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Attorneys for Defendant
ABBOTT LABORATORIES

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

SAFEWAY INC; WALGREEN CO.; THE)
KROGER CO.; NEW ALBERTSON'S, INC.;)
AMERICAN SALES COMPANY, INC.; AND)
HEB GROCERY COMPANY, LP,)
)
Plaintiffs,)
)
v.)
)
ABBOTT LABORATORIES,)
)
Defendant.)

Case No. C07-5470 (CW)
Related per November 19, 2007 Order to
Case No. C04-1511 (CW)

**STIPULATION REGARDING
DEPOSITION OF MILES WHITE**

Honorable Claudia Wilken

(Caption continued on next page)

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MEIJER, INC. & MEIJER DISTRIBUTION,)
INC., ROCHESTER DRUG CO-OPERATIVE,)
INC., AND LOUISIANA WHOLESALE)
DRUG COMPANY, INC., ON BEHALF OF)
THEMSELVES AND ALL OTHERS)
SIMILARLY SITUATED,)

Plaintiffs,)

v.)

ABBOTT LABORATORIES,)

Defendant.)

Case No. C07-5985 (CW)
(Consolidated Cases)

Related per November 30, 2007 Order to
Case No. C04-1511 (CW)

RITE AID CORPORATION; RITE AID)
HDQTRS CORP.; JCG (PJC) USA, LLC;)
MAXI DRUG, INC D/B/A BROOKS)
PHARMACY; ECKERD CORPORATION;)
CVS PHARMACY, INC.; AND CAREMARK)
LLC,)

Plaintiffs,)

v.)

ABBOTT LABORATORIES,)

Defendant.)

Case No. 07-6120 (CW)

Related per December 5, 2007 Order to
Case No. C04-1511 (CW)

1 Whereas, the direct purchaser plaintiffs in the above-captioned actions (but not plaintiff
2 GSK) have notified Abbott that they intend to notice the deposition of Abbott's Chairman and CEO,
3 Miles White.

4 Whereas, Abbott has no intent to produce Mr. White for deposition absent a court order
5 requiring the deposition to take place and has expressed its intent to move for a protective order to
6 prevent that deposition from occurring.

7 Whereas, the direct purchaser plaintiffs dispute that sufficient grounds exist to support such a
8 protective order.

9 Whereas, Abbott has requested that the direct purchaser plaintiffs not formally notice the
10 deposition of Mr. White until the end of fact discovery.

11 Whereas, the parties agree to postpone this dispute until the close of fact discovery.

12 Whereas, the parties first filed this stipulation for Judge Zimmerman's approval and he
13 denied the request because he lacks authority to alter the fact discovery cut-off date.

14 **IT IS HEREBY STIPULATED AND AGREED:**

15 1. No plaintiff will notice the deposition of Mr. White before the last week of
16 February 2009. But any notice of deposition for Mr. White must be served by the seventh calendar
17 day after the close of fact discovery.

18 2. Within two business days after service of the deposition notice for Mr. White,
19 the parties will jointly contact Judge Zimmerman's chambers to request the earliest possible hearing
20 date for Abbott's motion for protective order and will coordinate on an expedited schedule for letter
21 briefs.

22 3. Abbott will not oppose the deposition of Mr. White based on the timing of the
23 notice or on the ground that the fact discovery period has closed, or is about to close. But Abbott
24 reserves its right to raise any other objection to the deposition. Abbott also will not seek to alter
25 other deadlines in the case based on the pendency of this dispute or any scheduling of Mr. White's
26 deposition.

27 4. If Abbott ultimately is ordered to produce Mr. White for deposition, the
28 parties will cooperate in scheduling a deposition date convenient for the parties and witness,

1 regardless of the date indicated in the deposition notice. Each party retains all rights to appeal any
2 order on the production of Mr. White, and the direct purchaser plaintiffs do not agree to postpone
3 Mr. White's deposition during the pendency of any appeal of an order commanding Mr. White's
4 production.

5 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

6 /s/ Scott E. Perwin

7 Scott E. Perwin
8 KENNY NACHWALTER, PA
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11 Miami FL 33131
12 *Attorneys for Safeway, Inc.*

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Attorneys for Rite Aid, Inc.

24 **PURSUANT TO STIPULATION, IT IS SO ORDERED**

25 Dated: 1/29/09



26 Judge Claudia Wilken
27 United States District Court
28 Northern District of California

1
2 **GENERAL ORDER 45 ATTESTATION**

3 I, Charles B. Klein, am the ECF User whose ID and password was used to file this Joint
4 Stipulation to Extend Time for Filing. In compliance with General Order 45, X.B., I hereby attest
5 that the counsel listed above concurred in this filing.

6 Dated: January 27, 2009

7 By: /s/ Charles B. Klein
8 Charles B. Klein
9 WINSTON & STRAWN LLP
10 Counsel for Defendant

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