Exhibit 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re Abbott Laboratories Infant Formula Shareholder Derivative Litigation	Case No. 1:22-cv-5513 Hon. Sunil R. Harjani Hon. Laura K. McNally
MATTHEW STEELE, derivatively on behalf of ABBOTT LABORATORIES, Plaintiff, v. LORI J. RANDALL, *et al.*, Defendants, and ABBOTT LABORATORIES, Nominal Defendant.	Case No. 1:25-cv-3669 Hon. Charles P. Kocoras

LEAD PLAINTIFFS' REPLY IN SUPPORT OF THEIR MOTION FOR REASSIGNMENT OF CASE AS RELATED

The single issue before the Court is whether the action filed by Plaintiff Matthew Steele ("Steele") should be reassigned to this Court's docket under Local Rule 40.4. Steele's opposition provides no cogent reason for why his case, which involves the same substantive derivative claims surrounding Abbott's shutdown of the Sturgis plant due to infant formula contamination, should not be deemed related and reassigned. To the contrary, Steele admitted relatedness when he filed his action by noting on the Civil Cover Sheet the relatedness to the consolidated derivative action. Steele's opposition now attempts to back-off his concession by claiming LR

40.4 is not satisfied because of a single difference: that his case is a demand refused case rather than a demand futility case. However, this is a distinction without a difference and has no relevance to the reassignment analysis.

Steele concedes that two of the four additional reassignment criteria—L.R.40.4 (b)(1) and (b)(2)—are met, and does not meaningfully dispute the remaining two elements. Instead, Steele spends much of his response arguing against consolidation, a remedy Lead Plaintiffs' motion has not sought. Plaintiff Matthew Steele's Response to Teamsters Pension Fund and SEPTA's Motion for Reassignment ("Opp.") at 2, ECF No. 233. Particularly in light of the considerable judicial economy benefits, Lead Plaintiffs have satisfied their Local Rule 40.4(b) burden, and *Steele II* should be reassigned to Judge Harjani's docket.

ARGUMENT

Lead Plaintiffs sought reassignment of *Steele II* "in light of the overlapping events and transactions giving rise to the two actions," Opp. at 8,[1] both of which are pending in the Northern District of Illinois. *See* L.R. 40.4(a)–(b)(1). Because of this—as Steele acknowledges—"efficiency and judicial economy can be gained from reassignment." Opp. at 8; *see* L.R. 40.4(b)(2) (asking whether "the handling of both cases by the same judge is likely to result in a substantial saving of judicial time and

[1] Despite acknowledging the factually similar nature of his case to the Consolidated Action, Steele spends a significant chunk of his brief before even touching the reassignment test to attempting to distinguish his case. *See* Opp. at 1–5. But his bases—particularly related to the SLC—are (1) irrelevant to the reassignment factors and (2) premature given that the SLC has not yet filed its report.

effort"); *see also* Lead Plaintiff's Unopposed Motion for Reassignment of Case as Related at 7, ECF No. 229. Therefore, as Steele concedes, the first two reassignment prongs are satisfied.

Steele only disputes the third and fourth prongs, which ask whether reassignment would cause delay in the earlier-filed matter and whether the cases are susceptible of disposition in a single proceeding, but none of his arguments have merit. The fact that the cases are in different stages of litigation will not "delay the proceedings in the earlier case substantially . . . ." L.R. 40.4(b)(3). Cases in which this Court has previously found this factor lacking are at far more distinct stages, such as one new case and another on the eve of trial. *See Sunstar, Inc. v. Alberto-Culver Co.*, No. CIV.A. 01 C 0736, 2003 WL 21801428, at *2 (N.D. Ill. Aug. 1, 2003); *see also Erwin v. City of Chicago*, No. 90 C 905, 1998 WL 801830, at *2 (N.D. Ill. Nov. 12, 1998) (denying reassignment where one case had progressed to the eve of trial but the other had not). *Steele II* will not create any substantial delay in the current proceedings because first, the Court has mostly stayed the proceedings except for permitting document discovery and second, completion of the upcoming SLC investigation may impact the overall case schedule. In light of the preliminary stage of *Steele II* and that it is unclear how the *Steele II* defendants will respond, reassignment of *Steele II* for efficient, consistent adjudication by Judge Harjani will not hamper the Court's (or Magistrate Judge McNally's) ability to continue to oversee the Consolidated Action.

On the fourth prong, for the same reasons that Steele conceded as to the judicial economy prong, *see* Opp. at 8, "both cases are susceptible to disposition in a

single proceeding" because "[i]n both cases, the parties are the same . . . ; the primary witnesses . . . are the same; many of the facts underlying [plaintiff]'s [allegations] are the same or substantially similar," and the same statutes are implicated. *Portis v. McKinney*, No. 21-CV-2842, 2021 WL 4125107, at *3 (N.D. Ill. Sept. 9, 2021); *see also Urb. 8 Fox Lake Corp. v. Nationwide Affordable Hous. Fund 4, LLC*, No. 18-cv-6109, 2019 WL 2515984, at *4 (N.D. Ill. June 18, 2019) (finding subsection (b)(4) satisfied where "the witnesses, counsel, and many of the facts" in the two cases at issue were "the same or substantially similar"). The near-total factual overlap between the cases makes them particularly susceptible to the common judicial knowledge that comes with reassignment. *See Portis*, 2021 WL 4125107, at *2–4 (evaluating reassignment).

The third and fourth prongs of LR 40.4 are easily satisfied. As this Court has repeatedly emphasized, a finding under Local Rule 40.4(b)(4) "is not to say that the cases *will* be disposed of at the same time, but only that they are *susceptible*." *Velocity Patent LLC v. Mercedes-Benz USA, LLC*, No. 13-cv-8413, 2014 WL 1661849, at *2 (N.D. Ill. Apr. 24, 2014); *see Urb. 8 Fox Lake Corp.*, 2019 WL 2515984, at *4 ("Plaintiffs need only show that the two actions are susceptible to be disposed of together, not that they will be.").

Lastly, while, in straw man like fashion, *Steele II* makes much ado about consolidation, the reality is that Lead Plaintiffs' motion merely seeks *reassignment* of

Steele II to the same docket as the Consolidated Action—not *consolidation* of the two cases.[2]

CONCLUSION

Steele makes no showing as to how *Steele II* is somehow better positioned for adjudication by a new judge. For these reasons, Lead Plaintiffs have satisfied the requirements of Local Rule 40.4(b). Accordingly, the Court should deem the two Actions related and find that *Steele II* should be reassigned to this Court's docket.

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Respectfully submitted,

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[2] Steele's opposition largely digresses from issues of relatedness and reassignment under LR 40.4 into unrelated matters and heavily cites cases involving consolidation. For this reason, much of Steele's opposition and the caselaw cited involving consolidation rather than LR 40.4 is inapposite. *See* Opp. at 2–3, 6 (discussing consolidation).

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