



that the business no longer satisfied Abbott's strategic business criteria. Abbott and Hospira also say that the no-hire policy had nothing to do with plaintiffs' benefits, but was implemented to ensure that Abbott and Hospira would have stable and talented work forces upon the completion of the spin-off of HPD. Finally, Abbott says that it could not disclose what benefits the HPD employees would have at Hospira because it did not know, and it had no authority to determine, what benefits Hospira would offer to Hospira employees. Abbott says that the Hospira benefits decisions were made by Hospira and its Board of Directors in June 2004, after the spin-off was completed.

At this time, the Court has not decided whether plaintiffs or Abbott and Hospira are correct. The plaintiffs will be required to prove their claims at a trial, which has been scheduled to start on April 20, 2009.

## **2. What is a class action and who is involved?**

In a class action lawsuit, one or more people called "Class Representatives" (in this case, Myla Nauman, Jane Roller and Michael Loughery) sue on behalf of other people who have similar claims. The people together are a "Class" or "Class Members." In this case, the Court has certified a Class for Counts I, II, and IV of the amended complaint and a Subclass for Count III. The definition of the Class and Subclass is found in Section 5 below. The Class Representatives who sued - and all the Class Members like them - are called the Plaintiffs. The companies they sued (in this case, Abbott and Hospira) are called the Defendants. The United States District Court in Chicago, Illinois will resolve the issues for everyone in the Class.

## **3. Why is this lawsuit a class action?**

The Court decided that this lawsuit could be a class action because it met the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. Specifically, the Court found that:

There are more than 8,000 individuals who were terminated as a result of the spin-off of HPD/creation of Hospira;

There are legal questions and facts that are common to each of the Class Members;

The Class Representatives' claims are typical of the claims of the rest of the Class for Counts I, II and IV and Mr. Loughery's claims are typical of the claims of the Subclass for Count III;

The Class Representatives and the lawyers representing the Class will fairly and adequately represent the interests of the Class; and

The allegations alleged in the complaint apply generally to the class or sub-class so the final injunctive or declaratory relief is appropriate respecting the class as a whole and the subclass as a whole.

**4. How are the Class and Subclass defined?**

The Court has defined the Class for Counts I, II and IV against Abbott as:

All employees of Abbott who were participants in the Abbott Benefit Plans whose employment with Abbott was terminated between August 22, 2003, and April 30, 2004, as a result of the spin-off of the HPD/creation of Hospira announced by Abbott on August 22, 2003.

The Court has defined the Subclass for Count III against Hospira as:

All employees of Abbott who were participants in the Abbott Benefit Plans and whose employment with Abbott was terminated between August 22, 2003, and April 30, 2004, as a result of the spin-off of the HPD/creation of Hospira announced by Abbott on August 22, 2003, and who were eligible for retirement under the Abbott Benefit Plans on the date of their terminations.

**5. Am I a member of the Class or Subclass?**

If you fit the definition of the Class and Subclass as stated in Section 4 above, then you are a member of one or both of the class or subclass in this case. Note that in order to be a member of either the Class or Subclass, you must have been terminated from Abbott between the dates of August 22, 2003 and April 30, 2004 *as a result of* the spin-off. This means that if you left Abbott during those dates but for a reason that was not the result of the spin-off, then you are not a member of the class.

**6. What does the lawsuit complain about?**

In this lawsuit, the Class Representatives, Myla Nauman, Jane Roller and Michael Loughery, on behalf of themselves and all others similarly situated, have brought a four-count amended class action complaint against defendants Abbott Laboratories and Hospira, Inc. Counts I through III allege violations of §510 of ERISA, 29 U.S.C. § 1140, and Count IV alleges a breach of fiduciary duties that are imposed by ERISA.

Count I is brought against Abbott and alleges that Abbott terminated the Class Members' employment by spinning off HPD with the specific intent to interfere with their attainment or receipt of retirement benefits under the various Abbott benefit plans.

Abbott denies Count I. Abbott says that its decision to spin off HPD had nothing to do with benefits, but was based on a decision that the business no longer satisfied Abbott's strategic business criteria.

Count II, also brought against Abbott, alleges that Abbott then adopted a policy under which it refused to rehire Class Members for a period of two years and under which it would treat any Class Members rehired after two years as “new hires,” thus eliminating any rights Plaintiffs might have otherwise retained under the Abbott plans.

Abbott denies Count II. Abbott says that the reciprocal no-hire policy was not adopted with the specific intent to interfere with the class representatives and the class’ benefits. Rather, according to Abbott, the no-hire policy was implemented for the legitimate, non-discriminatory reasons of ensuring that Abbott and Hospira would maintain stable and talented workforces upon the completion of the spin-off of HPD.

Count III is directed against Hospira and alleges that Hospira adopted its own two-year no-hire policy under which it refused to hire any employee who chose to first retire and collect retirement benefits from Abbott prior to seeking employment from Hospira.

Hospira denies Count III. Hospira says that the reciprocal no-hire policy was not adopted with the specific intent to interfere with the class representatives and the class’ benefits. Rather, according to Hospira, the no-hire policy was originally conceived of by Abbott and was implemented for the legitimate, non-discriminatory reasons of ensuring that Abbott and Hospira would maintain stable and talented workforces upon the completion of the spin-off of HPD.

In Count IV, Plaintiffs allege that Abbott was acting as an ERISA fiduciary when it communicated with the Class Members about what would happen to their Abbott benefits when they were terminated and what benefits they would receive at Hospira. Plaintiffs allege that before the spin date, Abbott and the future Hospira executives made the decision to freeze the Class Members’ defined benefit pension plan at the end of 2004 and eliminate retiree medical benefits at Hospira, but they did not inform the Class Members of these decisions until after the spin had taken place.

Abbott denies Count IV. Abbott says that it could not disclose what benefits the HPD employees would have at Hospira because it did not know, and it had no authority to determine, what benefits Hospira would offer to Hospira employees. Abbott says that the Hospira benefits decisions were made by Hospira and its Board of Directors in June 2004, after the spin-off was completed.

## **7. Has the Court decided who is right?**

The Court has not decided whether Abbott and Hospira or the plaintiffs are correct. By establishing the Class and Subclass and issuing this Notice, the Court is not suggesting that the plaintiffs will win or lose this case. The plaintiffs must prove their claims at trial.

## **THE LAWYERS REPRESENTING YOU AND THE CLASSES**

**8. Do I have a lawyer in this case?**

The Court has decided that the law firms of Sprenger & Lang, PLLC of Washington, DC and Meites, Mulder, Mollica & Glink of Chicago, IL are qualified to represent you and all the Class Members. Together, the law firms are called “Class Counsel.” They are experienced in handling similar cases. More information about these law firms is available at [www.sprengerlang.com](http://www.sprengerlang.com) and [www.mmmglaw.com](http://www.mmmglaw.com). Class Counsel’s contact information is as follows:

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**9. Should I get my own attorney?**

You do not need to hire your own lawyer because Class Counsel is working on your behalf. If you want your own lawyer, you will have to retain and pay for that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

**10. Do I need to do anything at this time?**

You don’t have to do anything now if you want to continue being represented by Class Counsel. By doing nothing, you will continue to be represented by Class Counsel and you will be legally bound by all of the Orders the Court issues and judgments the Court makes in this class action.

**THE STATUS OF THE CASE AT THIS TIME**

The Court has scheduled the trial in this matter to begin April 20, 2009 at 9:30 am. The parties are currently engaged in preparing the case for trial.

**NO COURT RULING ON THE MERITS**

This Notice should not be regarded as an expression of any opinion by the Court on the merits of any claims or defenses of the parties, because the trial has not yet occurred. There has been no finding or determination by the Court that Abbott or Hospira has violated any law or obligation.

## GETTING MORE INFORMATION

This Notice contains only a summary of the various claims, defenses and rulings on class certification and summary judgment. The Court's decisions on the Defendants' motions to dismiss, the class certification rulings, the summary judgment filings and ruling, the amended complaint and numerous other documents connected with the case are available for review and/or downloading on the web at <http://www.sprengerlang.com/cases/case-list/abbott-labs> or <http://www.mmmglaw.com/CM/CurrentCaseUpdates/Abbott.asp>.

In addition, the entire public case file can be viewed at the Office of the Clerk of the United States District Court, 219 South Dearborn, Chicago, IL, 60604 or on the court's electronic filing website, Pacer, at <http://pacer.psc.uscourts.gov> (to use Pacer, you must first set up an account and pay of \$0.08 per page for downloading court documents).

**PLEASE DO NOT CALL OR CONTACT THE COURT OR THE OFFICE OF THE CLERK OF COURT WITH QUESTIONS REGARDING THIS NOTICE. THEY WILL NOT ANSWER SUCH QUESTIONS. IF YOU HAVE QUESTIONS, PLEASE DIRECT THEM TO CLASS COUNSEL.**

Dated: November 4, 2008

Approved by the Honorable Robert W. Gettleman  
of the United States District Court  
for the Northern District of Illinois  
by an Order dated October 20, 2008