IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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

ORDER

At Wilmington this 24th day of September, 2007, having reviewed and duly considered the defendant's motion for sanctions;

IT IS ORDERED that the defendant's Motion for Sanctions Pursuant to Federal Rule of Civil Procedure 11 (D.I. 78) is DENIED. The defendant's counterclaims for declaratory judgment belie its assertion that the plaintiff did not sufficiently investigate the substantive basis for its claims and that the plaintiff filed its complaint for an improper purpose. To wit, the defendant's counterclaim states: "As set forth in the Complaint and in the Answer to which these Counterclaims are appended, a justiciable controversy has arisen and exists between Counterclaim-Plaintiff and Counterclaim-Defendant concerning the validity and scope of the '363 and '025 patents and Abraxis's liability for alleged infringement thereof." (D.I. 7, at 6 ¶ 4.)

/s/ Gregory M. Sleet
CHIEF, UNITED STATES DISTRICT JUDGE