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ABBOTT LABORATORIES

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

19 SAFEWAY INC., *et al*,
20 Plaintiffs,
21 v.
22 ABBOTT LABORATORIES,
23 Defendant.
24
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) Case No. C07-5470 (CW)
)
) Related per November 19, 2007 Order to
) Case No. C04-1511 (CW)
)
) **ORDER GRANTING STIPULATION RE**
) **FACT DISCOVERY ON CERTAIN ITEMS**
) **AFTER CUT-OFF**
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(Caption continued on next page.)

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SMITHKLINE BEECHAM CORPORATION)
d/b/a GLAXOSMITHKLINE,)
Plaintiff,)
v.)
ABBOTT LABORATORIES,)
Defendant.)

Case No. C07-5702 (CW)
(Consolidated Cases)
Related per November 19, 2007 Order to
Case No. C04-1511 (CW)

MEIJER, INC. & MEIJER DISTRIBUTION,)
INC., *et al.*,)
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, *et al.*,)
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 parties are engaged in fact discovery in the consolidated cases of *Safeway, et*
2 *al., v. Abbott Laboratories* (No. 07-5470), *Smithkline Beecham Corp. d/b/a Glaxosmithkline v.*
3 *Abbott Laboratories* (No. 07-5702), *Meijer, Inc. & Meijer Distribution, Inc., et al. v. Abbott*
4 *Laboratories* (No. 07-5985), and *Rite Aid Corp., et al., v. Abbott Laboratories* (No. 07-6120);

5 WHEREAS, the fact discovery cut-off is presently set for February 27, 2009;

6 WHEREAS, the parties have worked diligently to complete fact discovery, but seek relief for
7 certain discrete items that are specifically listed below that cannot be completed within the present
8 cut-off;

9 WHEREAS, the modest extension of fact discovery for these discrete items will not affect
10 the other scheduled dates previously set by this Court (including expert discovery, summary
11 judgment, and trial).

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

13 1. The deadline to respond to written discovery issued in January 2009 for all parties
14 shall be extended from the end of February until March 13, 2009. Without waiving any arguments
15 or rights arising from any non-compliance with prior orders of the court, the deadline for Abbott to
16 supplement responses to Plaintiffs' costs and profits document requests, originally served on May 2,
17 2008 and September 2, 2008, shall be extended from the end of February until March 13, 2009. Any
18 motions to compel relating to any discovery covered by this paragraph shall be filed by March 20,
19 2009.

20 2. The parties will work together to provide mutually convenient dates for the Rule
21 30(b)(1) depositions of Lauren Cassidy, Jeff Morgan and William Calhoun as well as the Rule
22 30(b)(6) deposition of GSK as soon as possible in March 2009. The depositions of Lauren Cassidy
23 and William Calhoun shall be limited to 5 hours each.

24 3. GSK reserves the right to file a motion for protective order as to Abbott's Rule
25 30(b)(6) deposition notice and Abbott reserves the right to file a motion to compel on that notice.
26 Any such motion should be initially filed in the form of a 2-page letter brief before Judge
27 Zimmerman on or before March 20, 2009. If GSK files such a motion and Judge Zimmerman
28

1 allows that deposition to go forward, the parties will work together to provide mutually convenient
2 dates for the GSK witness(es) designated under Rule 30(b)(6) as soon as possible in March 2009.

3 4. The parties shall work together to agree to a stipulation regarding the authentication
4 of documents. Abbott reserves the right to file a motion for protective order as to GSK's Requests
5 for Admission and GSK reserves its right to file a motion to compel responses to GSK's Requests
6 for Admissions on or before March 20, 2009. Any such motion should initially be filed in the form
7 of a 2-page letter brief before Judge Zimmerman.

8 5. Plaintiffs will not object to the production of documents from subpoenaed third
9 parties Vertex, PCI and BMS as long as those documents are produced 14 days in advance of the
10 date for opening expert reports. Abbott may attempt to authenticate those documents by soliciting
11 self-authenticating affidavits from those third parties. Within fourteen days of receiving copies of all
12 such affidavits, Plaintiffs will inform Abbott as to whether they intend to challenge those affidavits
13 under FRE 902(11). If Plaintiffs intend to challenge such affidavits, Abbott may thereafter schedule
14 a deposition of such third parties, with such depositions to be scheduled no later than sixty days
15 before trial. Also, within fourteen days of receiving all productions from third parties, Plaintiffs may
16 move the Court for leave to take follow-on discovery from third parties.

17 6. The direct purchaser class, Safeway, and Rite Aid plaintiffs shall have until 30 days
18 after the close of expert discovery to serve supplemental responses to Interrogatory Nos. 4-5 and 7-8
19 (direct purchasers) 3-4, and 6 (Safeway and Rite Aid) contained in Abbott's First Set of
20 Interrogatories to each such plaintiff group. Abbott shall have 21 days after the service of any such
21 supplemental responses in which to move to compel further responses, if necessary.

22 7. Nothing in this stipulation shall expand or limit the parties' rights to issue any
23 additional discovery beyond February 27, 2009, except as set forth herein.

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

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

22 **2/25/09**

23 Dated: _____



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