IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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

ELAN PHARMA INTERNATIONAL LIMITED'S MOTION TO:
(1) COMPEL THE WRONGFULLY TERMINATED DEPOSITION OF DR. HAWKINS;
AND
(2) RECOVER COSTS FOR ABRAXIS'S
OBSTRUCTION OF RULE 30(b)(6) DEPOSITION

Plaintiff Elan Pharma International Limited ("Elan") hereby files this Motion To: (1) Compel The Wrongfully Terminated Deposition Of Dr. Hawkins; and (2) Recover Costs For Abraxis's Obstruction of Rule 30(b)(6) Deposition.[1]

The grounds for this motion are fully set forth in Elan's Opening Brief In Support Of Its Motion To: (1) Compel The Wrongfully Terminated Deposition Of Dr. Hawkins; and (2) Recover Costs For Abraxis's Obstruction of Rule 30(b)(6) Deposition; and the Declaration Of Lisa A. Chiarini concurrently submitted herewith.

[1] 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 they had contacted Magistrate Judge Stark's chambers and had been directed that the parties should present their disputes by motion.

WHEREFORE, Elan respectfully requests that the Court grant Elan's Motion To: (1) Compel The Wrongfully Terminated Deposition Of Dr. Hawkins; and (2) Recover Costs For Abraxis's Obstruction of Rule 30(b)(6) Deposition.

ASHBY & GEDDES

/s/ *John G. Day*

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Dated: September 13, 2007
184076.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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

ORDER

The Court, having considered Elan's Motion To: (1) Compel The Wrongfully Terminated Deposition Of Dr. Hawkins, and (2) Recover Costs For Abraxis's Obstruction Of Rule 30(b)(6) Deposition (the "Motion"), the points and authorities submitted in support thereof, and any argument by counsel, is of the opinion that the Motion should be, and hereby is, GRANTED. It is therefore ORDERED that:

(1) Elan's Motion To: (1) Compel The Wrongfully Terminated Deposition Of Dr. Hawkins, and (2) Recover Costs For Abraxis's Obstruction Of Rule 30(b)(6) Deposition is GRANTED.

It is further ORDERED that:

(2) The parties shall confer within three (3) days from the date that this Order is entered to reach agreement on the earliest practicable date for the continuation of Dr. Hawkins's deposition and for the earlier-noticed depositions of Drs. Soon-Shiong and Desai. In no event shall Abraxis present any of these witnesses for deposition later than ten (10) days from the date on which this Order is entered;

(3) Elan is awarded it reasonable expenses and attorneys' fees incurred in taking and reopening Dr. Hawkins' deposition, taking the depositions of Mr. Brenner and Dr. Lisano pursuant to Fed. R. Civ. P. 30(b)(6), and preparing its Motion.

(4) Elan shall file within ten (30) days of the entry of this Order an affidavit attesting as to its reasonable expenses and attorneys' fees incurred in taking and reopening Dr. Hawkins deposition, taking the depositions of Mr. Brenner and Ms. Lisano pursuant to Fed. R. Civ. P. 30(b)(6), and preparing its Motion. Within five (5) days from the date on which Elan files its aforementioned affidavit, Abraxis shall file objections, if any, to the amounts claimed by Elan. Within thirty (60) days following the entry of this Order, the Court will inform the parties as to the just amount due to Elan from Abraxis. Such just amount shall be paid by Abraxis to Elan within ten (10) days of such notification by the Court.

SO ORDERED this _____ day of _____, 2007.

_____

Presiding Judge

CERTIFICATION PURSUANT TO LOCAL RULE 7.1.1

I hereby certify that counsel have discussed the subject matter of the attached motion, but that an agreement could not be reached.

/s/ *John G. Day*

John G. Day