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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|--------------------------|---|----------------------|
| HOSPIRA, INC., | } | |
| Plaintiff, | | Docket Nos. 16 C 651 |
| vs. | | 17 C 7903 |
| FRESENIUS KABI USA, LLC, | } | Chicago, Illinois |
| Defendant. | | July 19, 2018 |
| | | 1:30 p.m. |

VOLUME 4B
TRANSCRIPT OF PROCEEDINGS - Bench Trial
BEFORE THE HONORABLE REBECCA R. PALLMEYER

APPEARANCES:

| | |
|--------------------|---|
| For the Plaintiff: | JENNER & BLOCK LLP BY: MR. BRADFORD P. LYERLA MR. YUSUF ESAT MR. AARON A. BARLOW MR. REN-HOW H. HARN MS. SARA T. HORTON 353 North Clark Street Chicago, Illinois 60654 |
| For the Defendant: | SCHIFF HARDIN LLP BY: MR. IMRON T. ALY MR. JOEL M. WALLACE MS. TARA L. KURTIS MR. KEVIN M. NELSON 233 South Wacker Drive, Suite 6600 Chicago, Illinois 60606 |
| | SCHIFF HARDIN LLP BY: MR. AHMED M.T. RIAZ 666 Fifth Avenue, 17th Floor New York, New York 10103 |
| Court Reporter: | FRANCES WARD, CSR, RPR, RMR, FCRR Official Court Reporter 219 S. Dearborn Street, Suite 2144D Chicago, Illinois 60604 (312) 435-5561 frances_ward@ilnd.uscourts.gov |

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Also Present:

Mr. Michael P. Bauer, Hospira
Mr. Ryan Daniel, Fresenius Kabi
Mr. Ali Ahmed, Fresenius Kabi

1 (Proceedings heard in open court:)

2 THE COURT: All right. We can proceed.

3 R. CHRISTOPHER SEATON, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN.

4 CROSS-EXAMINATION (Resumed)

5 BY MR. NELSON:

6 Q. Good afternoon, Mr. Seaton.

7 A. Good afternoon.

8 Q. Can you please turn to JTX 109, the separation and
9 distribution agreement, please.

10 And what is the date of the separation and
11 distribution agreement?

12 A. April 12th, 2004.

13 Q. Can you turn to JTX 109 at page 12, please.

14 And you see the section entitled, "Ancillary
15 Agreements." It's about the third, fourth one down?

16 A. Yes, sir.

17 Q. There's a series of agreements listed there. Those
18 agreements were entered into between Abbott and Hospira before
19 the effective date of this agreement, correct?

20 A. Yes, sir.

21 Q. And if you can turn to page 51 of this agreement. That's
22 JTX 109.51. And if we look at the section that's entitled,
23 "Advisors." Do you see that?

24 A. Yes, sir.

25 Q. And this section says that the attorneys that represented

1 Abbott in this agreement were not the same law firms that
2 represented Hospira, correct?

3 A. Correct.

4 Q. So, the parties had separate law firms when they were
5 negotiating this agreement, correct?

6 A. Correct.

7 Q. And you'd agree with me that Abbott actually transferred
8 the IND to Hospira after the effective date of this agreement,
9 correct?

10 A. I believe that's correct.

11 Q. Can you please turn to JTX 40. It's in your binder.

12 Are you there, sir?

13 A. Yes, sir.

14 Q. Good. This is a letter from Hospira dated May 10th, 2004,
15 to FDA, correct?

16 A. Correct.

17 Q. So, that's after the effective date of the agreement,
18 correct?

19 A. Yes, sir.

20 Q. And here, this agreement -- and we might disagree with the
21 wording, but it does say that there's a transfer of ownership
22 in the general correspondence regarding line, correct?

23 A. It does say that, yes.

24 Q. And if we look down at that first paragraph, it says,
25 "On this date, Abbott transferred ownership of the

1 above-referenced IND to Hospira." And the above-referenced
2 IND is the IND we've been looking at, correct?

3 A. That is correct, sir.

4 Q. And if we look at that second paragraph, the last sentence
5 there says that, "This letter assures that all legal and
6 regulatory obligations will continue to be met and that
7 Hospira accepts all rights and responsibilities associated
8 with the sponsorship of this IND effective May 3rd, 2004,"
9 correct?

10 A. Yes, sir.

11 Q. So, here, Hospira is communicating to FDA that it is
12 accepting all rights and responsibilities associated with
13 sponsorship, isn't that right?

14 A. That is correct.

15 MR. NELSON: Your Honor, may I have one minute to
16 confer with my colleagues?

17 THE COURT: Sure.

18 MR. NELSON: Nothing further, your Honor.

19 THE COURT: Any redirect?

20 MR. LYERLA: I guess I'll ask one question.

21 REDIRECT EXAMINATION

22 BY MR. LYERLA:

23 Q. Can you explain why you said the spin-off occurred after
24 the agreement and what the significance of that is to your
25 opinions?

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