

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 99-MDL-1317-SEITZ/BANDSTRA

IN RE: TERAZOSIN HYDROCHLORIDE
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

*United Wisconsin Services, Inc., et al. v. Abbott
Laboratories*, N.D. Ill. C.A. No. 99-C-7410(JBZ)

Grosskrueger v. Abbott Laboratories, et al., N.D. Ill.
C.A. No. 99C-7883(JBZ)

Reid v. Abbott Laboratories, et al., D.D.C. C.A. No. 00-323

Scafani v. Abbott Laboratories, et al., N.D. Cal.
C.A. No. 00-00508-SBA

Mednick v. Abbott Laboratories, et al., No. 2:00-3468:

O'Keefe v. Abbott Laboratories, S.D. Fla. C.A. No. _____

O'Neal v. Abbott Laboratories, et al., No. 00-J-1504-S

Grund v. Abbott Laboratories, et al., No. _____

*Blue Cross and Blue Shield of Alabama, Inc. v. Abbott
Laboratories, et al.*, No. 00-1303-Civ.-Lenard

Bernstein v. Abbott Laboratories, E.D. Mich.
C.A. No. 2:00-CV-72974

*Blue Cross and Blue Shield of Michigan v. Abbott
Laboratories, et al.*, No. 5:01-CV-95

Hopper v. Abbott Laboratories, et al.,
E.D.N.C. 4:01-CV-160-H(3)

**ORDER PRELIMINARILY APPROVING PARTIAL
SETTLEMENT, AUTHORIZING NOTICE TO THE CLASS, AND SETTING HEARING**

Upon consideration of the Indirect Purchaser Plaintiffs' Motion for Preliminary Approval of Proposed Partial Settlement and for Approval of the Form and Manner of Notice [D.E. No. 814], the attachments thereto and the submissions of the parties, it is hereby

ORDERED as follows:

1. The Indirect Purchase Plaintiffs' Motion for Preliminary Approval of Proposed Partial Settlement and for Approval of the Form and Manner of Notice is GRANTED.
2. The Proposed Settlement between the Indirect Purchaser Plaintiffs and defendant IVAX Pharmaceuticals, Inc. ("IVAX") (formerly known as Zenith Goldline Pharmaceuticals, Inc.), which was arrived at by arm's-length negotiations by highly experienced counsel, and falls within the range of reasonable approval, is hereby preliminarily approved.
3. A class comprised of two subclasses is certified for settlement purposes pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure:

(a) all persons and entities who or which have at any time from March 31, 1998 through May 30, 2002 (the "Class Period") paid all or part of the purchase price of Hytrin or its AB-rated generic bioequivalents including all forms of terazosin hydrochloride other than for resale, in Alabama, California, the District of Columbia, Florida, Illinois, Kansas, Maine, Michigan, Minnesota, Mississippi, Nevada, New Mexico, New Jersey, New York, North Carolina, North Dakota, South Dakota, West Virginia or Wisconsin, or via mail order for residents of such states (hereinafter the "19-State Sub-Class"), and

(b) all persons and entities in the United States of America who or which have at any time during the Class Period paid all or part of the purchase price of Hytrin or its AB-rated generic bioequivalents including all forms of terazosin other than for resale (hereinafter, the "Nationwide Sub-Class"), but only to the extent of the Nationwide Sub-Class members' actual or potential claims of unjust enrichment against IVAX relating to their payments for terazosin hydrochloride.

If the Settlement Agreement is terminated or is not consummated for any reason whatsoever, the certification of the Settlement Class shall be void, and Indirect Purchaser Plaintiffs and IVAX (the “Settling Entities”) shall have reserved all of their rights to propose or oppose any and all class certification motions and to contest the adequacy of plaintiffs as representatives of any putative plaintiff class.

4. Lowey Dannenberg Bemporad & Selinger, P.C.; Cohen Milstein Hausfeld & Toll P.L.L.C.; and Gauthier, Downing, LaBarre, Beiser & Dean, appointed by the undersigned Judge on June 5 and August 25, 2000 as co-lead counsel for the Indirect Purchaser cases, for the purposes of the Settlement are appointed as “Indirect Purchaser Lead Counsel.”

5. The attached *Summary Notice of Proposed Partial Settlement and Hearing Regarding Settlement* (“Summary Notice”) and *Notice of Proposed Partial Settlement and Hearing Regarding Settlement* (“Notice”) (collectively, the “Notices”) are likewise approved for dissemination. Following entry of this Order, Indirect Purchaser Lead Counsel shall:

a. Cause the Notice to be mailed by first-class mail, no later than October 1, 2002, to all Third Party Payer¹ Class members whose names and addresses are known to the Settlement Administrator; and

b. Cause the Summary Notice to be published, no later than October 15, 2002, in the following publications:

¹ “Third Party Payer” means any non-governmental entity that is (i) a party to a contract, issuer of a policy, or sponsor of a plan, which contract, policy, or plan provides prescription drug coverage to natural persons, and is also (ii) at risk, pursuant to such contract, policy, or plan, to pay or reimburse the amount associates with the cost of prescription drugs dispensed to natural persons covered by such contract, policy, or plan (which may or may not be subject to such natural persons satisfying any obligation to pay a deductible and/or co-payment).

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USA Today – National Editions – two days
Birmingham News
Arizona Republic
Los Angeles Times
Washington Post
Miami Herald
Ft. Lauderdale – Sun Sentinel
St. Petersburg Times
Chicago Tribune
Wichita Eagle
Portland Press Herald
Detroit News & Free Press
Minneapolis Star Tribune
Jackson Clarion Ledger
Las Vegas Review-Journal Sun
Newark Star Ledger
Albuquerque Daily Journal Tribune
New York Times
Charlotte Observer
Fargo Forum
Sioux Falls Argus Leader
Charleston Gazette Daily Mail
Milwaukee Journal Sentinel
Senior News – Dallas, Ft. Worth, Texas
Senior News – Atlanta, Georgia
Conquest – Detroit, MI
Senior News – Chicago, IL
Vintage – Philadelphia, PA
50 Plus/Senior News – New York, Long Island, NY
50+ Senior Advocate/Senior Times – Boston, MA
Senior Beacon – Washington, DC
Independent Prime Time - San Francisco, San Mateo, CA
National Underwriter (Life and Health/Financial Services Edition)
Benefits and Compensation Solutions

Indirect Purchaser Lead Counsel may also cause further publication of the Summary Notice.

c. The publication of the Summary Notice and the Notice mailing program described herein constitutes the best notice practicable and satisfies the requirements of due process and Federal Rule of Civil Procedure 23.

6. The Court appoints Complete Claim Solutions, Inc., as the Settlement Administrator. Responsibilities of the Settlement Administrator shall include: (a) establishing a post office box, toll-free telephone number (to be included in the Notices), and website (www.completeclaimsolutions.com) for purposes of communicating with class members; (b) disseminating notice to the class (by mailing the Notice by first-class mail to all Third Party Payers and to anyone else who requests a copy of the Notice); and (c) accepting and maintaining documents sent from class members, including opt-out notifications.

7. Any member of the Settlement Class that wishes to be excluded from the Settlement Class shall mail a written request for exclusion (“Request for Exclusion”) to the Settlement Administrator, received no later than December 2, 2002, and clearly stating the name and address of the entity or person that wishes to be excluded from the Settlement Class. Such entities are also requested to provide the total payments or reimbursements made with respect to the amount of terazosin hydrochloride, both branded and generic, purchased during the Class Period (the “Opt-Out Purchases”). Upon receipt, the Settlement Administrator shall promptly provide copies of each Request for Exclusion to Indirect Purchaser Lead Counsel and Gerson A. Zweifach of Williams & Connolly LLP, counsel for IVAX (“IVAX’s Counsel”). By December 9, 2002, the Settlement Administrator shall provide to Indirect Purchaser Lead Counsel and IVAX’s Counsel a schedule of those members of the Settlement Class that have timely excluded themselves from the Settlement, which schedule shall set forth the total aggregate Opt-Out Purchases determined from the Requests for Exclusion, and identify those members of the Settlement Class that did not comply with the request to provide the amount of their Opt-Out Purchases.

8. Any potential member of the Settlement Class that does not properly and timely mail a Request for Exclusion as set forth in paragraph 7 above shall be included in the Settlement Class and shall be bound by all the terms and provisions of the Settlement Agreement, whether or not such potential member of the Settlement Class shall have objected to the Settlement and whether or not such potential member of the Settlement Class makes a claim upon, or participates in, the Settlement.

9. Any information received by the Settlement Administrator in connection with the Settlement that pertains to a particular member of the Settlement Class, or information contained in a Request for Exclusion (other than the identity of the entity or person requesting exclusion), shall not be disclosed to any other person or entity other than counsel to the Settling Entities, any other Class Counsel, or the Court.

10. A hearing shall be held before the undersigned Judge on December 17, 2002 at 9:30 a.m. (the "Fairness Hearing") for the purpose of considering (a) whether the proposed settlement between the Indirect Purchaser Plaintiffs and IVAX is fair, reasonable, and adequate, and should be approved by the Court; and (b) whether Indirect Purchaser Lead Counsel's application for reimbursement for expenses incurred in prosecuting this action should be granted. The hearing may be rescheduled or continued. In this event, the Court will furnish all counsel with appropriate notice. Indirect Purchaser Lead Counsel shall be responsible for communicating any such notice promptly to the Class by having a conspicuous notice posted on the Settlement Administrator's website, www.completeclaimssolutions.com.

11. Persons or entities wishing to object or otherwise be heard with respect to the proposed settlement, or to appear in person at the Fairness Hearing, must first send a *Notice of*

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Intention to Appear and a *Summary Statement* outlining the position(s) to be asserted and the grounds therefor, together with copies of any supporting papers or briefs, via first-class mail, postage prepaid, to the Office of the Clerk of this Court, with copies to Indirect Purchaser Lead Counsel, which must be received no later than December 2, 2002. Except as herein provided, no person shall be entitled to contest the terms of the proposed settlement. All persons who fail to file a *Notice of Intention to Appear* as well as a *Summary Statement* as provided above may be deemed to have waived such objections and will not be heard in person at the hearing.

DONE and ORDERED in Miami, Florida, this 23rd day of August, 2002.

/s/ Patricia A. Seitz
HON. PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE