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**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)	ALASKA'S OPPOSITION TO DURAMED'S
DIVISION INC., et al.)	MOTION TO DISMISS
)	
Defendants.)	

Duramed’s only individual theory for dismissal is its contention that, because no drug it manufactured is listed on Exhibit B or C of the Amended Complaint (hereinafter “Complaint”), Rule 9(b) requires Duramed to be dismissed. (Exhibit B is a list of physician administered drugs compiled by the federal government in connection with its investigation of the Medicare program, and exhibit C is a sample list of drugs whose AWP’s were inflated by defendants’ conduct.) This argument should be rejected. As the State discusses in its Opposition to Defendants’ Joint Motion to Dismiss, Rule 9(b) does not apply to the State’s claims at all. The Complaint alleges that all defendants, including Duramed, supplied inflated price data to medical price compendia for all of their drugs, and these allegations are more than enough to require Duramed and every other defendant to answer. The purpose of Exhibit C is simply to exemplify how pervasive defendants’ unlawful practices were. It was not intended to list each and every fraudulent priced drug subject to this lawsuit, something that would require hundreds of pages. The Complaint, however, specifically states that the State has the complete list in its possession and will provide it to defendants during discovery. *See* Amended Complaint ¶43. Indeed, if Duramed is concerned that having its drugs left off the list of examples will somehow prejudice it, the State would be happy to provide it a list of the drugs that Alaska has targeted, but this is not a basis for dismissal.

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Duramed's motion to dismiss should be denied.

FOSLER LAW GROUP, INC.
Attorneys for Plaintiff

DATED: _____

By: /s/ James E. Fosler
James E. Fosler
Alaska Bar No.: 9711055

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 February 9, 2007.

 /s/ James E. Fosler
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