

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS  
) FOR THE FIFTH JUDICIAL CIRCUIT  
)

State of South Carolina, and Henry D.  
McMaster, in his official capacity as Attorney  
General for the State of South Carolina,

)  
) Civil Action Number: 2006-CP-40-4394  
)

Plaintiff,

v.

Abbott Laboratories, Inc.

Defendant.

State of South Carolina, and Henry D.  
McMaster, in his official capacity as Attorney  
General for the State of South Carolina,

) Civil Action Number: 06-CP-40-7157  
) Civil Action Number: 06-CP-40-7158  
)

Plaintiff,

v.

Alpharma Branded Products Division, Inc.,  
Alpharma USPD, Inc., and Purepac  
Pharmaceutical Co.,

Defendants.

State of South Carolina, and Henry D.  
McMaster, in his official capacity as Attorney  
General for the State of South Carolina,

) Civil Action Number: 07-CP-40-0280  
) Civil Action Number: 07-CP-40-0286  
)

Plaintiff,

v.

Barr Pharmaceuticals, Inc.,

Defendant.

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BARBARA A. SCOTT  
C.C.C. & G.S.

FILED

State of South Carolina, and Henry D.  
McMaster, in his official capacity as Attorney  
General for the State of South Carolina,

Plaintiff,

v.

Baxter Healthcare Corporation,

Defendant.

State of South Carolina, and Henry D.  
McMaster, in his official capacity as Attorney  
General for the State of South Carolina,

Plaintiff,

v.

Boehringer Ingelheim Roxane, Inc., Roxane  
Laboratories, Inc., and Ben Venue Laboratories,  
Inc.,

Defendant.

State of South Carolina, and Henry D.  
McMaster, in his official capacity as Attorney  
General for the State of South Carolina,

Plaintiff,

v.

Bristol-Myers Squibb Company,

Defendant.

) Civil Action Number 2006-CP-40-4393

) Civil Action Number 2006-CP-40-4396

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) Civil Action Number: 2006-CP-40-4391

) Civil Action Number 2006-CP-40-4398

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) Civil Action Number: 07-CP-40-0281

) Civil Action Number: 07-CP-40-0284

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State of South Carolina, and Henry D. McMaster, in his official capacity as Attorney General for the State of South Carolina,

Plaintiff,

v.

Mylan Laboratories, Inc.,

Defendants.

State of South Carolina, and Henry D. McMaster, in his official capacity as Attorney General for the State of South Carolina,

Plaintiff,

v.

Novartis Pharmaceuticals Corporation,

Defendant.

State of South Carolina, and Henry D. McMaster, in his official capacity as Attorney General for the State of South Carolina,

Plaintiff,

v.

Par Pharmaceuticals Companies, Inc.

Defendant.

) Civil Action Number: 07-CP-40-0282

) Civil Action Number: 07-CP-40-0283

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) Civil Action Number: 07-CP-40-0591

) Civil Action Number: 06-CP-40-0592

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) Civil Action Number: 07-CP-40-7151

) Civil Action Number: 07-CP-40-7153

State of South Carolina, and Henry D.  
McMaster, in his official capacity as Attorney  
General for the State of South Carolina,

Plaintiff,

v.

Sandoz, Inc.

Defendant.

State of South Carolina, and Henry D.  
McMaster, in his official capacity as Attorney  
General for the State of South Carolina,

Plaintiff,

v.

Teva Pharmaceuticals USA, Inc. and  
Ivax Corporation

Defendants.

State of South Carolina, and Henry D.  
McMaster, in his official capacity as Attorney  
General for the State of South Carolina,

Plaintiff,

v.

Warrick Pharmaceuticals Corporation, Schering-  
Plough Corporation, and Schering Corporation

Defendant.

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) Civil Action Number: 07-CP-40-0285  
) Civil Action Number: 07-CP-40-0287  
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) Civil Action Number: 07-CP-40-7154  
) Civil Action Number: 07-CP-40-7156  
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) Civil Action Number: 07-CP-40-4390  
) Civil Action Number: 07-CP-40-4399  
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State of South Carolina, and Henry D. McMaster, in his official capacity as Attorney General for the State of South Carolina,	)	
	)	Civil Action Number: 07-CP-40-7152
	)	Civil Action Number: 07-CP-40-7155
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Watson Pharma, Inc., and Watson Pharmaceuticals, Inc.,	)	
	)	
Defendants.	)	

**CASE MANAGEMENT ORDER NO. 1**

**Introduction** [Agreed]

Pursuant to the Order of Chief Justice Jean Hofer Toal of the South Carolina Supreme Court (“the Order”), dated August 4, 2006, this Court has been vested with the exclusive jurisdiction to hear and dispose of all pretrial motions and other pretrial matters in the above-captioned cases, individually filed and collectively known as the South Carolina Pharmaceutical Pricing cases and to enter a case management order therein. In accordance with the Order, this Case Management Order is in no way a determination that any of these actions should be consolidated for trial, and does not have the effect of making any entity a party to an action in which it has not been named and served in accordance with the South Carolina Rules of Civil Procedure.

The Court finds that the entry of this Case Management Order will simplify the issues in these cases and will expedite the disposition of the pharmaceutical pricing cases filed in South Carolina and assigned to this Court. Nothing in this Order is intended to impair in any way any party’s rights to assert claims of privilege. A copy of this Order shall be filed in each currently pending South Carolina Pharmaceutical Pricing case.

**I. Designation of Liaison Counsel for Each South Carolina Law Firm and the State.**  
[Agreed in part]

**Defendants:**

At the request of the State of South Carolina and for the convenience of the Court, each of the respective South Carolina law firms for Defendants shall designate one person as its

Liaison Counsel, (with two counsel from Nelson Mullins), as outlined below. The Liaison Counsel for each South Carolina law firm shall be responsible for acting as coordinator for the scheduling of certain discovery matters and for any and all communications with Liaison Counsel for the State of South Carolina and with the Court. The Liaison Counsel for each South Carolina law firm is then responsible for communicating all applicable information to the counsel of record on his or her particular Defendant(s)' cases, including defense counsel of record admitted *pro hac vice*. Counsel for the State of South Carolina shall also designate one Liaison Counsel who will have the same responsibilities. The Liaison Counsel chosen for each South Carolina law firm and the Liaison Counsel chosen for the State of South Carolina shall each file a notice of such designation in the particular case and shall advise opposing counsel of the same. An appointment shall not be construed so as to enable Liaison Counsel to appear for parties other than the specific clients of the particular Liaison Counsel with regard to any matter.

The parties expressly recognize and acknowledge that an appointment of one law firm to serve as Liaison Counsel for more than one Defendant shall not be used by the State of South Carolina against the Defendants in any way, including, without limitation, in any motion to consolidate.

The following South Carolina Law Firms and the State of South Carolina shall designate counsel in accordance herewith as follows:

<u>South Carolina Law Firm</u> [To be Inserted]	<u>Party(ies) Represented</u>	<u>Designee</u>
	State of South Carolina	
Nexsen Pruet, LLC	Novartis Pharmaceuticals Corporation, Sandoz Inc., Warrick Pharmaceuticals Corporation, Schering-Plough Corporation, Schering Corporation	Marguerite S. Willis, Esquire
Nelson Mullins Riley & Scarborough, LLP	Baxter Healthcare Corporation	Jim Lehman, Esquire
Nelson Mullins Riley & Scarborough, LLP	Boehringer Ingelheim Roxane, Inc., Roxane Laboratories, Inc., Ben Venue Laboratories, Inc.,	Clarence Davis, Esquire
Turner Padget Graham & Laney, PA	PAR Pharmaceuticals Companies, Inc., Watson Pharma, Inc., Watson Pharmaceuticals, Inc. Alpharma Branded Products Division, Inc., Alpharma USPD, Inc., Purepac Pharmaceuticals Co., Bristol-Myers Squibb Co.	Elbert S. Dorn, Esquire

Collins & Lacy, P.C.	TEVA Pharmaceuticals USA, Inc., IVAX Corp., Barr Laboratories, Inc.	Gray T. Culbreath, Esquire
Wyche Burgess Freeman & Parham, P.A.	Mylan Laboratories, Inc.	Wallace K. Lightsey, Esquire
Haynsworth Sinkler Boyd, P.A.	Abbott Laboratories, Inc.	Robert Y. Knowlton, Esquire

**Plaintiff:**

The plaintiff does not object to this liaison structure. However, the plaintiff wants to point out to the court that it is not the recommended organization set forth in the Manual for Complex Litigation and wishes to reserve the right to revisit this issue, if the management structure begins to affect the efficiency of the litigation.

**II. Service By LexisNexis File & Serve. [Agreed]**

**Service.** Service of all orders, pleadings (other than the original summons and complaint), motions, briefs, discovery, correspondence, and other documents, shall be effectuated by serving all counsel of record electronically through the use of LexisNexis File & Serve in accordance with the Stipulation Authorizing Electronic Service to be filed with the Court upon entry of the instant Case Management Order. LexisNexis File & Serve shall be set up in a manner such that **[each individual case caption will be used]/ [the Master Caption described below will be used]**. All counsel are thereafter responsible for serving all documents hereunder across all case captions in accordance with the Stipulation.

**Filing with the Court.** The use of LexisNexis File & Serve to effect electronic service on all counsel of record will not affect the filing of documents with the court. A hard copy of any served documents which are required to be filed with the Court shall be provided by the serving party to the chambers of the Honorable J. Cordell Maddox, Jr., as well as to the Richland County Clerk of Court's Office in accordance with the South Carolina Rules of Civil Procedure.

**Communications with the Court.** All communications from the Court to all counsel of record shall be through an Electronic Mail Listserv group which shall be set up specifically for the Court and its ease of reference. All counsel of record shall include his or her e-mail address in the Electronic Mail Listserv.

**Master File Number.** The parties will endeavor to explore with the Court and the Clerk of Court the creation of a master docket and case file number under the style "South Carolina Pharmaceutical Pricing Litigation" as Master File Number \_\_\_\_\_. If the Clerk of Court is amenable to creating such a Master File Number, every pleading in these proceedings shall bear the following caption and filing shall proceed as follows:

In re: South Carolina Pharmaceutical Pricing Litigation  
This Matter Relates To: \_\_\_\_\_

Civil Action No. \_\_\_\_\_  
Judge J. Cordell Maddox, Jr.

A. When a pleading is intended to be applicable to all actions to which this Order is applicable, the words "ALL ACTIONS" shall appear immediately after the words "This Matter Relates To:" in the caption as set forth above. If a pleading is related only to a particular defendant (or its affiliates), then the name of the defendant shall appear immediately after the words "This Document Relates To."

B. All orders, pleadings, motions, and other documents identified as relating to "All Actions" shall, when docketed and filed in the master case, be deemed as docketed and filed in each individual case to the extent applicable and will not ordinarily be separately docketed or physically filed in such individual cases.

C. The creation of this Master File Number is in no way a determination that any of these actions should be consolidated for trial, and does not have the effect of making any entity a party to an action in which it has not been named and served in accordance with the South Carolina Rules of Civil Procedure.

**III. Communication Among Counsel. [Agreed]**

The Court recognizes that cooperation by and among counsel for the State of South Carolina and by and among counsel for each of the individually sued Defendants is essential for the orderly and expeditious resolution of this litigation. The communication of information among and between counsel for the State of South Carolina and among and between counsel for each of the Defendants shall not be deemed a waiver of the attorney-client privilege or the protection afforded attorney's work product, and cooperative efforts contemplated herein shall not in any way be used against any Plaintiff by any Defendant or against any Defendant by any Plaintiff. Nothing contained in this provision shall be construed to limit the rights of any party or counsel to assert the attorney-client privilege or the protection afforded attorney's work product.

**IV. Scheduling Order Related to Outstanding Motions.**

**[Agreed in Part (assuming amenable to Court and with below caveats)]:**

As of the date of this Order, the Court is aware of numerous outstanding motions, including motions to dismiss and/or for a more definite statement. The following schedule provides for the orderly disposition of such motions:

A. Initial Status Conference with the Court:  
[October 29, 2007]

10/29/07 @

B. Memoranda in Support of all outstanding Motions shall be filed no later than:  
[December 14, 2007]

12/14/07

**[Caveats:**

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\* Plaintiff proposes that Defendants be ordered to file one consolidated brief with limitations on the additional individual briefs to be filed by each Defendant, as well as proposes page limitations to be imposed on Defendants' individual briefs. Defendants object to any order requiring them to file a single consolidated joint brief and to any limitation on individual briefs not contemplated by the South Carolina Rules of Civil Procedure, including the imposition of any page limitation on individual briefs.

\* Defendants agree to endeavor to speak with one voice where possible for purposes of briefing, but individual briefs may be required in conjunction with any consolidated brief on joint issues which may be filed.

\* Plaintiff prefers an earlier filing date for the submission of Defendants' brief(s). Defendants assert that in order to coordinate the filing of one brief on appropriate issues, to the extent possible and as requested by Plaintiff, the aforementioned time frame is necessary.]

C. Memoranda in Opposition to all outstanding Motions shall be filed no later than:

[January 28, 2008]

1/28/2008 *RD*

D. Replies shall be filed no later than:

[February 25, 2008]

2/25/2008 *RD*

E. Hearings on all outstanding Motions:

[Week of ~~March 24, 2008~~]

March 24, 2008

5/1/2008 *RD*

V. Pre-Trial Scheduling Order [Agreed]

In the event that the rulings on the aforementioned motions leave issues remaining in the South Carolina Pharmaceutical Pricing Cases, the parties shall thereafter meet and confer within ten (10) days of the date of any such orders and shall, within twenty (20) days of the date of such orders, submit to the Court their proposed pre-trial scheduling order containing appropriate deadlines. If the parties are unable to agree on such deadlines, each Defendant, and the State of South Carolina, will submit a proposed Order within thirty (30) days of the final disposition of the above-referenced motions. The Court will decide the matters on the papers.

VI. Protective Order [Agreed in part]

If the parties can agree on the terms of a protective order, a Consent Protective Order will be submitted to the Court by the parties within ten (10) days after issuance of this Order. If the parties cannot agree on the terms of a Consent Protective Order for consideration by the Court, each Defendant, or the Defendants jointly if they can agree upon the terms of the same, as well

as the State of South Carolina, shall each submit to the Court their proposed Protective Orders within twenty (20) days after issuance of this Order. Each party shall thereafter have a right, if it so chooses, to file a brief in support within twenty (20) days of the submission of the proposed order.

**[Disagree:]**

**Defendants:**

Responsive briefs will be due twenty (20) days after the filing of the initial briefs. The Court will thereafter hold a hearing to decide the outstanding issues and enter a Protective Order.

**Plaintiff:**

There will be no responsive briefs. The Court will enter a protective order based on the parties' submissions and briefs and shall not hold a hearing.

**VII. Discovery [Agreed in Part]**

**Defendants:**

Discovery in the South Carolina Pharmaceutical Pricing Cases shall not commence during the pendency of the aforementioned motions, except that nothing herein shall prohibit the parties from cross-noticing third-party fact depositions for use in South Carolina which are occurring in similar pharmaceutical pricing litigation proceeding in other parts of the country. In the event that the Court's rulings on the outstanding motions necessitate the entry of a pre-trial scheduling order, such order shall be effectuated in accordance with Section V herein and shall include a discovery deadline, which shall not commence until the motions are ruled upon and the pleadings are joined. The deadline may be extended by agreement of the parties with the Court's consent. Discovery and disputes related thereto shall be conducted and handled in accordance with the South Carolina Rules of Civil Procedure.

**Plaintiff:**

Discovery should not be stayed during the pendency of the aforementioned motions.

**Agreement:**

The parties agree to meet and confer prior to the filing of motions in accordance with S.C.R. Civ. P. 11. If a dispute cannot be resolved at the meet and confer stage, motion practice and briefing will follow the South Carolina Rules of Civil Procedure.

**VIII. Filing of Motions. [Agreed]**

Nothing in this Order shall be construed to prevent any party from filing or arguing any dispositive or non-dispositive motions otherwise proper under the South Carolina Rules of Civil Procedure. No party waives any right under the Rules by virtue of this Order. To the extent that this Order differs from the Rules as those Rules relate to discovery periods, sequencing, timing, and/or occurrence of specific discovery, motion practice or other procedure, this Order shall govern the conduct of the parties and shall be considered an exercise of the Court's discretion in those affected matters.

**IX. Telephonic Attendance at Hearings Allowed. [Agreed (assuming Court is amenable)]**

To the extent possible, the parties, including national counsel of record admitted *pro hac vice*, may participate in any hearing telephonically.

**X. Modification. [Agreed]**

This Order may be modified by further order of the Court upon a showing of good cause or stipulation of the parties with approval of the Court.

AND IT IS SO ORDERED.

Entered this 28 day of Feb, 2007.

  
\_\_\_\_\_  
The Honorable J. Cordell Maddox, Jr.



State of South Carolina  
The Circuit Court of the Tenth Judicial Circuit

J. Cordell Maddox, Jr.  
Judge

Post Office Box 8002  
Anderson, SC 29622  
Phone: (864) 260-4636  
Fax: (864) 260-6348  
cmaddoxj@sccourts.org

February 29, 2008

Barbara A. Scott  
Richland County Clerk of Court  
PO Box 2766  
1701 Main Street, Rm 205  
Columbia, SC 29202  
Office: (803) 576-1999  
Fax: (803) 576-1785

FILED  
2008 MAR -3 AM 9:17  
BARBARA A. SCOTT  
C.C.C. & G.S.

Re: South Carolina Pharmaceutical Pricing Litigation

Madame Clerk,

Enclosed please find the signed Case Management Order for the South Carolina Pharmaceutical Pricing Litigation cases. I have flagged a page for you to insert the Master File Number which you are to assign. Once this Master File Number has been assigned, please call our offices and advise as to what it is so that we can use it accordingly and disseminate it to the parties involved. Please let me know if I can be of further assistance in this or other future matters.

Sincerely,

A handwritten signature in black ink, appearing to be "LCD", written over a horizontal line.

Lauren Clarice Davis, Esq.  
Law Clerk to the Honorable J. Cordell Maddox, Jr.  
South Carolina Tenth Judicial Circuit Court