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May 30, 2007

BY CM/ECF

The Honorable Gregory M. Sleet
United States District Court for the District of Delaware
844 North King Street
Wilmington, DE 19801

Re: Elan Pharma Int'l Ltd. v. Abraxis Bioscience, Inc. – C.A. No. 06-438-GMS

Dear Judge Sleet:

Abraxis requests that the Court continue the recent discovery hearing to address a missed agenda item, "Elan's responses to Abraxis's document requests," before being referred to a discovery master.

Good cause exists because this agenda item was set to be heard by the Court but was missed during the call, there are only two months left for fact discovery, and Elan's deficient responses are impairing Abraxis's ability to prepare for trial. A copy of the Agenda Letter dated May 21, 2007 (D.I. 112) is enclosed for the Court's convenience. Abraxis sought Elan's consent for this conference yesterday, but Elan has not yet indicated whether it is willing to consent.

In the alternative, Abraxis requests that this issue be referred to a discovery master as soon as possible.

Respectfully submitted,

Elena C. Norman (#4780)

Enclosure

cc: Clerk of Court (by CM/ECF)
John G. Day, Esq. (by CM/ECF and electronic mail)
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May 21, 2007

The Honorable Gregory M. Sleet
United States District Court
844 N. King Street
Wilmington, DE 19801

VIA ELECTRONIC FILING

Re: *Elan Pharma International, Ltd. v. Abraxis Bioscience, Inc.*
C.A. No. 06-438-GMS

Dear Judge Sleet:

In anticipation of the discovery teleconference scheduled for May 23, 2007 at 11 a.m. EST in the above-captioned matter, the parties jointly submit the following items to be presented to the Court:

Plaintiff's Issues:

1. Plaintiff requests access to full details of defendant's manufacturing process for Abraxane®, including analyses of intermediates created during that process.

2. Plaintiff moves to compel Defendant to produce documents as agreed during the February 16, 2007 discovery teleconference and as compelled and agreed during the March 15, 2007 discovery teleconference, including:

   - internal communications to and from sales force and detail personnel (D.I. 47:26-28);
   - communications with clinicians about Abraxane ® (*id.* at 22-26);
   - laboratory notebooks (D.I. 89:18-23);
   - internal marketing and sales plans (*id.* at 24-26)and
   - internal communications about infusion rates (*id.*).

3. Permission to remove stay of third party subpoenas due to Defendant's failure to produce documents as agreed during the March 15, 2007 hearing and as sought in Plaintiff's Request for Production Nos. 39-50 (D.I. 89:42-51).

4. Plaintiff moves to overrule Defendant's objections to producing documents beyond those sent to or received from FDA or otherwise publicly distributed in response to Plaintiff's Request Nos. 7-8, 19-20, 30, 53-56. Documents responsive to these requests include, but are not limited to:

- internal sales and marketing memoranda, letters to and from physicians (Request No. 7);
- post approval studies of Abraxane® (Request No. 8);
- information given to and communications with contract research organizations employed by or on behalf of Abraxis to test Abraxane® (Request Nos. 19, 20);
- internal documents about instructions or advice given to physicians about administering Abraxane® (Request No. 30).
- internal drafts of and communications regarding public presentations concerning Abraxane®. (Request Nos. 53-56).

Plaintiff also moves to overrule Defendant's objections to producing agreements with third parties in response to Plaintiff's Request Nos. 51-52.

5. Plaintiff moves to compel Defendant to supplement its Interrogatory Responses as agreed in January 2007.

Defendant's Issues

1. Elan's abuse of the discovery hearing process;

2. Elan's responses to Abraxis's interrogatories;

3. Elan's responses to Abraxis's document requests;

4. Stay of damages discovery and bifurcation of trial on damages.

Respectfully,

/s/ *John G. Day*

John G. Day

JGD: nml
180734.1
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