobbying efforts of you, or any individual or entity acting on your behalf (including but not limited to third-party lobbyists or lobbyist organizations such as the Pharmaceutical Research and Manufacturers of America), with regard to:

- (a) the Wisconsin Medicaid program's reimbursement for prescription drugs;
- (b) other state Medicaid programs' reimbursement for prescription drugs; and
- (c) the federal Medicare program's reimbursement for prescription drugs.

Documents sought by this request include, but are not limited to:

- (a) communications with the State of Wisconsin, the Wisconsin Department of Health & Family Services, and the Wisconsin legislature (including any legislative committee or individual state legislator);
- (b) communications with other states, other state Medicaid programs, and other state legislatures (including any legislative committee or individual state legislator);
- (c) internal communications within your company;
- (d) communications between you and external third-party lobbyists or lobbyist organizations such as the Pharmaceutical Research and Manufacturers of America; and
- (e) documents identifying, describing, or relating to the amount of money spent on lobbying efforts regarding these issues.

RESPONSE TO REQUEST NO. 14:

In addition to the General Objections set forth above, Teva objects to Request No. 14 to the extent that it seeks documents that go beyond the scope and subject matter of Plaintiff's claims, which are limited to drugs reimbursed in Wisconsin during the Relevant time period. In addition, Teva objects to this Request as vague and ambiguous. Teva further objects to this 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 possession, custody or control of Teva, or that are obtainable by the State with equal or greater facility. Teva objects to this Request to the extent that it seeks documents or information that are subject to the attorney-client privilege, work product doctrine, or any other applicable privilege, doctrine or immunity.

Subject to and without waiving the foregoing, Teva will search for documents relating to lobbying efforts by Teva, or individuals or entities other than counsel acting on Teva's behalf, with regard to Medicaid and Medicare reimbursement for prescription drugs during the Relevant Time Period, and will produce responsive, non-privileged documents to the extent that such

documents refer or relate to Teva's Target drugs. To the extent this Request purports to require more, Teva objects that the Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

DOCUMENT REQUEST NO. 15:

Documents identifying, describing, or relating to your internal code of conduct or other policy relating to the ethical standards applicable to your employees.

RESPONSE TO REQUEST NO. 15:

In addition to the General Objections set forth above, Teva objects to Request No. 15 to the extent that it seeks documents that go beyond the scope and subject matter of Plaintiff's claims, which are limited to drugs reimbursed in Wisconsin. Teva further objects to this Request to the extent that it seeks documents or information that are subject to the attorney-client privilege, work product doctrine, or any other applicable privilege, doctrine or immunity.

Subject to and without waiving the foregoing, Teva will search for and produce internal codes of conduct or ethics policies in place during the Relevant time period, if any. To the extent this Request purports to require more, Teva objects that this Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

DOCUMENT REQUEST NO. 16:

Documents relating to your compliance policy or other policies designed to ensure adherence to applicable statutes, regulations and requirements for pharmaceutical manufacturers in connection with the Medicare and Medicaid programs.

RESPONSE TO REQUEST NO. 16:

In addition to the General Objections set forth above, Teva objects to Request No. 16 to the extent that it seeks documents that go beyond the scope and subject matter of Plaintiff's claims, which are limited to drugs reimbursed in Wisconsin. In addition, Teva objects to this Request as vague and ambiguous, and the following phrases are vague, ambiguous, and

undefined: “compliance policy,” “other policies,” and “applicable statutes, regulations and requirements for pharmaceutical manufacturers in connection with the Medicare and Medicaid programs.” Teva further objects to this 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 possession, custody or control of Teva, or that are obtainable by the State with equal or greater facility. Teva objects to this Request to the extent that it seeks documents or information that are subject to the attorney-client privilege, work product doctrine, or any other applicable privilege, doctrine or immunity.

Subject to and without waiving the foregoing, Teva will search for and produce non-privileged policies designed to ensure compliance with Medicare and/or Medicaid statutes and regulations during the Relevant time period, if any. To the extent this Request purports to require more, Teva objects that this Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

DOCUMENT REQUEST NO. 17:

Documents relating to any policy relating to the use or promotion of, or reference to, the spread of a drug in connection with the sales or marketing of that drug including, but not limited to:

- (a) documents that relate to or describe the policy, including consequences for violation of the policy;
- (b) documents that identify the date that the policy was established and/or became effective;
- (c) documents identifying, describing, or relating to the reason(s) for establishment of the policy;
- (d) documents identifying, describing, or relating to the distribution and dissemination of the policy to your employees;
- (e) documents identifying, describing, or relating to training provided to your employees regarding the policy; and
- (f) documents relating to any actual or potential violations of the policy, including any investigation, determination, and action taken by your company related to any such actual or potential violation.

RESPONSE TO REQUEST NO. 17:

In addition to the General Objections set forth above, Teva objects to Request No. 17 to the extent that it seeks documents that go beyond the scope and subject matter of Plaintiff's claims, which are limited to drugs reimbursed in Wisconsin. In addition, Teva objects to this Request as vague and ambiguous, and the following terms are vague, ambiguous, and undefined: "policy relating to the use or promotion of, or reference to, the spread of a drug" and "in connection with the sales or marketing of that drug." Teva further objects to this 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 possession, custody or control of Teva, or that are obtainable by the State with equal or greater facility. Teva objects to this Request to the extent that it seeks documents or information that are subject to the attorney-client privilege, work product doctrine, or any other applicable privilege, doctrine or immunity.

Subject to and without waiving the foregoing, Teva will search for and produce non-privileged documents relating to Teva's policies regarding "the spread of a drug" in connection with the sale and marketing of Teva's Target drugs during the Relevant time period, if any. To the extent this Request purports to require more, Teva objects that this Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

DOCUMENT REQUEST NO. 18:

Documents identifying or describing the reimbursement formula for prescription drugs used by the Wisconsin Medicaid Program, including but not limited to its formula for estimating acquisition cost or its use of AWP.

RESPONSE TO REQUEST NO. 18:

In addition to the General Objections set forth above, Teva objects to Request No. 18 to the extent that it seeks documents that go beyond the scope and subject matter of Plaintiff's claims, which are limited to drugs reimbursed in Wisconsin during the Relevant time period. In addition, Teva objects to this Request as vague and ambiguous. Teva further objects to this 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 possession, custody or control of Teva, or that are obtainable by the State with equal or greater facility. Teva objects to this Request to the extent that it seeks documents or information that are subject to the attorney-client privilege, work product doctrine, or any other applicable privilege, doctrine or immunity.

Subject to and without waiving the foregoing, Teva will search for documents identifying or describing the reimbursement formula for prescription drugs used by the Wisconsin Medicaid Program, and will produce responsive, non-privileged documents from within the Relevant time period to the extent that such documents refer to Teva's Target drugs, if any. To the extent this Request purports to require more, Teva objects that this Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

DOCUMENT REQUEST NO. 19:

All documents relating to the National Pharmaceutical Council, including but not limited to the following:

- (a) documents relating to your membership in the National Pharmaceutical Council;
- (b) all correspondence between you and the National Pharmaceutical Council;

- (c) all annual publications of the National Pharmaceutical Council entitled “Pharmaceutical Benefits Under State Medical Assistance Programs.”

RESPONSE TO REQUEST NO. 19:

In addition to the General Objections set forth above, Teva objects to Request No. 19 to the extent that it seeks documents that go beyond the scope and subject matter of Plaintiff’s claims, which are limited to drugs reimbursed in Wisconsin during the Relevant time period. In addition, Teva objects to this Request as vague and ambiguous. Teva further objects to this 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 possession, custody or control of Teva, or that are obtainable by the State with equal or greater facility. Teva objects to this Request to the extent that it seeks documents or information that are subject to the attorney-client privilege, work product doctrine, or any other applicable privilege, doctrine or immunity.

Subject to and without waiving the foregoing, Teva will search for documents relating to Teva’s communications with or membership in the National Pharmaceutical Council, and will produce responsive, non-privileged documents from within the Relevant time period, if any. To the extent this Request purports to require more, Teva objects that this Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Dated: July 26, 2007

AS TO ALL OBJECTIONS:

/s/ Jennifer G. Levy
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Certificate of Service

I, Jennifer G. Levy, hereby certify that on this 26th day of June, 2007, a true and correct copy of the foregoing was served on all counsel of record by Lexis Nexis File & Serve®.

/s/ Jennifer G. Levy _____
Jennifer G. Levy