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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

AIDS HEALTHCARE FOUNDATION, Plaintiff, vs. ABBOTT LABORATORIES, Defendant	Case No.: AIDS HEALTHCARE FOUNDATION'S COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF FOR MONOPOLIZATION, ATTEMPTED MONOPOLIZATION, CONSPIRACY TO RESTRAIN TRADE AND UNFAIR COMPETITION AND FOR RESTITUTION FOR VIOLATIONS OF BUSINESS AND PROFESSIONS CODE JURY TRIAL DEMANDED

I. INTRODUCTION

1. Plaintiff AIDS Healthcare Foundation ("AHF") seeks legal and equitable relief because defendant Abbott Laboratories ("defendant" or "Abbott") is making millions of dollars by restraining trade, controlling prices and eliminating competition in several markets for potentially life-saving treatments for the deadly AIDS virus. Specifically, Abbott is wielding patent and monopoly power it obtained as a result of a government grant it received for research into the discovery of new AIDS treatments to manipulate relevant markets and increase its profits, all the while keeping life-saving

drugs out of the hands of the least advantaged among those suffering in the worst pandemic of all time.

2. Abbott's crucial AIDS drug, Norvir/ritonavir, is at the heart of this case. Through its patents for Norvir, Abbott acquired a monopoly over the Norvir market, leveraged that monopoly into the market for one of its other AIDS drugs, Kaletra, and continues to exercise a stranglehold over these drugs -- all at the cost of human lives.

3. Abbott has thus used its patents -- obtained in large part with taxpayer funds -- to maintain and perpetuate a monopoly in the Norvir market and to create one in the market for its derivative drug, Kaletra, by, among other things, artificially raising and maintaining an exorbitantly high price for Norvir and tying the purchase of Norvir to the purchase of Kaletra.

4. On information and belief, Abbott now charges approximately $46,000 per year per patient for access to Norvir as a standalone treatment. This inflated price presents a huge obstacle to the treatment of AIDS, and most severely affects the poor, the young, the aged, the disabled, and the disenfranchised -- those who can least afford to pay Abbott's monopolistic prices.

II. PARTIES

5. AIDS Healthcare Foundation ("AHF" or "Plaintiff') is a non-profit corporation organized and existing under the laws of the State of California, with its principal place of business in Los Angeles, California. AHF is the largest provider of specialized healthcare services to the AIDS/HIV population in the United States. AHF operates AIDS clinics and pharmacies that administer antiretroviral care to patients in the United States and overseas. AHF serves thousands of patients in California, New York and Florida regardless of their insurance status or ability to pay. In addition, AHF currently operates three free AIDS treatment clinics in Africa: the Ithembalabantu (Zulu for "people's hope") Clinic in KwaZulu Natal, Durban, South Africa, the "Uganda Cares" Masaka Healthcare Center in Masaka, Uganda, and the "Uganda Cares" Soroti Healthcare Center in Soroti, Uganda. AHF also operates two free AIDS treatment clinics

in Honduras: the Siempre Unidos (Spanish for "always united")/AHF Global Immunity Clinics in San Pedro Sula and Siguatepeque.

6. On information and belief, Abbott was incorporated in 1888 in Illinois and has its principal place of business in Illinois.

7. Abbott is engaged in the business of manufacturing and selling antiretroviral drugs used to fight the HIV/AIDS virus.

III. JURISDICTION AND VENUE

8. This action arises under the antitrust laws of the United States, Title 15, of the United States Code.

9. The jurisdiction of this Court is invoked pursuant to 15 U.S.C. §15, §22 and §26 to secure damages and injunctive relief for violation of Sections 1 and 2 of the Sherman Act, 15 U.S.C. §1 and §2.

10. This Court has supplemental jurisdiction over the state law unfair competition claims pursuant to 28 U.S.C. § 1367.

11. Venue is proper in this Court under 28 U.S.C. § 1391(b) and (c) because Abbott conducts regular business in this District and has sold the products giving rise to the claims in this District. On information and belief, Abbott has sufficient contacts within this District to be deemed to reside in this District and is subject to the personal jurisdiction of this Court for this action. Abbott has purposefully placed its products and services into the stream of commerce with the expectation that they would be purchased and used by consumers in California, including in this District.

IV. MARKET DEFINITIONS

12. Norvir is an antiretroviral drug prescribed to AIDS patients. Norvir is not reasonably interchangeable with any other drug and therefore constitutes a product market for antitrust purposes (the "Norvir Market").

13. Kaletra is a combination antiretroviral drug prescribed to AIDS patients. It contains a small amount of Norvir, which acts as a "booster" for, and improves the effectiveness of, the other antiretroviral agents in Kaletra. Antiretroviral drugs that depend on Norvir as a "booster," like Kaletra, are not reasonably interchangeable with

any other drugs and therefore constitute a product market for antitrust purposes (the "Norvir Boosted Market").

14. Abbott has garnered a 100% share of the multimillion-dollar Norvir Market in the United States, which is the geographical market. AHF is a significant purchaser in the Norvir Market.

15. On information and belief, Abbott, through its pricing of Norvir and Kaletra, has, or is dangerously close to having, a monopoly in the Norvir Boosted Market in the United States, which is the geographical market. AHF is a significant purchaser in the Norvir Boosted Market.

V. FACTUAL BACKGROUND

16. AIDS is the worst pandemic in history. By the end of 2003, an estimated 16 million people had died from AIDS and 40 million people were infected with HIV/AIDS worldwide. Each day, more than eight thousand people die worldwide from AIDS and thirteen thousand more contract the virus.

17. The high price of antiretroviral drugs ("ARVs") is a prime obstacle to fighting AIDS effectively.

18. Three different classes of ARVs have been approved by the U.S. Food & Drug Administration for the treatment of HIV: (a) Nucleoside Reverse Transcriptase Inhibitors ("NRTIs"), which reduce the growth of HIV; (b) Non-Nucleoside Reverse Transcriptase Inhibitors ("NNRTIs"), which keep HIV from making DNA copies of itself; and (c) Protease Inhibitors ("PIs"), which stop new infectious copies of HIV from being released from infected cells.

19. The compounds at issue in this litigation, Norvir and Kaletra, are Protease Inhibitors ("PIs").

20. On information and belief, in or around 1996, it became known that use of ARVs in single medicine or dual-drug therapy frequently led to the development of resistance of HIV to the treatment, but that use of three or more ARVs together, known as Highly Active Antiretroviral Therapy ("HAART"), could dramatically reduce the

incidence of drug resistance. A HAART regime, sometimes called a "cocktail," typically consists of a "backbone" of two NRTIs plus one or more additional drugs, such as a NNRTI or a PI.

21. Different patients require different combination therapies and medicines depending on a host of factors, including whether the patient has developed resistance to some medications, side effects of a particular medicine, pregnancy, interactions with other drugs and the effect of drugs on different resulting illnesses. No single ARV is directly and completely interchangeable with any other ARV in any particular patient.

22. On information and belief, Abbott initially marketed Norvir/ritonavir in the treatment of HIV/AIDS as a standalone PI in a HAART regime with a dose of six 100 mg capsules twice a day (1200 mg /day). This dose is rarely used today, however, because it is associated with a number of frequently occurring adverse side effects.

23. The most common use of ritonavir is now in a low dose (100 mg once or twice-daily) as a "booster" for other PIs (normally in conjunction with two NRTIs to create a HAART regime). A low dose of ritonavir can slow the ability of liver enzymes to break down the companion PI inhibitor, thus "boosting" the level of the companion drug in the bloodstream. This can make the other PI more effective against HIV. It also makes it possible to use lower doses -- or less frequent daily doses -- of the improved medicine.

24. Abbott introduced Kaletra as a fixed dose combination product that combined 133 milligrams of lopinavir, another PI, with 33 milligrams of ritonavir acting as a boosting agent. A typical dose of Kaletra is six pills per day. Kaletra is the only PI fixed dose combination that includes ritonavir. On information and belief, Kaletra is now the largest selling PI.

25. No company currently offers a generic version of Norvir in the United States or anywhere else. Through its patents for Norvir, Abbott enjoys monopoly power in every possible Norvir market. It wields that power to control prices and exclude any competition from other manufacturers of PIs (other than Norvir) and Norvir boosted combination therapies (other than Kaletra) in both the Norvir Market and the Norvir

Boosted Market.

26. Specifically, in December of 2003, Abbott announced that it would begin selling Norvir at nearly 400% of its original price. A year's supply of Norvir, if used as a standalone PI, for example, now sells for $46,000 or more. Abbott historically set a much lower annual price for Norvir as a standalone PI -- approximately $9000.

27. AHF has purchased a significant amount of Norvir.

28. Abbott charges prices for Norvir that exorbitantly exceed its costs of licensing, manufacturing and distributing the drug.

29. Abbott's exorbitant pricing for this drug, coupled with its monopoly power in the market for this drug (initially conferred through its patents), and in the markets for the numerous drugs for which it is used as a booster, presents a formidable obstacle for proper treatment of AIDS patients in the United States.

Government Role In Discovering Norvir's
Effectiveness As An Antiretroviral
Treatment For HIV/AIDS

30. A retrovirus is a type of RNA virus that, unlike other RNA viruses, reproduces by transcribing itself into DNA. An enzyme called reverse transcriptase allows a retrovirus's RNA to act as the template for this RNA-to-DNA transcription. The resultant DNA inserts itself into a cell's DNA and is reproduced along with the cell and its offspring. The life cycle is completed when the viral DNA in selected offspring cells makes an RNA copy of itself that covers itself in a protein coat and leaves the cell. Retroviruses sometimes destroy the cells whose DNA they alter (as with HIV, the virus that causes AIDS) and sometimes cause them to become cancerous (as with the viruses that cause certain leukemias).

31. In the early 1980s, scientists began to see patients with symptoms of an unknown virus of the immune system, now known as AIDS. The virus attacks and destroys certain white blood cells known as CD4 T-lymphocytes or Tcells (T4), which form an important component of the body's immune system. The level of destruction eventually becomes so great that the immune system is no longer able to mount an

effective response to infections that pose little threat to a healthy person. It is likely that the patient will contract one or more of the following infections: PCP (pneumocystis carinii pneumonia), CMV (a disease which causes blindness), Kaposi's sarcoma (a rare skin cancer), lymphoma (a blood cancer), tuberculosis, and toxoplasmosis (an intestinal parasite that attacks the brain and causes dementia). Although the AIDS virus itself is not fatal, people with AIDS ultimately succumb to one or more of these infections, often after a difficult and painful struggle with the virus.

32. The National Institutes of Health ("NIH") has been instrumental in funding the discovery of treatments for HIV/AIDS, beginning with its support of the first tests to establish the efficacy of antiretroviral treatment in 1984. The National Cooperative Drug Discovery Groups ("NCDDGs") were established by the NIH's National Institute for Allergies and Infectious Diseases ("NIAID") in 1986 to financially support cooperative research between academic and industry-based investigators. Grants by NCDDG-HIV, including a multi-year grant to Abbott scientists, led to the development of PIs and other antiretroviral medicines.

33. On information and belief, Abbott received NIAID grant 5U01A1027220-050002 (referred to as A1027220) in 1988. The objective of the grant was to study the biochemistry of HIV protease enzymes to investigate whether medicines could be created to block the enzyme and thereby inhibit the spread of AIDS to new cells. Early research under the grant to Abbott was promising, with the development of an intravenous PI in the first several years of the award. The grant continued to fund research and development of protease inhibiting compounds at Abbott through 1993 "to test its interaction with known aspartic proteinase inhibitors" and "to investigate additional means of inhibiting the protease."

34. On information and belief, Abbott has acknowledged that work in performance of this grant led to the invention in each of the patents associated with Norvir.

35. On information and belief, Abbott's investment in the clinical development of ritonavir was modest. The initial FDA approval was based upon three clinical trials

with 1,583 patients -- less than 30 percent of the number of patients that the Tufts Center for the Study of Drug Development claims is average for new "big pharma" drug approvals. At $10,000 per patient, a figure considerably above the average cost of trials reported by Contract Research Organizations for AIDS trials, the cost of Abbott's pre-approval clinical trials for ritonavir can be estimated to be about $15 million.

36. AHF is informed and believes that the federal government continues to invest significantly in research and development for ritonavir, including into its efficacy as a booster for other PI regimes. The website, www.ClinicalTrials.Gov, identifies 26 clinical trials planned or currently recruiting patients that involve ritonavir. Of these, US government agencies sponsor 21, Abbott is the sponsor of only one, and other drug companies (including two small firms) sponsor four.

Abbott's Anticompetitive Pricing Of Norvir

37. In acquiring and maintaining its initial Norvir-related patents, and as a direct result of its anticompetitive pricing, Abbott currently enjoys and willfully maintains monopoly power in the Norvir Market. Abbott also has leveraged its monopoly over the Norvir Market to monopolize and exclude competition for its own Norvir boosted PI from manufacturers of other combination therapies that use Norvir as a booster, i.e., the Norvir Boosted Market.

38. Norvir was first introduced into the market as a standalone PI, and despite the US government funding of the pre-clinical discovery of Norvir, Abbott priced the product roughly the same as other drugs in this class.

39. As of last fall, the annual cost of typical doses of standalone PIs were estimated as follows:

Fall 2003, Average Wholesale Price Of Unboosted Protease Inhibitors

Drug	*Presentation*	*Unit Cost*	*Units/day*	*Annual Cost*
Fortovase	200 mg	$1.39078	18	$9,137
Invirase	200 mg	$2.49596	9	$8,199
Crixivan	400 mg	$3.03542	6	$6,648
Reyataz*	200 or 150 mg	$13.80	2	$10,074
Lexiva	700 mg	$10.00	4	$14,600

Agenerase	150 mg	$1.53238	16	$8,949
Viracept	250 mg	$2.5222	10	$9,206
Kaletra	133/33 mg	$3.90833	6	$8,559
Norvir	100 mg	$2.1432	12	$9,387

**price the same for both presentations.*

40. As noted above, several PI regimes can be combined with low doses (100 to 200 mg per day) of ritonavir, increasing the effectiveness of the treatment and also reducing the dose of the non-ritonavir PI required for treatment. In most cases, this results in substantial savings to the patient.

41. **Reduction In Cost Of Base Protease Inhibitor**

Base Protease Inhibitor	*Presentation*	*Unit Cost*	*Units/day when unboosted*	*Base Units after boost / Units of Norvir boost*
Fortovase	200 mg	$1.39078	18	10 / 2
Invirase	200 mg	$2.49596	18	10/ 2
Crixivan	400 mg	$3.03542	6	4 / 2
Reyataz*	200 or 150 mg	$13.80	2	2 / 1
Lexiva	700 mg	$10.00	4	2 / 2
Agenerase	150 mg	$1.53238	16	8 / 2
Viracept	250 mg	$2.5222	10	Cannot be boosted
Kaletra	133/33 mg	$3.90833	6	Already boosted

**price the same for both presentations*

. 42. Abbott's anticompetitive pricing included a sudden, enormous price hike for Norvir in December 2003. For the most important presentation, the 100 mg gel tablets, Abbott increased the price from $2.1432 per tab to $10.71575 per tab. For a patient using ritonavir/Norvir as a full PI regime, this increased the price from $9,387 to $46,935 per year, for this single drug.

43. Another impact of the price increase was to greatly increase the cost of ritonavir/Norvir as a boosting agent for other PIs manufactured by Abbott's competitors. Five of the known PIs (Fortovase, Invirase, Crixivan, Reyataz, and Agenerase) are boosted with two 100 milligram tabs of Norvir per day. The annual cost of this boost increased fivefold from $1,565 to $7,822. The increase in price is $6,258 per year. For

Lexiva, which uses only a single 100 milligram tab boost, the annual cost increased from $782 to $3,911, an increase in price of $3,129. On information and belief, for at least one new PI under development, the optimal dose of a Norvir booster is likely to be 400 milligrams per day, for which Abbott would now charge $15,644, an increase in price of more than $12 thousand per year.

44. Abbott did not pass on the price increases for Norvir in its own combination therapy, Kaletra. On information and belief, among the boosted combination regimes, Kaletra is now the least expensive. For many patients, Norvir is a medically essential component of six of the seven PIs now used in HAART Treatment. Abbott has effectively raised the price of its rivals' products, giving patients, insurance companies and other payers a compelling economic reason to switch patients to Kaletra, even if it is not the best choice from a medical point of view.

45. **Annual Cost Of Base Protease Inhibitor Plus Norvir Boost**

Base Protease Inhibitor	*Presentation*	*Unit Cost*	*Units for Base / Units for Norvir Boost*	*Total Annual Cost*
Fortovase	200 mg	$1.39078	10 /2	$12,899
Invirase	200 mg	$2.49596	10/2	$16,933
Crixivan	400 mg	$3.03542	4 /2	$12,254
Reyataz*	200 or 150 mg	$13.80	2 /1	$14,065
Lexiva	700 mg	$10.00	2 /2	$15,123
Agenerase	150 mg	$1.53238	8 /2	$12,297
Viracept	250 mg	$2.5222	10 / no boost	$9,206
Kaletra	133/33 mg	$3.90833	6 / already boosted	$8,559

**priced the same for both presentations.*

46. On information and belief, Ritonavir/Norvir has been profitable for Abbott. FDA approval was announced in March 1996. By the end of 2001, Norvir had generated cumulative sales of more than $1 billion -- more than sixty times the estimated cost of its pre-approval outlays. Securities analysts estimated that, even without a price increase, Norvir would generate more than $2 billion for Abbott over the next ten years.

47. The substantial public investment in the development of ritonavir decreased

both Abbott's cost and the risk associated with the drug's development. Yet, even before the price increase, Abbott had priced Norvir higher than several standalone PIs, none of which were invented on a government grant. With the price increase, the cost of Norvir as a standalone PI skyrocketed to $46 thousand, three to five times higher than other standalone PIs that were not invented on a government grant.

48. Abbott's pricing of ritonavir is unreasonable, anticompetitive and threatens the health and safety of people with AIDS.

The Exploitation Of The Norvir Monopoly
In The Combination Therapies
(Norvir Boosted) Market

49. Abbott has not only willfully acquired and maintained a monopoly over Norvir, but it has leveraged its monopoly into a monopoly over combination therapies that use Norvir as a booster, i.e., the Norvir Boosted Market, and, through its discriminatory pricing described herein, has effectively tied the availability of Norvir to patients to the purchase of its own derivative product, Kaletra.

50. Abbott did not raise the price of its combination therapy, Kaletra (even though it contains Norvir), when it raised the price of Norvir for all of its competitors in the Norvir Boosted Market. Instead, Abbott maintains significantly lower prices for Kaletra than the prices of its competitors' drugs, which confers on Abbott significant market power to exclude any and all competition for similar combination therapies.

51. On information and belief, Abbott's discriminatory application of the price increase for Norvir to its rivals, without a corresponding increase in the price of Kaletra, seeks to shift market share in the Norvir Boosted Market to Kaletra, even when Kaletra may not be the best treatment for certain patients.

FIRST CLAIM FOR RELIEF

(Monopolization Of Norvir Market)

52. AHF incorporates by reference the allegations set forth above.

53. These actions were taken with the express purpose of acquiring and

maintaining an unlawful monopoly in the Norvir Market, as well as controlling prices and eliminating all competition in that market.

54. By the acts and practices recited above, Abbott has monopolized the Norvir Market in violation of the Sherman Act (15 U.S.C. Section 2) to the detriment and harm of the public, AHF and those living with HIV in the United States. Abbott has abused its monopoly position by charging exorbitant, monopolistic prices for Norvir, thereby limiting the supply of affordable Norvir for the treatment of HIV/AIDS.

55. By reason of Abbott's attempt to monopolize and actual monopolization of all sales in the Norvir Market, AHF has been damaged in at least the following respects: AHF is forced to purchase Norvir directly from Abbott suppliers at fixed monopolistic prices. The high price of Norvir is a prime obstacle in fighting AIDS and lessens the supply of Norvir. As such, it represents a significant public health threat.

56. By reason of the continuing nature of these unlawful acts, the financially uncertain effect thereof, and the ongoing health threat to HIV positive individuals served by AHF, AHF has no adequate remedy at law, has been irreparably injured, and is entitled to preliminary and permanent injunctions enjoining defendant from charging monopolistic prices for Norvir, continuing to eliminate competition in the markets for Norvir, or otherwise continuing its monopolistic activities.

57. By reason of these unlawful monopolistic acts and practices, AHF has incurred damages in an amount to be proven at trial.

SECOND CLAIM FOR RELIEF

(Attempted Monopolization Of Norvir Market)

58. AHF incorporates by reference the allegations set forth above.

59. By the acts and practices recited above, Abbott has knowingly, willfully and specifically attempted to monopolize the Norvir Market in violation of the Sherman Act (15 U.S.C. Section 2). Abbott's attempt to monopolize the Norvir Market is accompanied by a dangerous probability of success as a consequence of the practices recited above, all to the detriment and harm of the public, AHF and others in the Norvir Market.

60. By reason of the continuing nature of the above unlawful acts and the financially uncertain effect thereof, AHF has no adequate remedy at law, has been irreparably injured, and is entitled to preliminary and permanent injunctions enjoining the defendants from charging monopolistic prices to AHF and others in the Norvir Market.

61. By reason of the above unlawful monopolistic acts and practices, AHF has incurred damages in an amount to be proven at trial.

THIRD CLAIM FOR RELIEF

(Monopolization Of Norvir Boosted Market)

62. AHF incorporates by reference the allegations set forth above.

63. Abbott's actions were taken with the express purpose of acquiring and maintaining an unlawful monopoly in the Norvir Boosted Market, as well as controlling prices and eliminating all competition in that market.

64. By the acts and practices recited above, Abbott has monopolized the Norvir Boosted Market in violation of the Sherman Act (15 U.S.C. Section 2) to the detriment and harm of the public, AHF and those living with HIV in the United States. Abbott has abused its monopoly position by charging its rivals in the Norvir Boosted Market exorbitant, monopolistic prices for Norvir, while not passing the same price increase on in its own Norvir Boosted therapy, Kaletra.

65. By reason of Abbott's attempt to monopolize and actual monopolization of all sales in the Norvir Boosted Market, AHF has been damaged in at least the following respects: AHF is forced to purchase Norvir directly from Abbott suppliers at fixed monopolistic prices when it is needed for Norvir boosted combination therapies. The high price of Norvir is a prime obstacle in fighting AIDS and lessens the supply of Norvir. As such, it represents a significant public health threat. Moreover, by effectively charging monopolistic prices for its rivals' Norvir boosted therapies, but not for its own Norvir boosted drug, Kaletra, Abbott is attempting to force AHF, the public, and all those offering AIDS-related healthcare to use Kaletra for every patient, even when, medically, it may not be the best combination therapy for a particular patient.

66. By reason of the continuing nature of the above unlawful acts, the financially

uncertain effect thereof, and the ongoing health threat to HIV positive individuals served by AHF, AHF has no adequate remedy at law, has been irreparably injured, and is entitled to preliminary and permanent injunctions enjoining defendant from charging its rivals in the Norvir Boosted Markets monopolistic prices for Norvir (having already eliminated competition in the market for Norvir) while not charging similarly high prices for its own Norvir Boosted therapy, or otherwise controlling prices, eliminating competition, or continuing its monopolistic activities in this market.

67. By reason of these unlawful monopolistic acts and practices, AHF has incurred damages in an amount to be proven at trial.

FOURTH CLAIM FOR RELIEF

(Attempted Monopolization Of The Norvir Boosted Market)

68. AHF incorporates by reference the allegations set forth above.

69. By the acts and practices recited above, Abbott has knowingly, willfully and specifically attempted to monopolize the Norvir Boosted Market in violation of the Sherman Act (15 U.S.C. Section 2). Abbott's attempt to monopolize the Norvir Boosted Market is accompanied by a dangerous probability of success as a consequence of the practices recited herein, all to the detriment and harm of the public, AHF and Abbott's competitors in the Norvir Boosted Market.

70. By reason of the continuing nature of the above unlawful acts and the financially uncertain effect thereof, AHF has no adequate remedy at law, has been irreparably injured, and is entitled to preliminary and permanent injunctions enjoining Abbott from charging monopolistic prices for Norvir to its rivals (while maintaining its own Norvir boosted combination therapy at a much lower price than the resulting prices for its rivals' products), or otherwise controlling prices or prohibiting competition in the Norvir Boosted Market, or otherwise continuing monopolistic activities.

71. By reason of these unlawful monopolistic acts and practices, AHF has incurred damages in an amount to be proven at trial.

FIFTH CLAIM FOR RELIEF

(Conspiracy To Restrain Trade In The Norvir Boosted Market)

72. AHF incorporates by reference the allegations set forth above.

73. Through the acts and practices recited above, Abbott knowingly, willfully and specifically implemented a tying arrangement to restrain trade in the Norvir Boosted Market in violation of the Sherman Act (15 U.S.C. Section 1).

74. Kaletra, together with all other Norvir boosted combination therapies, is a separate product from Norvir.

75. Through the acts and pricing practices described above, Abbott is effectively conditioning the availability of Norvir on the sale of its combination therapy, Kaletra, in which Norvir is already included.

76. Abbott's tying arrangement seeks to eliminate competition in the Norvir Boosted Market to the detriment and harm of the public, AHF and other manufacturers in the Norvir Boosted Market. As such, it is per se unlawful under Section 1 of the Sherman Act.

77. If Abbott's tying is not per se unlawful, it is unlawful under the rule of reason, in that the anticompetitive consequences of its conduct outweigh any pro-competitive effects thereof. AIDS patients for whom Kaletra is not the best medical choice for the treatment of their virus cannot obtain alternative combination therapies without paying an exorbitantly higher price for those therapies -- either themselves or through their healthcare providers or insurance carriers, like AHF -- due to the high price of Norvir when used as a boosting agent in those therapies. On information and belief, Abbott's conduct harms its competition in the Norvir Boosted Market (as well as consumers like AHF) because, due to the high cost of Norvir, manufacturers of Norvir boosted therapies can offer their products only at a much higher cost than Abbott's Norvir boosted product, Kaletra. This puts the manufacturers of Kaletra-alternatives at a significant competitive disadvantage compared to Abbott, and, as a result of this restriction of competition among these manufacturers, consumers, healthcare providers

and insurance carriers will pay higher prices to obtain alternatives to Kaletra than they would in a fully competitive market.

78. By reason of the continuing nature of these unlawful acts and the financially uncertain effect thereof, AHF has no adequate remedy at law, has been irreparably injured, and is entitled to preliminary and permanent injunctions enjoining Abbott from charging monopolistic prices for Norvir, prohibiting competition in the Norvir Market, or otherwise continuing monopolistic activities.

79. By reason of these unlawfu1and monopolistic acts and practices, AHF has incurred damages in an amount to be proven at trial.

SIXTH CLAIM FOR RELIEF

(Violation of Business & Professions Code § 17200 et seq.)

80. AHF incorporates by reference the allegations set forth above.

81. The specific acts and conduct alleged above constitute "unlawful, unfair or fraudulent business practice(s)" and accordingly violate California Business & Professions Code §17000, et seq.

82. As a direct and' proximate result of these acts, defendant has obtained from AHF, and continues to hold, ill-gotten gains. These wrongful acts have proximately caused and will continue to cause AHF substantial injury until this Court enjoins such conduct.

83. AHF is entitled to restitution for the unlawful and unfair business practices as alleged in this complaint.

84. AHF also is entitled to disgorgement of defendant's ill-gotten gains derived from their unlawful, unfair, and/or fraudulent business practices in violation of California Business & Professions Code § 17203.

PRAYER FOR RELIEF

WHEREFORE, AHF prays for judgment as follows:

A. That, as to the claims for conspiracy, monopolization and attempted monopolization, defendant be found liable for violation of Sections 1 and 2 of the Sherman Act, that AHF be awarded its damages according to proof, that amount to be

trebled as required by federal law, and that AHF be awarded its reasonable attorneys fees and costs, as well as appropriate injunctive relief;

B. That, as to the claim for unfair business practices, defendant be found liable for violation of California Business and Professions Code § 17200, and AHF accordingly be awarded appropriate injunctive relief. Further, as a consequence of the violations, that defendant be ordered, under Business & Professions Code § 17203, to pay restitution and/or disgorge all sums defendant has received as a result of its violations of the unfair competition laws;

C. That AHF have entered in its favor preliminary and permanent injunctive relief enjoining defendant from:

1) Fixing prices for the life saving antiretroviral drugs described herein at levels beyond the reasonable financial reach of the HIV infected public; and

2) Acting to hinder or eliminate free competition in the markets for the life saving antiretroviral drugs described herein; and

3) Further acts of unfair competition;

D. That AHF be awarded pre-judgment interest at the legally allowable rate on all amounts owed;

E. That AHF be awarded attorneys' fees incurred herein as allowed by law; and

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F. Such other and further relief as this Court may deem just and proper.

Dated this 10th day of February, 2004

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