

No. 20-

IN THE
Supreme Court of the United States

ABBVIE INC., ABBOTT LABORATORIES, UNIMED
PHARMACEUTICALS LLC, AND BESINS HEALTHCARE, INC.,
Petitioners,

v.

FEDERAL TRADE COMMISSION,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

WILLIAM F. LEE
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, MA 02109

JEFFREY I. WEINBERGER
STUART N. SENATOR
ADAM R. LAWTON
MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue
Los Angeles, CA 90071

ELAINE J. GOLDENBERG
MUNGER, TOLLES & OLSON LLP
601 Massachusetts Ave., NW
Suite 500 East
Washington, DC 20001

*Counsel for AbbVie Inc., Abbott Laboratories, and Unimed
Pharmaceuticals LLC*

MELINDA F. LEVITT
GREGORY E. NEPPL
FOLEY & LARDNER, LLP
3000 K Street, NW
Washington, DC 20007

Counsel for Besins Healthcare, Inc.

SETH P. WAXMAN
Counsel of Record
LEON B. GREENFIELD
CATHERINE M.A. CARROLL
BRITTANY BLUEITT AMADI
CLAIRE H. CHUNG
MEDHA GARGEYA
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Ave., NW
Washington, DC 20006
(202) 663-6000
seth.waxman@wilmerhale.com

QUESTION PRESENTED

Whether the subjective element of the “sham litigation” exception to *Noerr-Pennington* immunity may be met by an inference from a finding that a challenged lawsuit was objectively baseless, even without evidence that the antitrust defendant actually believed the suit lacked merit or was indifferent to the outcome.

(i)

PARTIES TO THE PROCEEDING

Petitioners are AbbVie Inc., Abbott Laboratories, Unimed Pharmaceuticals LLC, and Besins Healthcare, Inc., which were defendants in the district court and appellees and cross-appellants in the court of appeals.

Teva Pharmaceuticals USA, Inc. was a defendant in the district court but was dismissed as a party by the court of appeals.

Respondent is the Federal Trade Commission, which was the plaintiff in the district court and appellant and cross-appellee in the court of appeals.

CORPORATE DISCLOSURE STATEMENT

AbbVie Inc. has no parent corporation, and no publicly held company owns 10% or more of its stock.

Abbott Laboratories has no parent corporation, and no publicly held company owns 10% or more of its stock.

Unimed Pharmaceuticals LLC is an indirect, wholly owned subsidiary of AbbVie Inc., a publicly traded company.

Besins Healthcare, Inc., is a wholly owned U.S. corporate subsidiary of Belgian company Besins Healthcare, S.A. Neither Besins Healthcare, S.A. nor its parent entity Besins Healthcare Holding LTD are publicly traded companies.

RELATED PROCEEDINGS

Federal Trade Commission v. AbbVie Inc., et al., Nos. 18-2621, -2748, -2758 (3d Cir.) (opinion and judgment issued September 30, 2020; opinion amended December 4, 2020; rehearing denied December 4, 2020).

Federal Trade Commission v. AbbVie Inc., et al., No. 2:14-cv-05151-HB (E.D. Pa.) (judgment issued July 18, 2018).

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.