

---

STATE OF WISCONSIN,

)

Plaintiff,

)

)

v.

)

Case No. 04-CV-1709

)

ABBOTT LABORATORIES, ET AL.,

)

)

Defendants.

)

)

---

**BEN VENUE LABORATORIES, INC.’S  
RESPONSES AND OBJECTIONS TO PLAINTIFF’S  
FIFTH SET OF INTERROGATORIES TO ALL DEFENDANTS**

---

Pursuant to Wis. Stat. §§ 804.1 and 804.08, defendant Ben Venue Laboratories, Inc. (“Ben Venue”) responds and objects to Plaintiff State of Wisconsin’s Fifth Set of Interrogatories to All Defendants (“Interrogatory No. 13”) as follows:

**PRELIMINARY STATEMENT**

1. As to all matters referred to in these responses and objections to Interrogatory No. 13, Ben Venue’s investigation and discovery continues. The specific responses set forth below, and any production made consistent with the accompanying Interrogatory No. 13, are based upon, and necessarily limited by, information now available to Ben Venue. Ben Venue reserves the right to modify or supplement these responses and objections, to raise any additional objections deemed necessary and appropriate in light of the results of any further review, and to present in any proceeding and at trial any further information and documents obtained during discovery and preparation for trial.

**RESPONSES AND OBJECTIONS TO INTERROGATORY**

**INTERROGATORY NO. 13:** For each calendar year from 1993 to the present, identify the following:

- (a) the gross annual sales of your drugs in the United States; and

- (b) the percentage of the gross annual sales of your drugs in the United States that is attributable to Medicaid patients, i.e., that results from sales to (or stated differently, reimbursement by) state Medicaid programs.

**RESPONSE TO INTERROGATORY NO. 13:**

Ben Venue objects to Interrogatory No. 13 on the grounds that it is overly broad, unduly burdensome, and the phrase “attributable to Medicaid patients” is vague and ambiguous. Ben Venue further objects to Interrogatory No. 13 on the grounds that it seeks information that is not relevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence, such as: (1) information relating to Ben Venue products not at issue in this case; (2) information relating to products purchased outside Wisconsin; (3) information relating to products not reimbursed by Wisconsin Medicaid; and (4) information for time periods after the filing of the initial complaint in this action. For certain years, Ben Venue objects to Interrogatory No. 13 on the grounds that it is unduly burdensome to the extent that information responsive to subpart (a), if such information exists at all, is not reasonably accessible by Ben Venue. Ben Venue also objects to Interrogatory No. 13 on the grounds that any arguably relevant information requested by subpart (a) of this interrogatory is duplicative of Document Request No. 1. Finally, Ben Venue objects to subpart (b) of this interrogatory on the grounds that Ben Venue does not maintain the information sought.

**GENERAL OBJECTIONS**

1. Ben Venue objects to Interrogatory No. 13 to the extent that it is unreasonably burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties’ resources, and the importance of the issues at stake in the litigation.
2. The response and objections provided in response to Interrogatory No. 13 are for use in this litigation and for no other purpose.

3. Ben Venue's response and objections shall not be deemed to constitute admissions:
- (a) that any particular document or thing exists, is relevant, non-privileged, or admissible in evidence; or
  - (b) that any statement or characterization in Interrogatory No. 13 is accurate or complete.
4. Ben Venue's response is made based upon the usual interpretation of words contained in Interrogatory No. 13 since no definitions or instructions have been provided.
5. Ben Venue objects to Interrogatory No. 13 to the extent it purports to impose upon Ben Venue duties and/or obligations broader than or inconsistent with those imposed by the Wisconsin Rules of Civil Procedure.

Ben Venue expressly incorporates these General Objections into its specific response to Interrogatory No. 13 set forth above as if set forth in full therein. The response to Interrogatory No. 13 shall not operate as a waiver of any applicable specific or general objection.

Dated: December 10, 2007

Respectfully submitted,

/s/ Ceylan Ayasli Eatherton

---

Helen E. Witt, P.C.  
Brian P. Kavanaugh  
Ceylan Ayasli Eatherton  
KIRKLAND & ELLIS LLP  
200 East Randolph Drive  
Chicago, Illinois 60601  
Tel: (312) 861-2000  
Fax: (312) 861-2200

Mr. Patrick J. Knight  
GIMBEL REILLY GUERIN & BROWN  
Two Plaza East, Suite 1170  
330 East Kilbourn Avenue  
Milwaukee, WI 53202  
Tel: (614) 464-6400  
Fax: (614) 464-6350

*Attorneys for Defendant Ben Venue  
Laboratories, Inc.*

**CERTIFICATE OF SERVICE**

I, Ceylan Ayasli Eatherton, hereby certify that on this 10th day of December, 2007, a true and correct copy of the foregoing BEN VENUE LABORATORIES, INC.'S RESPONSES AND OBJECTIONS TO PLAINTIFF'S FIFTH SET OF INTERROGATORIES TO ALL DEFENDANTS was served on all counsel of record via Lexis Nexis File & Serve®.

/s/ Ceylan Ayasli Eatherton  
Ceylan Ayasli Eatherton