



Jan 31 2008  
8:54AM

James E. Fosler  
Fosler Law Group, Inc.  
737 West Fifth Avenue, Suite 205  
Anchorage, Alaska 99501  
Telephone: (907) 277-1557  
Fax: (907) 277-1657

Attorneys for Plaintiff State of Alaska

[Additional counsel appear on signature page]

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA**

**THIRD JUDICIAL DISTRICT AT ANCHORAGE**

STATE OF ALASKA,	)	
	)	
Plaintiff,	)	Case No.: 3AN-06-12026 CI
vs.	)	
	)	
ALPHARMA BRANDED PRODUCTS	)	
DIVISION INC., et al.	)	
	)	
Defendants.	)	

**ALASKA'S RESPONSE TO FIRST SET OF INTERROGATORIES FROM DEFENDANT BOEHRINGER INGELHEIM PHARMACEUTICALS, INC.**

Alaska hereby responds to the first set of interrogatories of defendant Boehringer Ingelheim Pharmaceuticals, Inc. in accordance with Alaska's Rules of Civil Procedure and without regard to any Instructions setting forth different, additional, or contrary obligations.

**INTERROGATORY NO. 1:** Identify all Pricing Compendia that You have referenced at any time to calculate Reimbursement Rates for prescription drugs, specifying the timeframe during which each was used by You.

**ANSWER:** First DataBank. February, 1989 to present.

**INTERROGATORY NO. 2:** Identify all Communications between You and any Person, organization, institution, or association, including pharmacy associations and the National Association of Chain Drug Stores, Concerning usual and customary charges, AWP, WAC, Direct Price, AMP, MAC, MAIC, EAC, FAC, FUL, Best Price, CDP, or other prices, costs, or reimbursement, or other benchmarks.

**ANSWER:** David Campana of the Alaska Department of Health and Social Services, Division of Healthcare Services, has on occasion spoken with representatives of the National Association of Chain Drug Stores and the board of Alaska's local pharmacy association and may in the course of those conversations have touched on one or more of the topics addressed in this interrogatory, but the dates and details of such conversations cannot be recalled. Alaska does not know what is referenced by the acronyms CDP, MAIC, and FAC and therefore cannot respond regarding communications that may have occurred relating to them. *See also* response to Request No. 16 of Defendants' first set of document productions requests directed to Alaska.

**INTERROGATORY NO. 3:** Identify all periodicals, listserves, publications, associations, or other media or group to which You subscribe or belong and that publish or distribute information Concerning health care benefits, prices, costs, and reimbursement, or state or federal health care benefit programs.

**ANSWER:** Listserves/publications that David Campana subscribes to:

AMPAA  
ADURS

Alaska Pharmaceutical Association  
Drug Topics  
Epocrates  
Facts & Comparisons  
Governing  
Kaiser  
Medscape  
NACDS  
NCPDP  
Newsletter Biotechnology Healthcare  
Pharmacy One Source  
Pharmacist E-Link  
Pharmacy and Therapeutics Society  
The Centers for Medicare & Medicaid Services (CMS)

**INTERROGATORY NO. 4:** Identify all present or former employees of the State of Alaska who have testified, provided statements to, or been interviewed by agencies of other states; CMS; NAMFCU; HHS; OIG; DOJ; the GAO; Congress; or any other federal or state institution, agency, department, or office regarding AWP, the pricing of prescription drugs, the methodologies for reimbursing prescription drugs since the inception of each Medical Assistance Program, or the establishment of EAC, including, but not limited to, the date(s) of the testimony, statement, or interview; the context of the testimony, statement, or interview (i.e., deposition, affidavit, etc.); and the subject matter of the testimony, statement, or interview.

**ANSWER:** David Campana of the Alaska Department of Health and Social Services, Division of Healthcare Services, has on occasion spoken with representatives of agencies of other states and one or more of the topics identified in this interrogatory may

have been mentioned or discussed in one or more of those conversations, but the dates, entities, persons, and topics cannot be recalled. Mr. Campana also recalls conversations with CMS, HHS, and GAO regarding the DOJ AWP's published in or around 2000.

**INTERROGATORY NO. 5:** Identify all Persons with knowledge of any decision by You to rely or not to rely upon WAC, AWP, FAC, FUL, MAC, Best Price, AMP, or Acquisition Cost in determining Medicaid reimbursements for the Subject Drugs.

**ANSWER:** See documents produced in response to Defendants' first request for production of documents relating to Alaska's entry into the Medicare program in 1989 and the establishment of provider reimbursement rates at that time. In addition, Bob Labbe, Alaska's Medicaid director and director of the Alaska DHSS, Division of Medical Assistance from 1996 to 2004 may have some knowledge regarding the topics identified in this interrogatory.

**INTERROGATORY NO. 6:** Identify all employees and agents of the State of Alaska (including former and present employees and agents) who have or had authority to access the Unit Rebate Amounts for the Subject Drugs.

**ANSWER:** Dave Campana; his assistant, Velma Drake; and since about 1994, First Health Services, Corp. located in Glen Allen, Virginia.

**INTERROGATORY NO. 7:** Identify all steps taken by You to comply with the "equal access" provision found in 42 U.S.C. § 1396a(a)(30).

**ANSWER:** The steps to comply with Equal Access were taken in 1989 while going into the Medicaid Program, where the Agency worked with providers to provide the appropriate payment level consistent with efficiency, economy and quality of care and maintain enough providers. By maintaining our higher reimbursement in Alaska we have efficiently provided sufficient payment to enlist enough providers so that care and services are available under the plan to the extent that care and services are available to the general population in the State.

**INTERROGATORY NO. 8:** Identify the “number of instances” in which Alaska set Reimbursement Rates for drugs at rates lower than the FUL “pursuant to the State MAC programs,” as alleged in paragraph 71 of the Complaint.

**ANSWER:** None. To the extent this answer is in conflict with an allegation of the Complaint, the Complaint is in error.

**INTERROGATORY NO. 9:** For each of BIPI’s Subject Drugs, identify any drugs “with greater medicinal value,” as that phrase is used in paragraph 58 of the Complaint.

**ANSWER:** Alaska does not know, but it is assumed Defendants do.

**INTERROGATORY NO. 10:** For BIPI’s Subject Drugs, identify those for which You contend BIPI used AWP in any way to obtain (a) increased sales; (2) market share; or (3) profits at the expense of Alaska, as alleged in paragraph 91 of the Complaint.

**ANSWER:** All of them.

**INTERROGATORY NO. 11:** For any of BIPI's Subject Drugs identified in response to the previous interrogatory, state the original market share, the increased market share, and the competitor(s) whose market share(s) were decreased.

**ANSWER:** Alaska objects to this interrogatory because the information it seeks is not admissible at trial nor is the interrogatory designed to lead to the discovery of admissible evidence. Notwithstanding this objection, Defendants' sales data would likely reveal the requested information.

**INTERROGATORY NO. 12:** For each of the following positions (and their predecessor positions / divisions / offices / programs) within the Alaska Department of Health and Social Services, please identify the persons who held each position from 1987 to present:

Commissioner  
Deputy Commissioner of Operations  
Assistant Commissioner, Finance and Management Services  
Director of the Division of Health Care Services (formerly Division of Medical Assistance)  
Deputy Director of the Division of Health Care Services (formerly Division of Medical Assistance)  
Manager, Office of Program Review  
Pharmacy Program Manager  
Manager/Head of Medicaid Management Information System  
Each deputy commissioner, assistant commissioner, director, section manager/head, and manager/head of any division, office, or program who has or had any responsibility Related to the Alaska Medicaid program.

**ANSWER:** See appended spreadsheet.

**INTERROGATORY NO. 13:** For each person identified in response to the previous interrogatory, please state all contact information You have for each person,

including each person's telephone number(s), present and former address(es), email address(es), current and former employer(s), physical home address(es), and mailing address(es).

**ANSWER:** See appended spreadsheet.

**INTERROGATORY NO. 14:** Do You contend, excluding any dispensing fee, that any reimbursement by You to a Provider for a Subject Drug dispensed to a Beneficiary that exceeded the price paid by the Provider to acquire the Subject Drug constituted an unlawful overpayment?

**ANSWER:** Yes.

**INTERROGATORY NO. 15:** Identify the name, title, telephone number, address, and email address of any present or former employee(s) of the State of Alaska who assisted in responding to any of these Interrogatories or any of the Requests for Production in the Defendants' First Set of Requests for Production of Documents to Plaintiff State of Alaska, specifying the dates each such person was employed by the State and which interrogatories or Requests for Production each such person assisted in preparing.

**ANSWER:** Angela Harrison, Medical Assistance Administrator II, [angela.harrison@alaska.gov](mailto:angela.harrison@alaska.gov), 907-334-2436; Ed Bako, Medicaid Pharmacist, [Edward.bako@alaska.gov](mailto:Edward.bako@alaska.gov) 907-334-2654; David Campana Medicaid Pharmacy Program Manager [david.campana@alaska.gov](mailto:david.campana@alaska.gov), 907-334-2425.

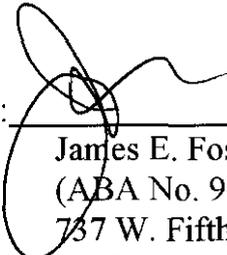
/////

/////

FOSLER LAW GROUP, INC.

Attorneys for Plaintiff State of Alaska

Dated: January 31, 2008

By: 

James E. Fosler  
(ABA No. 9711055)  
737 W. Fifth Ave., Suite 205  
Anchorage, Alaska 99501  
Telephone: (907) 277-1557  
Fax: (907) 277-1657

BEASLEY, ALLEN, CROW, METHVIN,  
PORTIS & MILES, PC  
W. DANIEL MILES, III  
CLINTON C. CARTER  
218 Commerce Street (36104)  
PO Box 4160  
Montgomery, AL 36103-4160  
Telephone: (334) 269-2343  
Fax: (334) 954-7555

MINER, BARNHILL & GALLAND, PC  
CHARLES BARNHILL  
ELIZABETH J. EBERLE  
44 East Mifflin Street, Suite 803  
Madison, WI 53703  
Telephone: (608) 255-5200  
Fax: (608) 255-5380 (fax)

MINER, BARNHILL & GALLAND, PC  
GEORGE F. GALLAND, JR.  
ROBERT S. LIBMAN  
14 West Erie Street  
Chicago, IL 60610  
Telephone: (312) 751-1170  
Fax: (312) 751-0438

VERIFICATION

STATE OF ALASKA            )  
  )  
THIRD JUDICIAL DISTRICT    )

DAVID CAMPANA, being first duly sworn upon oath, deposes and says that he has reviewed the answers to interrogatories, and that they are correct to the best of his knowledge and belief.

*David Campana*  
\_\_\_\_\_  
DAVID CAMPANA

SUBSCRIBED AND SWORN to before me this 31<sup>st</sup> day of January 2008.



*Laura M. Capen*  
\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: 10-22-09

CERTIFICATE OF SERVICE

Pursuant to Case Management Order No. 1, entered by the Court in this case on December 14, 2006, the undersigned certifies that a copy of the foregoing document was served through the LexisNexis File and Serve ("LNFS") system on January 31, 2008.

*[Signature]*  
\_\_\_\_\_  
James E. Fosler

	Address or last known address	City	State	Zip	Phone	E-mail
<b>Commissioners</b>						
Myra Munson 1986-1990 Address:	318 4th St	Juneau	AK	99801	907.586.5880	<a href="mailto:myra@sonoskyjuncau.com">myra@sonoskyjuncau.com</a>
Ted Mala 1990 - 1993	4320 Diplomacy Drive	Anchorage	AK	99508	(907) 729-4958	
Margaret Lowe ~ 1993- 1994	3745 Community Park Loop	Anchorage	AK	99508	907-269-7960	
Karen Perdue ~ 1994 - 2001	University of Alaska Fairbanks	Fairbanks	AK	99775	(907) 479-1790	<a href="mailto:karen.perdue@alaska.edu">karen.perdue@alaska.edu</a>
Jay Livey, 9/2001 – 11/2002	Out of the country					
Joel Gilbertson, 2/2003 to 10-05	Providence Hospital	Anchorage	AK	99508	907-562-2211	
Karleen Jackson, Served 10-05 to present	P.O. Box 110601	Juneau	AK	99811	907-465-3030	<a href="mailto:karleen.jackson@alaska.gov">karleen.jackson@alaska.gov</a>
<b>Director of Medical Assistance/ Health Care Services</b>						
Rod Betit, call into him	ASHNA 426 Main St.	Juneau	AK	99801	907-586-1790	<a href="mailto:rodbetit@msn.com">rodbetit@msn.com</a>
Kim Busch, 1990 - 1995	PO Box 11601	Juneau	AK	99801	907-465-8618	
Bob Labbe ~ 1995 - 2002	Unknown					
John Gaisford 6/03 – 8-03	CNSI, 3000 Pacific Ave, SE	Olympia	WA	98501	360-570-1400	
Dwayne Peeples 9-03 to 10/06	Dept of Corrections, PO Box 112000	Juneau	AK	99801	907-465-4652	<a href="mailto:dwayne.peeples@alaska.gov">dwayne.peeples@alaska.gov</a>
William Streur 4-07 to 8-07	DHSS, 4501 Business Park Blv	Anchorage	AK	99503	907-334-2420	<a href="mailto:william.streur@alaska.gov">william.streur@alaska.gov</a>
<b>Deputy Commissioner of Operations – Unknown</b>						
<b>Assistant Commissioner, Finance and Management Services – Janet Clarke 2003 to 1-15-2008.</b>						
<b>Deputy Director of Health Care Services</b>						
Pam Muth, 2003-2005	out of the country					
Randall Schlapia 8/2006 to present	4501 Business Park Blvd, Su 2	Anchorage	AK	99503	907-334-2461	<a href="mailto:randall.schlapia@alaska.gov">randall.schlapia@alaska.gov</a>
<b>Manager, Office of Program Review, Jerry Fuller 2003 - present</b>	3601 C Street	Anchorage	AK	99503	907-269-7380	<a href="mailto:jerry.fuller@alaska.gov">jerry.fuller@alaska.gov</a>
<b>Pharmacy Program Manager: Dave Campana, 7-1990 to present</b>	4501 Business Park Blvd, Su 2	Anchorage	AK	99503	907-334-2425	<a href="mailto:david.campana@alaska.gov">david.campana@alaska.gov</a>
<b>Deputy Commissioners</b>						
Known:						
Jay Livey	Out of the country					
Karleen Jackson 2004- 10/05	See above					
William Hogan 2005 present					907-269-5195	<a href="mailto:william.hogan@alaska.gov">william.hogan@alaska.gov</a>
William Streur 9/07 to present	See above					<a href="mailto:william.streur@alaska.gov">william.streur@alaska.gov</a>