IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ELAN PHARMA INTERNATIONAL LIMITED, Plaintiff, v. ABRAXIS BIOSCIENCE, INC., Defendant.	)	Case No. 06-438-GMS

PLAINTIFF ELAN PHARMA INTERNATIONAL LIMITED'S CROSS-MOTION TO COMPEL THE DEPOSITIONS OF DRS. SOON-SHIONG AND DESAI

Pursuant to Federal Rule of Civil Procedure 37, Plaintiff Elan Pharma International Limited ("Elan") hereby files this Cross-Motion to Defendant Abraxis BioScience Inc.'s Motion For Protective Order Against The Depositions Of Drs. Soon-Shiong And Desai, and seeks hereby to compel the depositions of Drs. Soon-Shiong and Desai.

By Oral Order docketed on July 9, 2007, Judge Sleet directed that all future discovery disputes in this matter be referred directly to a Special Master at the parties' expense. After a proposed order of reference to a Special Master was submitted by Abraxis, Judge Sleet informed the parties during a July 16, 2007 teleconference (D.I. 200) that Magistrate Judge Stark would be installed on August 6, 2007, and directed them to hold their pending discovery disputes in abeyance until the Magistrate Judge was able to hear them. On August 8, 2007, counsel for Elan wrote to Magistrate Judge Stark seeking guidance as to how such disputes were to be addressed (D.I. 245), and were subsequently informed by counsel for Abraxis that Magistrate Judge Stark's chambers had directed the parties to present its disputes by motion.

The grounds for this motion are fully set forth in Elan's Opening Brief In Support Of Its Cross-Motion To Compel The Depositions Of Drs. Soon-Shiong And Desai and the Declaration Of Lisa A. Chiarini concurrently submitted herewith.

WHEREFORE, Elan respectfully requests that the Court grant Elan's Cross-Motion to Compel the Depositions of Drs. Soon-Shiong and Desai.

ASHBY & GEDDES

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Dated: August 30, 2007
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Plaintiff,	)	
v.	)	Case No. 06-438-GMS
ABRAXIS BIOSCIENCE, INC.,	)	
Defendant.	)	

ORDER

The Court, having considered Plaintiff Elan's Cross-Motion To Compel The Depositions Of Drs. Soon-Shiong And Desai, is of the opinion that it should be, and hereby is, GRANTED. It is therefore ORDERED that:

(1) Elan's Cross-Motion To Compel The Depositions Of Drs. Patrick Soon-Shiong And Neil Desai is GRANTED. Counsel for the parties shall confer within one week from the date of this Order and reach agreement on the earliest practicable dates for the depositions of Drs. Soon-Shiong and Desai to take place;

(2) Abraxis's Motion For Protective Order Against The Depositions of Drs. Patrick Soon-Shiong and Neil Desai (D.I. 247) is DENIED; and

(3) The Court will award Elan its reasonable expenses in responding to Abraxis's Motion For Protective Order and preparing its Cross-Motion To Compel.

SO ORDERED this ___ day of _____, 2007.

_____
United States Magistrate Judge

CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1

I hereby certify that counsel for the respective parties have discussed the subject matter of the attached Cross-Motion, but that an agreement could not be reached to resolve their dispute relating thereto.

/s Lauren E. Maguire
Lauren E. Maguire