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ABBOTT LABORATORIES

16 **UNITED STATES DISTRICT COURT**  
17 **NORTHERN DISTRICT OF CALIFORNIA**  
18 **OAKLAND DIVISION**

19 SMITHKLINE BEECHAM CORPORATION )  
20 d/b/a GLAXOSMITHKLINE, )  
21 Plaintiff, )  
22 v. )  
23 ABBOTT LABORATORIES, )  
24 Defendant. )  
25 )  
26 )  
27 )

Case No. C07-5702 (CW)  
(Consolidated Cases)  
Related per November 19, 2007 Order to  
Case No. C04-1511 (CW)  
**STIPULATION RESOLVING CERTAIN  
OUTSTANDING FACT DISCOVERY  
ISSUES**

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STIPULATION RESOLVING CERTAIN OUTSTANDING FACT DISCOVERY ISSUES  
CASE No. C07-5702 (CW)

1 WHEREAS, the parties completed fact discovery on February 27, 2009, with the exception  
2 of certain issues for which this Court has extended the discovery deadline in Orders dated February  
3 25, 2009 (Dkt. 130), March 13, 2009 (Dkt. 142), March 17, 2009 (Dkt. 147), March 20, 2009 (Dkt.  
4 150), April 29, 2009 (Dkt. 159), and May 18, 2009 (Dkt. 161);

5 WHEREAS, the current deadline for motions to compel relating to written discovery served  
6 in January 2009 by Abbott Laboratories (“Abbott”) on GlaxoSmithKline (“GSK”), and by GSK on  
7 Abbott, as set out in the May 18, 2009 order, is May 21, 2009;

8 WHEREAS, the current deadline for motions to compel relating to certain enumerated  
9 potential deficiencies relating to each party’s production of documents, as set forth in the May 18,  
10 2009 order, is May 21, 2009;

11 WHEREAS, the parties are continuing to discuss resolution of two outstanding disputes,  
12 namely Abbott’s Response to GSK Interrogatory No. 17, and Abbott’s request to reopen fact  
13 discovery for the limited purpose of obtaining from GSK's third party vendors the supporting  
14 materials underlying those vendors’ marketing and pricing studies of Lexiva conducted for GSK;

15 WHEREAS, the parties have reached a resolution to their remaining disputes concerning the  
16 fact discovery referenced within those Orders, and in so doing, have made certain representations to  
17 each other;

18 WHEREAS, the parties wish to memorialize those representations and their resolution of  
19 these outstanding discovery disputes;

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

21 1. As soon as practicable, GSK will designate witnesses to testify on GSK’s behalf  
22 concerning Topic Nos. 2, 7, 12, 13 and 14 of Abbott’s January 14, 2009 Notice of 30(b)(6)  
23 Deposition. The parties will work together to agree on mutually convenient dates for the deposition  
24 of any witness designated by GSK on these topics.

25 2. With respect to certain other topics in Abbott’s January 14, 2009 Notice of 30(b)(6)  
26 Deposition, Abbott agrees to accept the prior testimony of GSK witnesses in this and the related  
27 cases as 30(b)(6) testimony as set forth below:

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**Designated 30(b)(6) Witness**

**Notice Topic(s)**

Michael Hannan

1, 3, 5, and 6

Mark Shaefer

8, 9, and 10

Marlon Pittman

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Peter Hare

15

John Keller

16, 17 and 18

GSK represents that the above-designated witnesses are officers, directors or managing agents of GSK or have consented to testify on GSK's behalf on the topics for which they are designated above. GSK also agrees that any testimony provided by these witnesses on a topic for which they are designated above can be used in this or the related cases in the same manner as if GSK had properly designated the witnesses under Rule 30(b)(6) prior to their depositions.

3. Abbott agrees that it will not ask GSK to designate a witness to testify concerning topics 19, 20 or 21 from Abbott's January 14, 2009 Notice of 30(b)(6) Deposition.

4. Abbott agrees to amend further its response to Interrogatory No. 16 of GSK's Second Set of Interrogatories within two (2) weeks after completion of the deposition of a witness designated to testify on GSK's behalf on Topic No. 14 of Abbott's January 14, 2009 Notice of 30(b)(6) Deposition.

5. GSK and Abbott agree that any motion to compel by GSK relating to Abbott's response to GSK Interrogatory No. 17 shall be filed by May 28, 2009; and that any such motion should be initially filed in the form of a 2-page letter brief before Judge Zimmerman;

6. GSK and Abbott agree that any motion by Abbott to reopen fact discovery for the limited purpose of obtaining from GSK's third-party vendors the supporting materials underlying those vendors' marketing and pricing studies of Lexiva conducted for GSK shall be filed by May 28, 2009;

7. Nothing in this stipulation shall expand the parties' rights to seek relief by the Court on any discovery issue except as set forth herein.

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

*/s/ Trevor Stockinger*  
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*/s/ Charles B. Klein*  
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Laboratories*

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

Dated: May 26, 2009



\_\_\_\_\_  
Judge Claudia Wilken  
United States District Court  
Northern District of California