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

DEFENDANT MERCK & CO., INC.’S RESPONSE AND OBJECTIONS TO PLAINTIFF’S FIFTH SET OF INTERROGATORIES TO ALL DEFENDANTS

Pursuant to Wis. Stat. §§ 804.01 and 804.08, defendant Merck & Co., Inc. (“Merck”), by its attorneys, responds and objects to Plaintiff’s Fifth Set of Interrogatories to All Defendants (“Interrogatory No. 13”) as follows:

GENERAL OBJECTIONS

1. The response and objections to Interrogatory No. 13 are made solely for the purposes of this action. Merck’s response is subject to all objections as to competence, relevance, materiality, propriety, and admissibility, 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. Merck’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.

3. Merck incorporates its General Objections from Merck’s prior responses to Plaintiff’s Interrogatories as if set forth here in full.

RESPONSE TO INTERROGATORY NO. 13

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: Merck objects to Interrogatory No. 13 on the grounds that it is vague, ambiguous, misleading, overly broad and unduly burdensome. Merck also 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. Merck further objects that this Request is overbroad and irrelevant in seeking: (1) information for Merck products not at issue in this case; (2) information for products purchased outside Wisconsin; (3) information for products not reimbursed by Wisconsin Medicaid; and (4) information for time periods prior to the limitations period and after the filing of the initial complaint in this action. Merck further objects to Interrogatory No. 13 to the extent it seeks information that is a matter of public record, is equally available to Plaintiff, or is already in the possession of Plaintiff. Merck also objects to Interrogatory No. 13 to the extent it seeks to expand upon or alter Merck's obligations under the Wisconsin statutes.

Dated: December 10, 2007

Respectfully submitted,

By: 

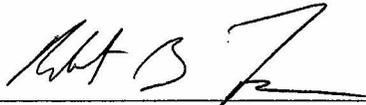
John M. Townsend (Admitted *pro hac vice*)
Robert P. Reznick (Admitted *pro hac vice*)
Robert B. Funkhouser (Admitted *pro hac vice*)
HUGHES HUBBARD & REED LLP
1775 I Street, N.W.
Washington, DC 20006-2401
Tel: (202) 721-4600
Fax: (202) 721-4646

Michael P. Crooks
State Bar No. 01008918
PETERSON, JOHNSON & MURRAY, S.C.
3 South Pinckney, Ninth Floor
Madison, Wisconsin 53703
Tel: (608) 256-5220
Fax: (608) 256-5270

Attorneys for Defendant Merck & Co., Inc.

Certificate of Service

I certify that on December 10, 2007 a true and correct copy of the foregoing was served on all counsel of record by Lexis Nexis File & Serve®, pursuant to Case Management Order No. 1.



Robert B. Funkhouser