

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MYLA NAUMAN, JANE ROLLER and)	
MICHAEL LOUGHERY,)	
)	
Plaintiffs,)	No. 04 C 7199
)	
v.)	Hon. Robert W. Gettleman
)	
ABBOTT LABORATORIES and HOSPIRA,)	Magistrate Geraldine Soat Brown
INC.,)	
)	
Defendants.)	

ABBOTT LABORATORIES' MOTION TO CONTINUE TRIAL DATE

Abbott Laboratories respectfully requests that the Court reschedule the trial in this matter to a later date shortly after the currently scheduled trial date or, alternatively, allow certain Abbott witnesses to testify later than the current trial date. In support thereof, Abbott states as follows:

1. Trial in this matter is currently scheduled to commence on April 20, 2009.
2. Abbott's counsel agreed to that date in August 2008 without realizing a potential conflict would arise with Abbott's annual shareholder meeting and a concurrent board of directors meeting, both of which also take place during the week of April 20. The date for this year's annual shareholder meeting (along with the concurrent board of directors meeting) was not set until December 2008, and counsel for Abbott did not become aware of the conflict until recently. Abbott's counsel apologizes for this error. The fault lies entirely with Abbott's counsel, and not Abbott's witnesses, all of who fully understand the importance of providing this Court with the information it requires to resolve this case.

3. As the Court is aware, Abbott's key witnesses include the company's core senior management team, including Miles White (Chairman and Chief Executive Officer), Thomas Freyman (Chief Financial Officer), Steven Fussell (Senior Vice President, Human Resources), and Gregory Linder (Vice President and Controller). Each of these individuals plays a key role in preparing for and executing Abbott's annual meeting during a time that unfortunately coincides with the trial.

4. Abbott's annual shareholders meeting takes place once a year at Abbott's headquarters in Abbott Park, Illinois. Attendees include individual shareholders, retirees who hold pensions and/or shares of Abbott stock, institutional investors, and the media. More than 1000 individuals attend the meeting each year.

5. Unbeknownst to Abbott's counsel until recently, the annual meeting on April 24 requires constant activity throughout the week of April 20, as well as during the weeks leading up to the meeting. The preparation is extensive and time consuming, requiring efforts from numerous employees to address financial issues, strategic initiatives, and various other pressing issues for the company, which currently employs about 70,000 employees and generates about \$30 billion in annual revenue from a diverse product portfolio.

6. This year's meeting is particularly critical given the uncertain state of the economy. Abbott expects that it will face numerous questions regarding issues arising from economic uncertainties, which makes proper preparation all the more important. Abbott's individual and institutional shareholders are concerned about the health of our economy, and what impact these economic issues could have on Abbott's health as a company.

7. Abbott's counsel also has just recently learned that security is extraordinarily sensitive for the annual shareholders meeting, and would potentially be an even more serious

concern if the trial were to proceed as scheduled. Abbott spends a substantial amount of time managing the various risks posed to all Abbott employees and shareholders by protestors in connection with the meeting. For example, especially during the time surrounding the shareholders meeting, but at other times too, protestors often harass senior officers at their homes and on Abbott property. Over the last five years, protestors have trespassed at the homes of Abbott employees, approached children of various Abbott employees in entirely inappropriate ways, and called a hearse to the home of an Abbott employee. Just a month ago, protesters gathered at the home of Mr. White. This year, Abbott is already aware of at least one activist organization that has targeted Abbott's annual meeting for protest, and it fully expects others to join this group. Should trial move forward as scheduled, Abbott is concerned that these individuals would attempt to disrupt the proceedings for reasons completely unrelated to the trial.

8. In addition, each of the witnesses identified above are key members of the Company's senior management and play a leading role in preparing for and executing Abbott's annual shareholders meeting. As Abbott's Chairman and CEO, Mr. White is required to report to the company's owners, the shareholders, and carry out various duties in connection with the meeting. For example, he is responsible for running the election of board members, responding to the various shareholder proposals, providing an update of Abbott's past, present and future business results, and answering questions from members of the audience. He is also required to prepare for the board of directors meeting that same day where executive officers will be elected and Abbott's auditor for 2009 will be selected, and to attend to a myriad of last minute requests relating to the shareholders and board of directors meetings. Just as importantly this year, Mr. White will be asked to respond to questions regarding how Abbott can weather the economic storm and protect individual shareholder and retiree investments.

9. As Abbott's CFO, Mr. Freyman is intimately involved in helping Mr. White to prepare for and address numerous financial issues in connection with the annual meeting. Ensuring that all of Abbott's financial discussions and forecasts are as accurate as possible requires the efforts of a large team of individuals run by Mr. Freyman. Mr. Freyman also engages in discussions with the major institutional investors either at the meeting or in the days surrounding the meeting.

10. Just as important, Mr. Freyman is also responsible for security at the shareholders meeting. This is no small task because, as indicated above, serious security issues are inevitable in connection with the annual meeting.

11. As Abbott's Controller, Mr. Linder plays a key role in assisting Mr. Freyman in helping to address the necessary financial issues for the annual shareholders meeting. Mr. Linder and his team typically play a critical and time-consuming role in preparing the necessary information. Given the importance of accuracy in such matters, Mr. Linder's attention and time is fully occupied before and during the week of the annual meeting, in addition to being required to carry out all of his normal responsibilities.

12. As Abbott's Senior Vice President, Human Resources, Mr. Fussell is the company's most senior officer regarding human resources issues. Mr. Fussell assists Mr. White in preparing for the annual shareholders meeting. For example, he provides information about the current and future status of retirement benefits. Given the uncertain state of the economy, it is expected that retirees will ask a plethora of questions this year regarding these issues. These individuals deserve the chance to receive the best and most accurate information possible, and Mr. Fussell will help provide that to Mr. White.

13. Abbott regrets any inconvenience this unintended scheduling conflict may cause to this Court or Plaintiffs. Abbott's counsel takes full responsibility for the error. However, this is Abbott's first request to move the trial date. Abbott stands ready to see this matter expeditiously tried in the manner previously outlined by the parties in the preliminary pre-trial conference. If it is possible given the Court's own schedule, Abbott suggests that trial proceed during the week of June 8 or, alternatively, the week of May 18. Both of these weeks are acceptable to Hospira, though it prefers the week of June 8.

14. Counsel for Abbott approached counsel for both Plaintiffs and Hospira regarding this request. As indicated, Hospira does not oppose Abbott's motion. Counsel for Plaintiffs previously stated that they opposed any motion to move the trial date based on a desire to have the case tried earlier. Counsel for Abbott subsequently advised counsel for Plaintiffs of its intention to seek a postponement or, alternatively, that the Court allow certain witnesses to testify at a later date, but was unable to discuss this proposal in detail prior to the filing of this motion.

15. Like Plaintiffs, Abbott wants this case to proceed to trial as expeditiously as possible. But it respectfully submits that Plaintiffs will not be prejudiced by a short delay in the trial date of no more than about four to six weeks. Plaintiffs will still have their day in court, and Abbott will have the opportunity to best present its witnesses for both direct and cross-examination.

16. As an alternative to moving the trial date, Abbott respectfully requests that the four witnesses identified above be permitted to testify during one of the weeks identified above or during alternative weeks convenient for the Court. Abbott recognizes that this is not an ideal solution. Under § 510 of ERISA, Plaintiffs contend they were "discharged" (i.e., terminated

from Abbott through the spin of the core part of Abbott's Hospital Products Division) for the "purpose of interfering" with their benefits. That issue principally requires the testimony of those who made the decisions at issue. Nevertheless, while certainly not optimal, Abbott suggests that hearing from the four identified witness at a later date may be acceptable given that this is a bench trial.

WHEREFORE, in light of the foregoing considerations, Abbott respectfully requests a continuance of the trial dates to either the week of June 8 or the week of May 18, so that Abbott may ensure the availability of its main witnesses. In the alternative, Abbott requests that the court excuse certain of its witnesses from testifying during the week of April 20 and set a schedule whereby they testify at a later date.

Respectfully Submitted,

ABBOTT LABORATORIES

By: /s/ Joseph J. Torres
 One of Its Attorneys

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CERTIFICATE OF SERVICE

Joseph J. Torres, one of the attorneys for Defendant, ABBOTT LABORATORIES, hereby certifies that on the 23rd day of February, 2009 served a true and correct copy of the foregoing DEFENDANTS' MOTION TO CONTINUE TRIAL DATE, to be electronically filed with the Clerk of the Court using the CM/ECF system, which may be accessed by all parties listed below:

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