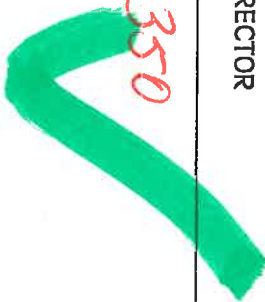


DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF DIRECTOR

ACTION REFERRAL

TO <i>Singlestar</i>	DATE <i>2-26-10</i>
-------------------------	------------------------

DIRECTOR'S USE ONLY		ACTION REQUESTED	
1. LOG NUMBER  <i>100362</i>	<input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____		
2. DATE SIGNED BY DIRECTOR  <i>Ref Log #350 Closed</i> 	<input type="checkbox"/> Prepare reply for appropriate signature DATE DUE _____		
<input type="checkbox"/> FOIA DATE DUE _____			
<input checked="" type="checkbox"/> Necessary Action			

APPROVALS (Only when prepared for director's signature)	APPROVE	* DISAPPROVE (Note reason for disapproval and return to preparer.)	COMMENT
1.			
2.			
3.			
4.			



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February 24, 2010

**RECEIVED**

FEB 26 2010

Department of Health & Human Services  
OFFICE OF THE DIRECTOR

**VIA U.S. MAIL AND EMAIL**

Marguerite Willis, Esquire  
Nexsen Pruet, LLC  
Post Office Drawer 2426  
Columbia, South Carolina 29202  
[mwillis@nexsenpruet.com](mailto:mwillis@nexsenpruet.com)

RE: State of South Carolina ex. rel. Henry McMaster, in his capacity as Attorney  
General of the State of South Carolina vs. AstraZeneca Pharmaceuticals, LP,  
AstraZeneca LP, AstraZeneca PLC, AstraZeneca AB, and AstraZeneca UK Limited  
Civil Action No.: 2009-CP-42-00097

Dear Marguerite:

We are in receipt of your February 22, 2010 letter pertaining to the Freedom of Information Act Requests sent by Susan P. McWilliams in your office to the South Carolina Department of Health and Human Services, the South Carolina Budget and Control Board, and the South Carolina Material Management Office. The State objects to these FOIA requests and any corresponding discovery requests directed to the State as completely irrelevant to this litigation, particularly in light of the amended complaint. These State agencies are not a party to this litigation. As such, we understand your letter to be an acknowledgment that the information you seek through the FOIA requests is information that could otherwise not be obtained through the South Carolina Rules of Civil Procedure. We agree that the information you currently seek is beyond the scope of permissible discovery.

Your attempt to obtain this otherwise non-discoverable information through these FOIA requests is equally impermissible. Pursuant to the attached October 2002 Order of the Honorable Marc H. Westbrook and the case law cited therein, any discovery sought in ongoing litigation should be pursued through the South Carolina Rules of Civil Procedure. The Freedom of Information

Act is "not intended as a substitute for discovery and was not enacted to provide procedures for obtaining information during litigation." *See Westbrook Order attached hereto.*

The State has provided discovery responses in this litigation where the State has indicated its intent, subject to the State's objections, to produce responsive documents once the appropriate protective orders have been entered in this litigation, and the State will continue to respond to discovery requests as required under the South Carolina Rules of Civil Procedure. We ask that you immediately withdraw your Freedom of Information Act requests; otherwise, we will seek protection from Judge Couch.

If you have any further questions, please do not hesitate to contact us.

Yours very truly,

  
Donald C. Coggins, Jr.

cc via U.S. Mail:

Michael Sponhour  
Allen Register  
Emma Forkner

cc via email:

Kelly Rainsford  
Deirdra Singleton  
Rick Hepfer  
J. Gordon Cooney, Jr.  
Brian W. Shaffer  
Bahar Shariati  
William W. Wilkins  
Nikole S. Mergo  
Susan P. McWilliams  
David C. Eddy  
Sonny Jones  
Jay Smith  
Fletch Trammell  
John Simmons  
John White  
Griffin Lynch  
Sam Bass

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS

Robert E. Lomback,

-vs-  
Plaintiff.

Donald V. Myers, Solicitor,  
Eleventh Judicial Circuit,

Defendant.

2002-CP-32-1890

ORDER

ORIGINAL  
FILED  
THOMAS H. COMERTORD  
CLERK OF COURT  
LEXINGTON SC  
2002 OCT 30 4 4 38

This matter came before the Court following the Plaintiff's filing of a complaint seeking declaratory and injunctive relief pursuant to the South Carolina Freedom of Information Act ("FOIA"). Prior to the filing of the complaint, the Plaintiff had sent a letter to the Defendant Donald Myers, Solicitor, Eleventh Judicial Circuit, requesting, pursuant to the FOIA, all materials in the possession of the Solicitor's Office relating to a criminal case where the Plaintiff is representing the Defendant in a post conviction relief action against the Defendant's prior legal counsel. By letter dated May 23, 2002, Defendant Myers denied Plaintiff's FOIA request, indicating that Section 17-27-150(B) provides the procedure for discovery in a capital post-conviction relief case, and that the Plaintiff should use that process rather than trying to circumvent the statute by filing a request for these documents under the FOIA. The Plaintiff then filed this Complaint. The issue before the Court is whether to compel compliance with Plaintiff's FOIA request.

I find that Section 17-27-150 of the South Carolina Code details the method of discovery in post-conviction relief proceedings. Further, it is well settled case law that the FOIA is not intended as a substitute for discovery and was not enacted to provide procedures for obtaining information during litigation or to benefit private litigants. U.S. v. Murdoch, 544 F.2d 599 (5<sup>th</sup> Cir. 1976);