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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THERASENSE, INC.,
Plaintiff,

v.

BECTON, DICKINSON AND
COMPANY,
Defendant.

No. C 04-02123 WHA

Consolidated with

No. C 04-03327 WHA
No. C 04-03732 WHA
No. C 05-03117 WHA

**ORDER RE PARTIES'
RESPONSES RE SPECIAL
MASTER REPORT**

AND CONSOLIDATED CASES.


The Court has read the five-page submissions. BD/Nova is now willing to accept \$5,949,050.27. The Court will not allow fees on fees. If Abbott believes there are fraudulent entries supporting the total fee number of \$5,949,050.27 or other clear cut errors by the special master, then Abbott may file objections by **NOON ON MARCH 16, 2009** limited to fifteen pages of briefing and no more than twenty pages of exhibits and declarations. BD/Nova may then respond with the same page limitations by **NOON ON MARCH 23, 2009**. The Court will decide whether to hold an evidentiary hearing. If an evidentiary hearing is necessary, the Court may require attorneys from both firms to testify and be cross-examined concerning the supposedly fraudulent entries. Please address this scenario in your submission.

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The Court is inclined to require Abbott to disclose the amount of the fee settlement with Bayer. That issue should be addressed in the briefing described above.

IT IS SO ORDERED.

Dated: March 6, 2009



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE