

**COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
CIVIL ACTION NO. 03-CI-1135
DIVISION II**

COMMONWEALTH OF KENTUCKY
ex rel. GREGORY D. STUMBO, ATTORNEY GENERAL

PLAINTIFF

V.

**WARRICK PHARMACEUTICALS CORPORATION;
SCHERING-PLOUGH CORPORATION;
SCHERING CORPORATION;
DEY, INC.**

DEFENDANTS

**DEY, INC.'S RESPONSES AND OBJECTIONS TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES AND FIRST SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS TO DEFENDANT, DEY, INC.**

Defendant Dey, Inc. ("Dey") hereby responds and objects to Plaintiff's First Set of Interrogatories and First Set of Requests for Production of Documents to Defendant Dey, Inc. (the "Requests").

GENERAL OBJECTIONS AND RESERVATION OF RIGHTS

1. Any production of documents or response is made without waiving or intending to waive, but to the contrary intending to preserve and preserving: (a) the right to object, on the grounds of competency, relevancy, materiality, privilege, or admissibility as evidence for any purpose, or any other ground, to the use of the information provided and documents produced, in this or any subsequent or other proceeding; and (b) the right to object on any ground to other Requests for documents, Interrogatories, or other discovery proceedings involving or relating to the subject matter of the Requests.

2. The information contained herein and any documents supplied in connection with the Requests are for use in this litigation only and shall be used for no other purpose.

3. Where Dey states herein that it will produce or has produced documents in accordance with the Kentucky Rules of Civil Procedure, it will produce such documents following entry of an appropriate protective order to the extent such documents exist and can be reasonably obtained.

4. The responses made herein are based on Dey's investigation to date of those sources within its control where it reasonably believes responsive documents or information may exist, including a reasonable number of outside sales representatives. Dey reserves the right to amend or supplement these responses in accordance with the applicable rules and Court orders.

5. Dey objects to the Requests to the extent they seek the production of documents or information not within Dey's possession, custody, or control.

6. Dey objects to the Requests to the extent they impose on Dey an obligation to search for and respond with information contained in electronic mail ("e-mail") or other electronically stored data on the grounds that such Requests are overly broad, unduly burdensome, harassing, and not reasonably limited in scope. Dey will confer with Plaintiff to determine a mutually agreeable protocol for Dey and Plaintiff to respond to document requests with respect to electronic mail and electronic data.

7. Dey objects to the Requests to the extent they require Dey to create data or process an unreasonably large amount of data, some of which Dey cannot compute at all and some of which Dey cannot compute without expending a significant amount of resources, and which is not reasonably calculated to lead to the discovery of admissible evidence.

8. Dey objects to the Requests to the extent they purport to require Dey to create or

analyze data that Plaintiff has the ability to compute by reviewing the documents and data that Dey has produced or will produce.

9. Dey objects to the Requests to the extent they seek documents, including deposition testimony and witness statements, that are subject to protective orders in other jurisdictions, including the State of Texas.

10. Dey objects to the Requests to the extent they seek information or the production of data and documents containing confidential or proprietary information including, but not limited to, customer identities, customer pricing, customer purchasing habits, trade secrets, or information of a commercially sensitive nature or that is protected from disclosure by statute. Dey will only produce such documents following the entry of an appropriate protective order.

11. Dey objects to each and every Request as overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent that they purport to require production of documents or information relating to Dey's pharmaceuticals not at issue in this litigation. Dey will only produce documents and information relating to pharmaceuticals listed in the Complaint (the "Subject Drugs").

12. Dey objects to the Requests as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent they seek documents or information concerning any discontinued product after the date of its discontinuation.

13. Dey objects to the Requests as overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent the Requests purport to require

production of documents or information covering a nearly twelve (12) year period – *i.e.*, from January 1, 1993 to the present.

14. Dey objects to the Requests as overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent the Requests purport to require production of documents or seek information prior to the time periods relevant to these claims pursuant to the applicable statute of limitations. Furthermore, Dey objects to the Requests to the extent they seek documents or information created after the filing of the Complaint on September 15, 2003.

15. Dey objects to the Requests to the extent they purport to impose on Dey obligations that exceed those imposed by the Kentucky Rules of Civil Procedure.

16. Dey objects to the Requests to the extent they seek documents or information protected by the attorney-client privilege, the medical records privilege, the work-product doctrine, third-party confidentiality agreements or protective orders, or any other applicable privilege, rule, or doctrine.

17. Dey objects to the Requests to the extent they are unduly burdensome, overbroad, oppressive, or seek documents or information neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence.

18. Dey objects to the Requests to the extent they are duplicative or redundant.

19. Dey objects to the Requests to the extent they seek information or documentation that is duplicative of other materials that Dey will produce in response to the Requests.

20. Dey objects to the Requests to the extent they are vague, ambiguous, or do not identify with sufficient particularity the documents or information sought.

21. Dey objects to the Requests to the extent they seek documents relating to health insurance programs not relevant to the allegations in the Complaint, on the grounds that such documents are neither relevant to the issues in this action nor reasonably calculated to lead to the discovery of admissible evidence.

22. Dey objects to the Requests to the extent they seek documents or information relating to Dey's activities which are outside the scope of the allegations in the Complaint.

23. Subject to and without waiving the general objections and the specific objections set forth herein, Dey has produced or will produce responsive documents or make them available for inspection and designation for copying at or near Dey's offices in Napa, California.

24. Dey objects to any implications and to any explicit or implicit characterization of the facts, events, circumstances, or issues in the Requests. Any response by Dey is not intended to indicate that Dey agrees with any implication or any explicit or implicit characterization of the facts, events, circumstances, or issues in the Requests, or that such implication or characterization is relevant to this action.

25. Dey hereby incorporates by reference as if fully set forth herein any objection or reservation of rights made by any co-defendant in this action to the extent such objection or reservation of rights is not inconsistent with Dey's position in this litigation.

OBJECTIONS TO DEFINITIONS

26. Dey objects to Plaintiff's definition of "Actual Acquisition Price" as vague and ambiguous because it utilizes numerous vague and ambiguous terms and phrases ("net amount of dollar proceeds", "rebates", "bonuses", "chargebacks", "discounts", "administrative or other fees", "free goods", "awards", "free samples", "educational grants", "any other Incentive"), which Plaintiff fails to define separately or which Plaintiff also defines in a vague and ambiguous manner.

27. Dey objects to Plaintiff's definition of "Affiliated" because it utilizes vague, ambiguous and overbroad terms and phrases ("any form of business relationship", "agent", "consultant", "contractor"), which Plaintiff fails to define separately and/or properly limit their scope.

28. Dey objects to Plaintiff's definition of "Average Manufacturer Price" and "AMP" as vague, ambiguous, and overbroad because, *inter alia*, it utilizes the very term it purports to be defining and it depends on vague, ambiguous, and undefined terms and phrases ("report", "otherwise disseminate").

29. Dey objects to Plaintiff's definition of "Average Sales Price" and "ASP" as vague and ambiguous because it utilizes the vague and ambiguous term "average price", which Plaintiff fails to define separately.

30. Dey objects to Plaintiff's definition of "Average Wholesale Price" and "AWP" as vague, ambiguous, and overbroad because, *inter alia*, it utilizes the very term it purports to be defining. Dey further objects to this definition because it depends upon vague, ambiguous, and

undefined terms and phrases (“report”, “advertise”, “publish”, “cause to be published”), which Plaintiff fails to define separately. Dey further objects to this definition on the grounds that the phrase “published wholesale price” is vague, ambiguous, and unintelligible.

31. Dey objects to Plaintiff’s definition of “Best Price” as vague, ambiguous, and overbroad because, *inter alia*, it utilizes the very term it purports to be defining. Dey further objects to this definition because it depends upon vague, ambiguous, and undefined terms and phrases (“price”, “otherwise disseminate”, “report”), which Plaintiff fails to define separately.

32. Dey objects to the definition of “Cabinet for Health and Family Services” as vague, ambiguous and overbroad.

33. Dey objects to the definition of “CMS” as vague, ambiguous and overbroad. Dey further objects to this definition because it utilizes vague, ambiguous and overbroad terms and phrases (“fiscal intermediaries”, “carriers”), which Plaintiff fails to define separately.

34. Dey objects to Plaintiff’s definition of “Chargeback” as vague and ambiguous because it utilizes vague and ambiguous terms (“payment”, “credit”, “other adjustment”, “purchaser’s acquisition cost”), which Plaintiff fails to define separately. Dey further objects to this definition on the grounds that the phrase “compensates for any difference” is vague, ambiguous, and overbroad. Dey further objects to this definition because the phrase “the cost at which the Pharmaceutical was sold” is vague and unintelligible. Dey further objects to this definition because the phrase “have provided” purports to compel Dey to guess the precise point in time (or time period) about which Plaintiff seeks information.

35. Dey objects to Plaintiff’s definition of “Communication” as vague, ambiguous

and overbroad because it utilizes vague, ambiguous and overbroad terms (“transmittal of information”, “request for information”), which Plaintiff fails to define separately.

36. Dey objects to Plaintiff’s definition of “Competing Pharmaceutical” on the grounds that the phrase “compete in any way” is vague and ambiguous. Dey further objects to this definition because the suggestion that pharmaceuticals other than therapeutic equivalents “compete” with the other pharmaceuticals defined as the Subject Drugs renders the definition grossly overbroad, as it implies that every drug in the entire universe of pharmaceutical products competes with every other drug.

37. Dey objects to Plaintiff’s definition of “Defined Period of Time” as overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent it purports to require the production of documents or information covering a nearly twelve (12) year period – *i.e.*, from January 1, 1993 to the present and “documents relating to such period even though created before that period”. Dey further objects to this definition as overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent it purports to require the production of documents or seeks information prior to the time periods relevant to these claims under the applicable statutes of limitations. Furthermore, Dey objects to this definition to the extent that it purports to require the production of documents or seeks information created after the filing of the Complaint on September 15, 2003.

38. Dey objects to Plaintiff’s definition of “Direct Price” and “DP” as vague and ambiguous because, *inter alia*, it utilizes the very term it purports to be defining. Dey further objects to this definition because it depends upon vague, ambiguous, and undefined terms and phrases (“report”, “advertise”, “publish”, “cause to be published”), which Plaintiff fails to define

separately. Dey further objects to this definition as grossly overbroad to the extent it purports to link Dey with the price of any pharmaceutical product without regard to whether Dey manufactured, marketed, or sold such product.

39. Dey objects to Plaintiff's definition of "Document" on the grounds that it is vague, ambiguous, and overbroad. Dey further objects to this definition to the extent it includes documents that are protected by the attorney-client privilege, the work product doctrine, or any other applicable doctrine or privilege.

40. Dey objects to Plaintiff's definition of "Entity" on the grounds that it is vague, ambiguous, and overbroad.

41. Dey objects to Plaintiff's definition of "Group Purchasing Organization" and "GPO" on the grounds that it is vague, ambiguous, and overbroad to the extent that it depends upon the term "Entity", which is defined by Plaintiff in a vague, ambiguous and overbroad manner.

42. Dey objects to Plaintiff's definition of "Healthcare Provider" as vague, ambiguous, and overbroad. Dey further objects to this definition because the phrase "has provided" purports to compel Dey to guess the precise point in time (or time period) about which Plaintiff seeks information.

43. Dey objects to Plaintiff's definition of "Identify" on the grounds that it is vague, grossly overbroad, and harassing. Dey further objects to this definition because it is not reasonably calculated to lead to the discovery of admissible evidence and because it purports to require Dey to provide information and documents concerning matters wholly outside the scope

of the issues in this action. Dey further objects to this definition because it purports to require Dey to provide documents referenced in communications that are not under Dey's control. Dey also objects to this definition to the extent it seeks information that is protected by the attorney-client privilege, the work product doctrine, or any other applicable doctrine or privilege.

44. Dey objects to Plaintiff's definition of "Incentive" as vague, ambiguous, and grossly overbroad because, *inter alia*, it utilizes numerous vague, ambiguous, and undefined terms and phrases ("any payment or proposed payment", "in kind", "discounts", "rebates", "free goods", "samples", "volume discounts", "on-invoice discounts", "off-invoice discounts", "credits", "administrative fees", "marketing fees", "stocking fees", "conversion fees", "off-invoice pricing", "Chargebacks", "education grants", "other grants", "honoraria", "speaker's fees", "payments").

45. Dey objects to Plaintiff's definition of "Kentucky Customer" on the grounds that it is vague, ambiguous, and overbroad. Dey further objects to this definition because the phrase "is a company or business for whom you delivered or caused to be delivered all or part of any Subject Drugs sold to a physical location in Kentucky" is vague, ambiguous, overbroad and unintelligible.

46. Dey objects to Plaintiff's definition of "Maximum Allowable Cost" and "MAC" as vague and ambiguous because it utilizes vague, ambiguous and undefined terms ("upper payment limit", "multisource drugs", "other State Medicaid Program"), which Plaintiff fails to define separately. Dey further objects to this definition because the definition of "Cabinet for Health and Family Services" is vague, ambiguous and overbroad.

47. Dey objects to Plaintiff's definition of "Medical Assistance Program" as vague, ambiguous and overbroad to the extent it utilizes terms and phrases that have been defined in a vague, ambiguous and overbroad manner. Dey further objects to this definition because the phrase "healthcare benefit programs administered by the Kentucky Cabinet for Health and Family Services" is vague, ambiguous and overbroad.

48. Dey objects to Plaintiff's definition of "Pharmaceutical" to the extent it is not limited to the drugs manufactured, marketed, or sold by Dey.

49. Dey objects to Plaintiff's definition of "Pharmaceutical Class of Trade" as vague and ambiguous because it utilizes vague and ambiguous terms and phrases ("general accounts", "categories", "group your customers"), which Plaintiff fails to define separately. Dey also objects to this definition because it utilizes vague and ambiguous terms and phrases by way of example ("retail pharmacies (i.e., independents and chains)", "consumer/end user (i.e. home health care, clinics, drug service providers)", "wholesaler/distributor (i.e. prime vendor (wholesaler with Chargebacks), buying groups (GPOs), and distributors (wholesalers without Chargebacks)").

50. Dey objects to Plaintiff's definition of "Price Representations" as vague, ambiguous and overbroad because it utilizes vague, ambiguous, overbroad and undefined terms and phrases ("statement", "assertion", "representation or declaration of the price of any Pharmaceutical"), which Plaintiff fails to define separately. Dey further objects to this definition to the extent it uses terms and phrases defined in a vague, ambiguous or overly broad manner.

51. Dey objects to Plaintiff's definition of "Publisher" as vague, ambiguous and

overbroad because it utilizes vague, ambiguous and overbroad terms and phrases (“Entity”, “engaged in publishing drug prices”). Dey further objects to this definition to the extent it uses terms and phrases defined in a vague, ambiguous or overly broad manner.

52. Dey objects to Plaintiff’s definition of “Spread” as vague, ambiguous, and overbroad because, *inter alia*, it utilizes vague and ambiguous terms and phrases (“Actual Acquisition Price”, “purchase price of a Pharmaceutical”, “reimbursement rate”, “third party payors”, “gross profit”, “actually or potentially realized”), which Plaintiff fails to define separately or which Plaintiff also defines in a vague and ambiguous manner.

53. Dey objects to Plaintiff’s definition of “Suggested Wholesale Price” and “SWP” as vague and ambiguous because it utilizes numerous vague and ambiguous terms and phrases (“report”, “advertise”, “publish”, “cause to be published”, “Pharmaceutical”), which Plaintiff fails to define separately or which Plaintiff also defines in a vague and ambiguous manner.

54. Dey objects to Plaintiff’s definition of “Wholesale Acquisition Cost” and “WAC” as vague and ambiguous because, *inter alia*, it utilizes vague, ambiguous, (“report”, “advertise”, “publish”, “cause to be published”, “wholesale unit price”, “wholesale net unit price”, “wholesaler acquisition cost”, “Pharmaceutical”), which Plaintiff fails to define separately or which Plaintiff also defines in a vague and ambiguous manner. Dey further objects to this definition on the grounds that it fails to specify the time or time period in the past when Dey allegedly reported, advertised, published, or caused to be published a price. Dey further objects to this definition because it utilizes the very term it purports to be defining.

55. Dey objects to Plaintiff’s definition of “You” and “your” on the grounds that it is

vague and ambiguous. Dey further objects to this definition as overbroad because it purports to include people or entities over whom Dey has no control or who have no authorization to act on behalf of Dey. Dey's responses are made on behalf of Dey only.

56. Dey objects to any definition of any word or phrase contained in the "DEFINITIONS" section of the Requests but not thereafter used in any of the Requests on the grounds that such definitions are irrelevant and prolix.

OBJECTIONS TO INSTRUCTIONS

57. Dey objects to the instructions to the extent that they exceed the requirements of the Kentucky Rules of Civil Procedure.

58. Dey objects to Instruction No. 1 in Plaintiff's First Set of Requests for Production of Documents and Plaintiff's First Set of Interrogatories the extent that they seek documents or information protected by the attorney-client privilege, the medical records privilege, the work-product doctrine, third-party confidentiality agreements or protective orders, or any other applicable privilege, rule, or doctrine.

59. Dey objects to Instruction No. 2 in Plaintiff's Request for Documents on the grounds that it is harassing and unduly burdensome.

60. Dey objects to Instruction No. 6 in Plaintiff's First Set of Interrogatories on the grounds that the time period from which information is requested is overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence. Dey also objects to the Requests as overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent the Requests purport to require production of documents or

seek information prior to the time periods relevant to these claims under the applicable statutes of limitations. Furthermore, Dey objects to the Requests to the extent they seek documents or information created after the filing of the Complaint on September 15, 2003.

SPECIFIC RESPONSES AND OBJECTIONS TO THE REQUESTS

The General Objections and Reservations of Rights, Objections to Definitions, and Objections to Instructions noted above apply to, and are incorporated in, the individual responses herein, whether or not expressly incorporated by reference in such individual responses. Dey also responds and objects specifically to the individual Interrogatories and Requests as follows:

I. INTERROGATORIES

INTERROGATORY NO. 1

Identify your definition for each of the following terms as they are used in the ordinary course of your business as they relate to drug pricing or a difference in drug pricing, whether or not your working definition is the same as the plaintiff's definitions for these Interrogatories:

- a) AWP;
- b) WAC;
- c) DP;
- d) SWP;
- e) AMP;
- f) ASP;
- g) Incentive;
- h) Best Price; and

i) Spread.

To the extent your “course of business” definition of the above terms differs with the plaintiff’s stated Definitions of the above terms referred to on pages 2 to 8 of these Interrogatories, please respond using both definitions, identifying which definition is being used in the response thereto. To the extent your “course of business” definition has changed during the Defined Time Period, please provide each definition and identify the relevant time at which the definition changed and an explanation for such change.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Interrogatory on the grounds that the phrases “as they are used in the ordinary course of your business,” “a difference in drug pricing,” “working definition,” “whether or not your working definition is the same as the definitions for these Interrogatories,” and “as they relate to” are vague and ambiguous. Dey also objects to this Interrogatory to the extent it asks Dey to define terms that are wholly irrelevant to this action. Dey further objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey also objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests. Dey objects to the Interrogatory as overbroad and unduly burdensome because it seeks information concerning drugs other than those identified in Exhibit 1 of the Complaint.

Subject to and without waiving the foregoing general and specific objections, Dey states that:

a) AWP: Dey’s current understanding of AWP is based on the use of the term by the pharmaceutical industry over the last several decades and Dey refers Plaintiff to the documents produced by Dey for the written record of Dey’s historical understanding of AWP. Publicly available information dating back as early as 1968 clearly demonstrates that AWP is understood to be a “sticker price” within the industry and by government authorities. This

understanding about AWP has been reiterated again and again by officials at both the federal and state level, most notably by the Office of the Inspector General of the United States Department of Health and Human Services.

b) WAC: Dey understands that WAC generally means the invoice price charged by a pharmaceutical manufacturer to drug wholesalers who process chargebacks. WAC is referred to by data reporting services and government agencies as an “estimate.” It is common knowledge that WAC does not include the net effect of discounts from invoice price (based on volume of purchases, speed of payment and other factors), rebates, chargebacks, administration fees and other cost adjustments which are well-known and commonplace in the pharmaceutical industry and can affect, to a greater or lesser degree, the actual “final” cost to each purchaser. These discounts may not be determined until some months after the date of the invoice. Therefore, as is a matter of common knowledge to both government and industry, WAC may well not be representative of actual market costs to those entities which are being reimbursed under Medicaid.

c) DP: Dey understands that “DP” stands for “direct price.” Dey does not have a standard or uniform or “ordinary course of business” definition of “DP” or “direct price” but believes that direct price means the price that a purchaser pays for the products that it buys directly from Dey.

d) SWP: Dey does not believe that “SWP” is a term that it commonly uses.

e) AMP: Dey understands that “AMP” means average manufacturers’ price in accordance with the guidelines set forth by the Centers for Medicare and Medicaid Services (“CMS”).

f) ASP: Dey understands that “ASP” means the average selling price and can have many different definitions depending on the methodology used and the context in which it is calculated. Broadly defined, Dey understands that ASP means sales dollars divided by units sold.

g) Incentive: Dey does not have a standard or uniform “ordinary course of business” definition for the term “Incentive.” The term “Incentive” may have multiple meanings depending on the context in which the term is used. To the extent that any Dey employees may have used the term “Incentive” in different contexts during their employment, Plaintiff is referred to the documents produced or made available for inspection in response to these Interrogatories. Dey does not adopt any employee’s use of the term “Incentive” as Dey’s “ordinary course of business” definition.

h) Best Price: Dey objects to providing a definition of this term as it is wholly irrelevant to the instant action.

i) Spread: Dey does not have a standard or uniform “ordinary course of business” definition for the term “Spread.” The term “Spread” may have multiple meanings depending on the context in which the term is used. To the extent that any Dey employees may have used the term “Spread” in various contexts, Plaintiff is referred to the documents produced

or made available for inspection in response to these Interrogatories. Dey does not adopt any employee's use of the term "Spread" as Dey's "ordinary course of business" definition.

INTERROGATORY NO. 2

Identify all persons with knowledge of the matters contained in the pleadings filed in this action, and specify the subject matter about which each person has knowledge.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey also objects to this Interrogatory to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that it will produce organizational charts for Dey's sales, marketing, and accounting departments that may be responsive to this Request.

INTERROGATORY NO. 3

For each interrogatory, identify who prepared the response, and who in Your company is the most knowledgeable about the information contained in your responses.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory because the phrase "prepared the response" is vague and ambiguous. Dey further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, work

product doctrine, or any other applicable privilege. Dey further objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests. Dey further objects to this Interrogatory to the extent it purports to seek the identification of individuals who played a clerical role in connection with the preparation of responses to these Interrogatories but who did not assist in any substantive way. Dey further objects to this Interrogatory to the extent it purports to require a subjective opinion as to persons who are the "most knowledgeable" about particular information because it is unduly burdensome, harassing, beyond the scope of Dey's obligations under the Kentucky Rules of Civil Procedure, and not objectively ascertainable.

Subject to and without waiving the foregoing general and specific objections, Dey states that Pam Marrs and Russell Johnston were principally responsible for helping to prepare these Interrogatory responses.

INTERROGATORY NO. 4

Please identify for each calendar year, by quarter, during the Defined Time Period, the AMP you reported to the CMS for each of the Subject Drugs. For each AMP identified, identify:

- a) Each employee who has knowledge of how AMP was calculated and reported;
and
- b) Each document that relates to the AMP reported to the CMS.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory to the extent it seeks information about AMP because any information relating to AMP is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in this matter

as Plaintiffs has asserted a claim based upon the Medicaid reimbursement system it established, which is wholly unrelated to any AMPs that would otherwise be reported to CMS pursuant to 42 U.S.C. § 1396r-8. Dey further objects to this Interrogatory on the grounds that the phrase “how AMP was calculated and reported” is vague and ambiguous. Dey also objects to this Interrogatory as vague, overbroad and unduly burdensome because it seeks identification of every single employee who may have some knowledge about how AMP was calculated, including secretarial staff and other clerical employees of Dey, regardless of their level of knowledge. Dey objects to this Interrogatory because it seeks the identification of documents which could possibly “relate to” such calculation and reporting of AMP. Dey also objects to this Interrogatory to the extent it seeks information about former employees or seeks information concerning documents over which Dey has no control. Dey objects to this Interrogatory to the extent it seeks information concerning drugs other than those listed in the Exhibit 1 of the Complaint. Dey further objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Interrogatory to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that:

a) Employees in Dey's accounting department, including the manager of revenue accounting, the controller, the chief financial officer, the Medicaid rebate supervisor (formerly the Medicaid analyst), and the director of revenue accounting (a position that currently does not exist), have knowledge of how Dey calculates or has calculated AMP. Current employees that have knowledge of how Dey calculates or has calculated its AMP include Jeremy Massett, Joseph Oberting, Scott Maynard, Mark Middleton, and Pamela Marrs. Former employees that may have knowledge of how Dey calculates or has calculated its AMP include Dara Bazzano, Kim Schroeder and Lewis Mow.

b) Upon entry of an appropriate protective order, Dey will produce or make available for inspection documents sufficient to show the AMPs for the Subject Drugs that Dey reported to the CMS.

INTERROGATORY NO. 5

Please identify for each calendar year, by quarter, during the Defined Time Period, the AWP each Publisher reported for each of the Subject Drugs. For each AWP identified, identify:

- a) Each employee who has knowledge of how the AWP was determined, calculated and/or reported; and
- b) Each document that relates to the AWP reported by each Publisher.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory on the grounds that the phrase "how the AWP were[sic] determined, calculated, and/or reported" is vague and ambiguous, overbroad and unduly burdensome in that it seeks identification of every single document in some way "related to" AWP reported by each Publisher. Dey also objects to this Interrogatory to the extent it seeks information concerning documents that are not under Dey's control. Dey further objects to this Interrogatory to the extent it seeks information

concerning drugs other than the Subject Drugs. Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Interrogatory to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that:

a) From 1993 to 2002, Robert Mozak, Dey's former vice president of sales and marketing, and various employees in Dey's marketing department, including former employees Debra Bronstein, Helen Burnham Selenati, and Todd Galles, participated in recommending, or determining AWP prices for the Subject Drugs. More recently, the persons responsible for reviewing pricing, including AWP prices, include Christy Taylor and Ray Joske, and to some degree, Pam Marrs, various members of the contracts, sales, marketing, and finance departments, including Russ Johnston. *See also* Response to Interrogatory No. 6 which sets forth the individuals who may have reported Dey's AWP prices.

b) Upon entry of an appropriate protective order, Dey will produce or make available for inspection documentation sufficient to show the AWPs for the Subject Drugs that

were reported to the publishers listed in Response to Interrogatory 5(b) to the extent such documents exist and can be reasonably located.

INTERROGATORY NO. 6

Did you make any Price Representation of AWP to any Publisher for any of the Subject Drugs? For each of the Subject Drugs for which you made a Price Representation of AWP to a Publisher, identify:

- a) The Subject Drugs;
- b) The Publisher;
- c) The time period(s) which you reported the AWP;
- d) How the AWP you reported was calculated;
- e) Each employee whom you believe may have knowledge relating to how the AWP was calculated;
- f) Each employee whom you believe may have knowledge relating to the reporting of AWP to the Publisher;
- g) Each Price Representation of AWP you made to the Publisher; and
- h) Each document that relates to the Price Representation of AWP.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory to the extent it seeks information concerning documents over which Dey has no control. Dey further objects to this Interrogatory as vague, ambiguous, overbroad and unduly burdensome because it seeks identification of every single document that in some way "relates to" AWP's. Dey also objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs. Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret.

Dey also objects to this Interrogatory to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that:

a) – c): Dey reported AWP for the Subject Drugs to the following publishers during some or all of the relevant time period: CliniDATA Source, Inc., Facts and Comparisons, First Data Bank, Medical Data Institute, Medi-Span, Multum Information Svs / IQ Health, and Redbook.

d) Dey has calculated its AWP for the Subject Drugs by using the following method: Prior to launching a new drug, senior sales and marketing executives and employees discuss appropriate AWP for the drug and then communicate those decisions to the appropriate personnel. Historically, Dey's practice has been to set AWP for its Subject Drugs at levels consistent with competitive pricing reported in publicly available sources. Early on in Dey's business, Ed Edelstein of First National Data Bank, a reporting service, advised Dey that, for purposes of acceptance by the reporting services of Dey's product as a generic, AWP for that product should be a minimum of 10% below the innovator product's AWP, and historically, Dey has observed this principle. Generally, it is Dey's practice to set an AWP for the Subject Drugs before they are first sold and not to subsequently change that AWP, although there are some

instances to the contrary depending on the market and/or other forces. Dey understands that this is consistent with industry practice.

e) Dey refers Plaintiff to the response to Request 5(a) above.

f) Various marketing employees, including principally former employees Todd Galles, Margarita Flores Terrell, Helen Burnham Selenati, Susan Dahl, Eve Gmeiner Fagrell, and Ed Hugo communicated or may have communicated with the Publishers regarding AWP for the time period from 1993 through 2001. From 2001 through the present, various members of the contracts department, including principally current employees Russell Johnston and Hema Chandranatha, have communicated with the Publishers regarding AWP.

Dey further states that, upon entry of an appropriate protective order, it will produce or make available for inspection documents in response to subparts (g) and (h) of this interrogatory that are sufficient to show the AWP price representations for the Subject Drugs that Dey made to the Publishers listed above, to the extent such documentation exists and can be reasonably located. Such documents include Dey's price notification letters to the publishers identified in Dey's response to Interrogatory 5(b) above.

INTERROGATORY NO. 7

If the answer to interrogatory number 6 is no, please indicate whether you made any Price Representation of AWP to any Publisher for any of your Pharmaceuticals? For each Pharmaceutical for which you made a Price Representation of AWP to a Publisher, identify:

- a) The Subject Drugs;
- b) The Publisher;
- c) The time period(s) which you reported the AWP;
- d) How the AWP you reported was calculated;

- e) Each employee whom you believe may have knowledge relating to how the AWP was calculated;
- f) Each employee whom you believe may have knowledge relating to the reporting of AWP to the Publisher,
- g) Each Price Representation of AWP you made to the Publisher; and
- h) Each document that relates to the Price Representation of AWP.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory to the extent it seeks information concerning documents over which Dey has no control. Dey further objects to this Interrogatory as vague, ambiguous, overbroad and unduly burdensome because it seeks identification of every single document that in some way "relates to" AWP's. Dey also objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs. Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Interrogatory to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that no response to this Interrogatory is required because Dey answered "yes" to Interrogatory No. 6.

INTERROGATORY NO. 8

To the extent you made any Price Representation, including but not limited to WAC or DP, to any Publisher for any of your Subject Drugs, for each of the Subject Drugs for which you made a Price Representation to a Publisher, identify:

- a) The Price Representation;
- b) How the Price Representation was calculated;
- c) The circumstances under which the Price Representation was made;
- d) Whether it was the usual practice of you or any Publisher to whom you made a Price Representation for your Subject Drugs, to apply a certain markup to the Price Representation in order to establish the AWP;
- e) The usual markup you or any Publisher to whom you made a Price Representation applied to each Subject Drugs to establish the AWP;
- f) Each employee whom you believe may have knowledge relating to the reporting of any Price Representation to a Publisher for any of the Subject Drugs; and
- g) Each document that relates to the Price Representation.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as vague, ambiguous, and potentially overbroad because it instructs Dey to furnish information concerning a term ("Publisher") that itself is vaguely defined by Plaintiff. Dey further objects to this Interrogatory on the grounds that it is overbroad because it seeks information concerning drugs other than the Subject Drugs, and as such, is not reasonably calculated to lead to the discovery of admissible evidence. Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Interrogatory on the grounds that the following terms and phrases are not defined, rendering this Interrogatory vague, ambiguous, and potentially

overbroad: “usual markup”, “reporting”, “usual practice”, and “markup”. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that:

a) Dey will produce or make available for inspection documents sufficient to show the WAC it reported to those publishers identified in Dey’s response to Request 5(b) above.

b) Dey has calculated its WAC prices for the Subject Drugs by using the following method: Prior to launching a new Subject Drug, senior sales and marketing executives and employees discuss appropriate WAC prices for the Subject Drugs and then communicate those decisions to the appropriate personnel. Historically, Dey’s practice has been to set WAC prices for its Subject Drugs at levels consistent with competitive pricing reported in publicly available sources.

c) It is Dey’s general practice to reduce WAC prices for the Subject Drugs on a periodic basis as prices for the such drugs erode in the marketplace, although there are some situations to the contrary due to market or other forces.

d) Upon entry of an appropriate protective order, Dey will produce or make available for inspection documents, to the extent they exist, that are sufficient to show the price representations for the Subject Drugs that Dey made to the Publishers set forth in response to Interrogatory No. 5. Dey objects to the remaining portion of the interrogatory on the ground that it requires Dey to speculate on its Publishers' practices.

e) Upon entry of an appropriate protective order, Dey will produce or make available for inspection documents, to the extent they exist, that are sufficient to show the price representations that Dey made to the Publishers set forth in response to Interrogatory No. 5. Dey objects to the remaining portion of the Interrogatory on the ground that it requires Dey to speculate on its Publishers' practices.

f) Dey refers Plaintiff to the response to Interrogatory 5(f) above.

g) Dey refers Plaintiff to the response to Interrogatory 5(h) above.

INTERROGATORY NO. 9

Did you make any Price Representation directly to the Kentucky Medicaid Program or the Cabinet for Health and Family Services, Medical Assistance Program, or to its fiscal agents, for any of the Subject Drugs? If so, identify:

- a) Each Price Representation by Subject Drug;
- b) How the Price Representation was calculated;
- c) The circumstances under which the Price Representation was made;
- d) Each employee whom you believe may have knowledge relating to any Price Representation for any of the Subject Drugs made directly to the Cabinet for Health and Family Services and/or Medical Assistance Program; and
- e) Each document that relates to the Price Representation.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory on the grounds that it is overbroad and unduly burdensome in that it seeks identification of every single document "related to" price representations. Dey further objects to this Interrogatory as overbroad because it seeks information concerning drugs other than the Subject Drugs, and as such, is not reasonably calculated to lead to the discovery of admissible evidence. Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, upon entry of an appropriate protective order, it will produce or make available for inspection price notification letters, organizational charts, and communications that are responsive to this Interrogatory that are sufficient to show the Price Representations made for the Subject Drugs to the extent such documents exist or can be reasonably located.

INTERROGATORY NO. 10

Identify the individuals within your company responsible for the communications with the Kentucky Medicaid Program or the Cabinet for Health and Family Services regarding the program's reimbursement for claims relating to the Subject Drugs. For each individual identified, provide:

- a) The dates within the Defined Time Period these individuals had these responsibilities;
- b) Their contact information (including the last known address and phone number for each former employee);
- c) Their job title and responsibilities;
- d) The primary individuals within the Medical Assistance Program with whom they communicated; and
- e) Each document that relates to any communications between you and the Medical Assistance Program or the Cabinet for Health and Family Services.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory on the grounds that the phrase "relates to any communications" is vague, ambiguous, overbroad, and unduly burdensome. Dey further objects to the extent this Interrogatory seeks information concerning documents not in Dey's control or information concerning drugs other than the Subject Drugs. Dey also objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, upon entry of an appropriate protective order, it will produce or make available for

inspection, price notification letters and communications concerning the Subject Drugs that are responsive to this Interrogatory to the extent such documents exist and can be reasonably located.

INTERROGATORY NO. 11

Have you calculated, used, and/or monitored the ASP for any of the Subject Drugs? For each of the Subject Drugs for which you calculated, used and/or monitored the ASP, identify

- a) The year you began calculating and/or monitoring the ASP;
- b) The ASP, by calendar year;
- c) Each employee whom you believe may have knowledge of how ASPs were calculated, used, and/or monitored by you in the ordinary course of your business;
- d) Your purpose for calculating using and/or monitoring the ASP for a Subject Drugs;
- e) Whether you made any Price Representation of ASP to any Publisher, customer, or governmental entity and identify same;
- f) Whether ASP was treated as confidential or commercially sensitive financial information; and
- g) Each document that relates to the ASPs for Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory to the extent it requires Dey to produce or make available for inspection information regarding the defined term "ASP" because ASPs are wholly unrelated to the Medicaid reimbursement system upon which Plaintiff bases its claims. Dey also objects to this Interrogatory as grossly overbroad because it seeks identification of virtually every document in Dey's possession in some way relating to ASP. Dey further objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs. Dey also objects to this Interrogatory as

overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests. Dey further objects to this request because it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks "average sales price" or "ASP" information reported to CMS because the pricing benchmark of "average sales price" was not created by Congress until after the Amended Complaint was filed and because the reporting obligations were only recently finalized by the relevant federal agency. *See* Pub. L. No. 108-173, 117 Stat. 2066 (2003), § 303. Moreover, Magistrate Judge Bowler in the District of Massachusetts ruled in a similar case that plaintiffs were not entitled to the ASP information submitted by defendants to CMS. *See In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456, Civil Action No. 01-CV-12257-PBS (electronic order dated 9/27/04).

Subject to and without waiving the foregoing general and specific objections, Dey states that:

a) Dey's monthly accrual-based sales reports are a primary source of information regarding Dey's internal ASP calculations, according to Dey's internal use of "ASP," for the Subject Drugs as calculated by the accounting department. Upon entry of an appropriate protective order, Dey will produce or make available for inspection sales reports during the relevant time period in response to this Interrogatory.

b) Upon entry of an appropriate protective order, Dey will produce or make available for inspection sales reports during the relevant time period in response to this interrogatory.

c) Dey believes that current and former employees that have knowledge of how ASP is calculated for the Subject Drugs and what is included in the ASP calculation, as that term is understood by Dey, include Scott Maynard, Joseph Oberting, Dara Bazzano, Ann Ryden, Lewis Mow, Shaleigh Sullivan, Don Stein, Mark Middleton, and Pam Marrs.

d) Dey's reasons for calculating the ASP for the Subject Drugs include reviewing pricing trends and preparing budgets and forecasts.

e) Upon entry of an appropriate protective order, Dey will produce or make available for inspection customer contract files and price notification letters in response to this interrogatory.

f) Dey treats ASP as confidential and commercially sensitive information.

g) Upon entry of an appropriate protective order, Dey will produce or make available for inspection sales reports that are sufficient to show the ASPs for Subject Drugs that are calculated by Dey's accounting department.

INTERROGATORY NO. 12

For each of the Subject Drugs please identify, by year and quarter during the Defined Period of Time, your sales (by dollar and by unit); total costs to research, develop, produce, distribute, market and sell; revenues; profits; and market share in the United States.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Interrogatory on the grounds that the following terms and phrases are not defined, rendering this Interrogatory vague, ambiguous, and potentially overbroad: "total costs to research, develop, produce, distribute, market and sell"; "revenues"; "profits"; and "market share". Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests. Dey further objects to this Interrogatory to the extent it requires Dey to create data or process an unreasonably large amount of data, some of which Dey cannot compute at all and some of which Dey cannot compute without expending a significant amount of resources, and which is not reasonably calculated to lead to the discovery of admissible evidence. Dey further objects to this Interrogatory to the extent it seeks information other than dollar and unit sales of the Subject Drugs.

INTERROGATORY NO. 13

Please identify, by year and quarter during the Defined Period of Time, your sales (by dollar and by unit); total costs to research, develop, produce, distribute, market and sell; revenues; profits; and market share in Kentucky for each of the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Interrogatory on the grounds that the following terms and phrases are not defined, rendering this Interrogatory vague, ambiguous, and potentially overbroad: "total costs to research, develop, produce, distribute, market and sell"; "revenues"; "profits"; and "market share". Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests. Dey further objects to this Interrogatory to the extent it requires Dey to create data or process an unreasonably large amount of data, some of which Dey cannot compute at all and some of which Dey cannot compute without expending a significant amount of resources, and which is not reasonably calculated to lead to the discovery of admissible evidence. Dey further objects to this Interrogatory to the extent it seeks information other than dollar and unit sales of the Subject Drugs.

Subject to and without waiving the foregoing general and specific objections, Dey states that, upon entry of an appropriate protective order, Dey will produce or make available for

inspection monthly sales reports relating to the Subject Drugs which may include information that is responsive to this Request.

INTERROGATORY NO. 14

Please identify, by year and quarter during the Defined Period of Time, the market share in the United States for each Competing Pharmaceutical that competes with any of the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent that it implies that Dey has an obligation to obtain information or create data, not already in existence, which shows the information requested. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Interrogatory on the grounds that the term "market share" is not defined, rendering this Interrogatory vague, ambiguous, and potentially overbroad. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests. Dey also objects to this Interrogatory to the extent that it seeks confidential or proprietary information.

INTERROGATORY NO. 15

For each calendar year during the Defined Period of Time, identify each Pharmaceutical Class of Trade in which any of the Subject Drugs are sold.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory on the grounds that the phrases "Pharmaceutical Class of Trade" and "in which any of the Subject Drugs are sold" are vague, ambiguous, and unintelligible. Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent that it implies that Dey has an obligation to obtain information or create data, not already in existence, which shows the information requested. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that trade classifications are made by Dey's sales personnel and are subject to individual discretion.

Dey further states that it sells the Subject Drugs to the following trade classes (included in parentheses following the classes of trade are Dey's internal two-digit customer type codes): Wholesaler (01); Hospital (02); Durable Medical Equipment Dealer (03); Retail Pharmacy (04); Nursing Home Provider (05); Clinic (06); Respiratory Dealer (07); Federal (Veterans' Administration and Military) (08); Kit Packers, Miscellaneous (09); House Accounts (10); International/Export (11); Medical/Surgical Dealer (12); Homecare Pharmacy (13); Retail Generic Distributor (14); Chain Drug Pharmacy (15); Managed Care (17); Physician-Allergist (20); Physician-General (21); and Physician-Pediatrician (22).

INTERROGATORY NO. 16

For each Pharmaceutical Class of Trade identified in response to interrogatory number 15, please identify, by year during the Defined Period of Time and by Subject Drug the fifteen (15) largest purchasers in the United States (by units sold) within each Pharmaceutical Class of Trade and identify what percent of your annual total U.S. sales per Pharmaceutical Class of Trade the fifteen (15) purchasers represents. For each purchaser identified:

- a) Identify your account representative(s) and their supervisors;
- b) Provide the price(s) you charged for each of the Subject Drugs, by NDC code;
- c) Provide the price(s) you charged for each of the Subject Drugs, by NDC code, net of all Incentives; and
- d) Identify each Incentive applied to calculate the net purchase price of each of the Subject Drugs set forth in Section (c) above.

DEY'S RESPONSE

Dey objects to this interrogatory on the grounds that it is overly broad and unduly burdensome in that, *inter alia*, it covers a period stretching over eleven years, is not limited to the Commonwealth of Kentucky, requires Dey to either create data or process an unreasonably large amount of data, some of which Dey cannot compute at all and some of which Dey cannot compute without expending a significant amount of resources, and which is not reasonably

calculated to lead to the discovery of admissible evidence. Dey also objects to this interrogatory to the extent that it seeks confidential or proprietary information. Dey further objects to this interrogatory as vague, ambiguous, and potentially overbroad and unduly burdensome because it purports to require Dey to furnish detailed information concerning every single transaction Dey consummated with numerous purchasers across the entire United States. Dey further objects to this interrogatory on the grounds that it seeks information concerning matters unrelated to any issue in this action. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

INTERROGATORY NO. 17

For each Pharmaceutical Class of Trade identified in response to interrogatory number 15 please identify, by year during the Defined Period of Time and by Subject Drug the fifteen (15) largest Kentucky purchasers (by units sold). within each Pharmaceutical Class of Trade, and identify what percent of your total annual Kentucky sales per Pharmaceutical Class of Trade the fifteen (15) purchasers represents. For each purchaser identified:

- a) Identify your account representative(s) and their supervisors;
- b) Provide the price(s) you charged for each of the Subject Drugs, by NDC code;
- c) Provide the price(s) you charged for each of the Subject Drugs, by NDC code, net of all Incentives; and
- d) Identify each Incentive applied to calculate the net purchase price of each of the Subject Drugs set forth in Section (c) above.

DEY'S RESPONSE

Dey objects to this interrogatory on the grounds that it is overly broad and unduly burdensome in that, *inter alia*, it covers a period stretching over eleven years, requires Dey to create data or process an unreasonably large amount of data, some of which Dey cannot compute at all and some of which Dey cannot compute without expending a significant amount of resources, and which is not reasonably calculated to lead to the discovery of admissible evidence. Dey also objects to this interrogatory to the extent that it seeks confidential or proprietary information. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, upon entry of an appropriate protective order, it will produce or make available for inspection data sufficient to show sales by customer type in dollars and units for the Subject Drugs purchased from customers with Kentucky addresses, from which Plaintiff can extract some of the information sought by this interrogatory. Upon entry of an appropriate protective order, Dey will also produce or make available for inspection customer contract files that may contain additional information that is responsive to this interrogatory. Dey also notes that some of the information sought by this Interrogatory may be found in Dey's responses to other Interrogatories, including Interrogatory Nos. 24 and 28.

INTERROGATORY NO. 18

Please identify, by year during the Defined Period of Time and by Pharmaceutical Class of Trade, the percentage of your sales of any of the Subject Drugs within that Pharmaceutical Class of Trade that are:

- a) Sold pursuant to a contract entered into with Group Purchasing Organization
- b) Sold pursuant to a contract entered into with a wholesaler or distributor.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent that it implies that Dey has an obligation to obtain information or create data, not already in existence, which shows the information requested. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests. Dey objects to this interrogatory on the grounds that the terms "wholesaler," "Group Purchasing Organization" and "distributor", as used in this interrogatory, are vague and ambiguous.

Subject to and without waiving the foregoing general and specific objections, Dey states that, upon entry of an appropriate protective order, it will produce or make available for inspection data sufficient to show sales by customer type in dollars and units for the Subject Drugs purchased from customers with Kentucky addresses, from which Plaintiff can extract some of the information sought by this Interrogatory.

INTERROGATORY NO. 19

Please identify, by year during, the Defined Period of Time, each GPO (excluding a GPO whose membership comprises primarily hospitals) in which you entered into a contract for the sale of any of the Subject Drugs. For each contract identified, identify:

- a) The price(s) charged for each of the Subject Drugs by NDC code;
- b) The price(s) charged for each of the Subject Drugs by NDC code, net of all Incentives;
- c) Each Incentive applied to calculate the net purchase price of each of the Subject Drugs set forth in section (b) above;
- d) The account representative(s), their supervisor(s) and any other employee whom you believe may have knowledge relating to the negotiation and/or terms of each contract including how prices were established,
- e) Each employee whom you believe may have knowledge relating to your policies and practices regarding pricing in such contracts; and
- f) Each document that relates to the contract.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey objects to this Interrogatory as overbroad to the extent it seeks information concerning drugs other than the Subject Drugs. Dey further objects to this interrogatory as overbroad and unduly burdensome because it purports to require detailed documentation of every single transaction between Dey and numerous GPOs. Dey also objects to this interrogatory to the extent it seeks information and documents not in Dey's control. Dey further objects to this interrogatory to the extent it seeks information concerning matters unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent that it implies that Dey has an obligation to obtain information or create data, not already in existence, which shows the information requested. Dey further objects to this

interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

INTERROGATORY NO. 20

Please identify, by year during the Defined Period of Time, and by Subject Drug the fifteen (15) largest Healthcare Providers in the United States to which you directly sold any of the Subject Drugs and identify what percent of your annual direct US. sales the fifteen (15) providers represents. For each Healthcare Provider identified, identify:

- a) The price(s), charged for each of the Subject Drugs by NDC code;
- b) The price(s) charged for each of the Subject Drugs by NDC code, net of all Incentives;
- c) Each Incentive applied to calculate the net purchase price of each of the Subject Drugs set forth in section (b) above;
- d) Whether there was a contract between you and the Healthcare Provider for the purchase of any of the Subject Drugs;
- e) The account representative(s), their supervisor(s) and any other employee whom you believe may have knowledge relating to the negotiation and/or terms of each contract including how prices were established;
- f) Each employee whom you believe may have knowledge relating to your policies and practices regarding pricing in such contracts; and
- g) Each document that relates to the contract

DEY'S RESPONSE

Dey objects to this interrogatory on the grounds that it is overly broad and unduly burdensome in that, *inter alia*, it covers a period stretching over eleven years, is not limited to the Commonwealth of Kentucky, requires Dey to either create data or process an unreasonably large

amount of data, some of which Dey cannot compute at all and some of which Dey cannot compute without expending a significant amount of resources, and which is not reasonably calculated to lead to the discovery of admissible evidence. Dey also objects to this interrogatory to the extent that it seeks confidential or proprietary information. Dey further objects to this interrogatory as overbroad and unduly burdensome because it purports to require detailed documentation of every single transaction between Dey and numerous Healthcare Providers. Dey also objects to this interrogatory to the extent it seeks information and documents not in Dey's control. Dey also objects to this interrogatory to the extent it seeks information concerning matters unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

INTERROGATORY NO. 21

Please identify, by year during the Defined Period of Time, and by Subject Drug, the fifteen (15) largest Kentucky Healthcare Providers to which you directly sold any of the Subject Drugs, and identify what percent of your annual Kentucky sales the fifteen (15) providers represents. For each Healthcare Provider identified, identify:

- a) The price(s) charged for each of the Subject Drugs by NDC code;
- b) The price(s) charged for each of the Subject Drugs by NDC code, net of all Incentives;
- c) Each Incentive applied to calculate the net purchase price of each of the Subject drugs set forth in section (b) above;
- d) Whether there was a contract between you and the Healthcare Provider for the purchase of any of the Subject Drugs;
- e) The account representative(s), their supervisor(s) and any other employee whom you believe may have knowledge relating to the negotiation and/or terms of each contract including how prices were established;

- f) Each employee whom you believe may have knowledge relating to your policies and practices regarding pricing in such contracts; and
- g) Each document that relates to the contract.

DEY'S RESPONSE

Dey objects to this interrogatory on the grounds that it is overly broad and unduly burdensome in that, *inter alia*, it covers a period over eleven years, requires Dey to create data or process an unreasonably large amount of data, some of which Dey cannot compute at all and some of which Dey cannot compute without expending a significant amount of resources, and which is not reasonably calculated to lead to the discovery of admissible evidence. Dey also objects to this interrogatory to the extent that it seeks confidential or proprietary information. Dey further objects to this interrogatory as overbroad and unduly burdensome because it purports to require detailed documentation of every single transaction between Dey and numerous Healthcare Providers. Dey also objects to this interrogatory to the extent it seeks information and documents not in Dey's control. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, upon entry of an appropriate protective order, it will produce or make available for inspection data sufficient to show sales by customer type in dollars and units for the Subject Drugs purchased from customers with Kentucky addresses, from which Plaintiff can extract some of the information sought by this Interrogatory. Upon entry of an appropriate protective order, Dey will also produce or make available for inspection customer contract files that may

contain additional information that is responsive to this Interrogatory. Dey also notes that some of the information sought by this Interrogatory may be found in Dey's responses to other Interrogatories, including Interrogatory Nos. 24 and 28.

INTERROGATORY NO. 22

Please describe each type of Incentive you offer in conjunction with the purchase of any of the Subject Drugs. For each Incentive identified, identify:

- a) The type(s) of Incentive(s) offered for each of the Subject Drugs;
- b) The Pharmaceutical Class of Trade eligible for each Incentive; and
- c) The general terms and conditions required to be eligible for each Incentive.
- d) The time period the Incentive was offered.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey objects to this interrogatory on the grounds that the phrases "in conjunction with", "type(s) of Incentive(s) offered for", and "general terms and conditions required to be eligible for each Incentive" are vague and ambiguous. Dey further objects to this interrogatory as grossly overbroad and unduly burdensome because it purports to require Dey to furnish a detailed log of every single instance in which it sold pharmaceuticals to any person or entity. Dey also objects to this interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs and matters unrelated to any issue in this action. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil

Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the forgoing general and specific objections, Dey states that, upon entry of an appropriate protective order, it will produce or make available for inspection a rebate matrix, promotional materials, and customer contract files relating to the Subject Drugs that contain documentation that may be responsive to this Interrogatory.

INTERROGATORY NO. 23

Please identify, by year during the Defined Period of Time and by Pharmaceutical Class of Trade, the percentage of your sales (in total units) of any of the Subject Drugs that are purchased by Healthcare Providers at or above the published AWP, WAC, SWP, or DP.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey objects to this Interrogatory on the grounds that the terms "Pharmaceutical Class of Trade" and "SWP" are vague and ambiguous. Dey also objects to this Interrogatory on the grounds that it is vague, ambiguous, and overbroad because it seeks information concerning drugs other than the Subject Drugs and matters unrelated to any issue in this action. Dey further objects to this Interrogatory to the extent it seeks to compel Dey to provide information not in Dey's control. Dey objects to this Interrogatory because Plaintiff can identify this information itself by reviewing the documents, information and data that Dey has produced or made available for inspection or will produce or make available for inspection in response to the Interrogatories and Requests for Production, including the information, documents and data that are described in Dey's responses to Interrogatory Nos. 13, 15, 17, and 21. Dey further objects to this interrogatory to the extent it

seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

INTERROGATORY NO. 24

For each of your Subject Drugs, provide each applicable NDC code, and if applicable, the Healthcare Common Procedure Coding System ("HCPCS") code, the NDC crosswalk by HCPCS code, and the NDC codes of any Competing Pharmaceutical billable under the HCPCS code(s) for each of the Subject Drugs. For each HCPCS code identified, identify:

- a) All documents that relate to the HCPCS code applicable to each of your Subject Drugs; and
- b) All documents that relate to the HCPCS code applicable to any Competing Pharmaceutical where the HCPCS code also includes a Subject Drug.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks to compel Dey to analyze virtually every document that relates to HCPCS codes for the Subject Drugs, the majority of which have nothing to do with any issue in this action. . Dey also objects to this Interrogatory to the extent that it seeks information already in Plaintiff's possession. Dey also objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks to compel Dey to furnish information not under Dey's control, or in the possession of the Plaintiff. Dey further objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs or information concerning matters unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further

objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that the following NDC codes correspond to Subject Drugs referenced in Table 1-1 of the Revised Complaint manufactured and/or sold by Dey:

PHARMACEUTICAL PRODUCT	NDC CODE
Albuterol Inhal. Aerosol 17g, 90mcg	49502-333-17
Albuterol Inhal. Aerosol 17 g	49502-303-17
Albuterol Inhal. Aerosol Refill 17g, 90mcg	49502-0303-27
Albuterol Sulfate Inhal. Soln. 0.083%, 3 ml, 25/ctn.	49502-697-03
Albuterol Sulfate Inhal. Soln. 0.083%, 3 ml, 30/ctn.	49502-697-33
Albuterol Sulfate Inhal. Soln. 0.083%, 3 ml, 60/ctn.	49502-697-60
Albuterol Sulfate Inhal. Soln. 0.50%, 20 ml	49502-105-01
Albuterol Sulfate Inhal. Soln. 0.50%	49502-196-02
Acetylcysteine Solution 10%, 4 ml	49502-0181-04
Acetylcysteine Solution 10%, 10 ml	49502-0181-10
Acetylcysteine Solution 10%, 30 ml	49502-0181-30
Acetylcysteine Solution 20%, 4 ml	49502-0182-04
Acetylcysteine Solution 20%, 10 ml	49502-0181-10
Acetylcysteine Solution 20%, 30 ml	49502-0181-30
Acetylcysteine Solution 20%, 100 ml	49502-0181-00
Cromolyn Sodium Inhal. Soln. USP, 20 mg/2 ml, 60/ctn.	49502-689-02
Cromolyn Sodium Inhal. Soln. USP, 20 mg/2 ml, 120/ctn.	49502-689-12
Ipratropium Bromide Inhal. Soln., 0.02%, 2.5 ml, 25/ctn.	49502-685-03
Ipratropium Bromide Inhal. Soln., 0.02%, 2.5 ml, 30/ctn.	49502-685-33

Ipratropium Bromide Inhal. Soln., 0.02%, 2.5 ml, 60/ctn.	49502-685-60
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The following are the HSPCS codes that cover the Subject Drugs: Ipratropium (J7644); Albuterol Multi-Dose (J7618); Albuterol Unit-Dose (J7619); Albuterol Metered Dose Inhaler (MDI) (J3535); and Cromolyn (J7631).

INTERROGATORY NO. 25

For each of your Subject Drugs, identify:

- a) The New Drug Application or Abbreviated New Drug Application identification number assigned;
- b) The United States Patent Number(s) assigned;
- c) The expiration dates of all patents; and
- d) The new drug product exclusivity period.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome to the extent it seeks information concerning drugs other than the Subject Drugs and information concerning matters unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

INTERROGATORY NO. 26

Describe your corporate structure and/or organization for:

- a) The marketing of your Pharmaceuticals, including your Subject Drugs;

- b) Pricing of your Pharmaceuticals, including your Subject Drugs;
- c) Communications with Publishers;
- d) Contracts with purchasers; and
- e) Communications with governmental entities.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey objects to this interrogatory on the grounds that the phrases "corporate structure and/or organization", "for . . . the marketing of your Pharmaceuticals", "for . . . the pricing of your Pharmaceuticals", "for . . . communications with Publishers", "for . . . contracts with Purchasers", and "for . . . communications with government entities" are vague and ambiguous. Dey further objects to this interrogatory as vague in that it seeks information in the form of a vaguely defined term ("organizational chart(s)"). Dey also objects to this interrogatory as overly broad and unduly burdensome because it seeks information concerning matters unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent that it implies that Dey has an obligation to obtain information or create data, not already in existence, which shows the information requested. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving or forgoing the general and specific objections, Dey states that, upon entry of an appropriate protective order, it will produce or make available for inspection memoranda and organizational charts that describe the organization of Dey's

sales, marketing, and accounting departments to the extent such documents exist and can be reasonably located.

INTERROGATORY NO. 27

Identify all employees (whether current or former) who had primary, supervisory responsibility for:

- a) The marketing of your Pharmaceuticals, including your Subject Drugs;
- b) Pricing of your Pharmaceuticals, including your Subject Drugs;
- c) Communications with Publishers;
- d) Contracts with purchasers; and
- e) Communications with governmental entities.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey objects to this interrogatory to the extent it seeks information concerning matters unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that:

(i) From 1993 to 2002, the persons responsible for supervising the marketing of Dey's Subject Drugs were Robert Mozak in conjunction with whoever held the title of marketing manager or marketing director at the time, including Debra Bronstein, Todd Galles, Helen

Burnham Selenati, and during 2002, Ray Joske. More recently, Ray Joske, now senior vice president of marketing, along with Les Thompson, Jay Martin and Christoph Wulf of the marketing department, supervise or have supervised the marketing of Dey's Subject Drugs.

(ii) Robert Mozak and, to some degree, various members of the contracts department, including Russell Johnston and Cindy Daulong Collie, were responsible for supervising the pricing of Dey's Subject Drugs. More recently, the persons responsible for reviewing the pricing of Dey's Subject Drugs include Pam Marrs, Christy Taylor, and Ray Joske, and, to some degree, various members of the contracts, sales, and finance departments, including Russell Johnston.

(iii) Dey refers Plaintiff to the response to Interrogatory 4(f) above.

Dey states further that, upon entry of an appropriate protective order, it will produce or make available for inspection documents concerning the Subject Drugs sufficient to provide the information sought by this Interrogatory to the extent such documents exist and can reasonably be located.

INTERROGATORY NO. 28

To the extent they had responsibility for Kentucky or a geographic region that included Kentucky, identify all employees (whether current or former) in your sales, marketing promotion, contracting customer service, price reporting departments, divisions, or units. For each of the aforementioned departments, divisions or units, please provide all organizational charts or diagrams containing such information.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey objects to this Interrogatory as vague, ambiguous, and overbroad because it purports

to require Dey to furnish detailed information concerning every current and former employee who may have worked in a capacity involving "sales, marketing, promotion, contracting, customer service, [and] price reporting". Dey further objects to this Interrogatory as overbroad and unduly burdensome because it seeks information concerning former employees and matters unrelated to any issue in this action.

Subject to and without waiving the foregoing general and specific objections, Dey states that it will produce organizational charts for Dey's sales department and marketing department. In addition, Dey states that sales representatives or sales managers who have or may have had responsibility for Dey's sales in Kentucky include Lynn Attkisson, Mark Boudreau, Mark Boyd, Amy Carmony, John Cornette, Jay Dickison, Louis Fayant, Jason Grillot, Chris Gurchiek, Julie Kirkpatrick, Adam Kopp, Keith Lockwood, Gil Mettler, Joy Morris, Dino Pappas, Trenton Robinson, Nathan Shilling, Lori Schweitzer, Kevin Shawver, Tony Strunks, Robert Wagner, Tamara Watlington, and Ross Uhl:

Lynn Attkisson is a former Dey sales representative. According to Dey's records, Lynn Attkisson's last known address is 4209 Hartwick Village Place, Louisville, Kentucky 40241 and last known telephone number is (502) 326-0479.

Mark Boudreau is a former Dey sales representative, manager, and director. According to Dey's records, Mark Boudreau's last known address is 13 Thomas Drive, Wyantskill, NY 12198 and last known telephone number is (518) 286-3517.

Mark Boyd is a former Dey sales representative and sales manager. According to Dey's records, Mark Boyd's last known address is 234 Sterling Glen Drive, Westerville, OH 43081 and last known telephone number is (614) 882-2824.

Amy Carmony is a former Dey sales representative. According to Dey's records, Amy Carmony's last known address is 15 N. Park Drive, #1, Scottsburg, IN 47170 and last known telephone number is (812) 752-1106.

John Cornette is a current Dey sales representative.

Louis Fayant is a current Dey sales manager.

Jason Grillot is a current Dey sales manager.

Chris Gurchiek is a former Dey sales representative and manager. According to Dey's records, Chris Gurchiek's last known address is 960 Water Grove Court, Roswell, GA 30075 and last known telephone number is (678) 297-2070.

Julie Kirkpatrick is a current Dey sales representative.

Adam Kopp is a current Dey sales representative.

Keith Lockwood is a current Dey sales representative.

Gil Mettler is a current Dey sales representative.

Joy Morris is a former Dey sales manager. According to Dey's records, Joy Morris's last known address is P.O. Box 699, Sullivan's Island, SC 29482 and last known telephone number is (843) 883-0085.

Dino Pappas is a current Dey sales representative.

Trenton Robinson is a former Dey sales representative. According to Dey's records, Trenton Robinson's last known address is 8135 Laqkemonst Close, McDonough, GA 30253 and last known telephone number is (678) 432-3836.

Nathan Shilling is a current Dey sales representative.

Lori Schweitzer is a current Dey sales representative.

Kevin Shawver is a former Dey sales representative, manager, and director. According to Dey's records, Kevin Shawver's last known address is 5724 Twin Lakes Court, Westerville, OH 43082 and last known telephone number is (614) 901-2060.

Tony Strunks is a former Dey sales representative. According to Dey's records, Tony Strunks is deceased.

Robert Wagner is a current Dey sales manager.

Tamara Watlington is a current Dey sales representative.

Ross Uhl is a former Dey sales representative and manager. According to Dey's records, Ross Uhl's last known address is P.O. Box 19177, Atlanta, GA 31126 and last known telephone number is (404) 467-9470.

INTERROGATORY NO. 29

Regarding your Pharmaceuticals, identify the categories or types of reports, memoranda or other documents/information maintained in the ordinary course of business regarding:

- a) The marketing of your Pharmaceuticals, including your Subject Drugs;
- b) Pricing of your Pharmaceuticals, including your Subject Drugs;

- c) Communications with Publishers;
- d) Contracts with purchasers; ‘
- e) Communications with governmental entities;
- f) AMPs, AWP, ASPs, DPs, WACS, Best Price, and Spreads; and
- g) Sales, cost of sales, revenues, and profits by Pharmaceutical.

To the extent these types of business documents differ for the Subject Drugs, please so indicate, and identify the differences.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this interrogatory on the grounds that the phrase “categories or types of reports, memoranda or other documents/information” is vague and ambiguous. Dey further objects to this interrogatory as duplicative of other interrogatories and requests for documents, grossly overbroad, and unduly burdensome.

INTERROGATORY NO. 30

Identify all electronic computer databases or files in data form maintained by you in the ordinary course of your business related to the manufacture, sale, or marketing of pharmaceuticals during the defined time period. For each electronic computer database or file identified, identify:

- a) The title of all such databases or data files;
- b) The software programs necessary to access and utilize such databases or data files;
- c) The type of information, by category, or field, contained or stored in such database or data file;
- d) The employee whom you believe has the most knowledge of the operation of the database or data file; and
- e) The custodian(s) of such databases or data files.

DEY’S RESPONSE

In addition to Dey's General Objections, Dey objects to this interrogatory as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Specifically, Dey objects to this interrogatory on the grounds that the phrases "databases or files in data form" and "related to the manufacture, sale or marketing of pharmaceuticals" are vague and ambiguous. Dey further objects to this interrogatory as grossly overbroad and unduly burdensome because it purports to compel Dey to analyze virtually every document or file in its entire computer system, the majority of which have nothing to do with any issue in this action. Dey objects to this interrogatory to the extent it seeks databases that are used in the manufacturing process which have nothing to do with this lawsuit. Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky.

INTERROGATORY NO. 31

Identify all lawsuits related to misrepresentation of the AWP, WAC or the marketing of the Spread for any of your Pharmaceuticals and identify all of your present and former employees who have been deposed in each lawsuit. For each lawsuit and/or individual identified provide:

- a) The date, caption, docket number, and name of the case;
- b) The name and location of the court;
- c) The date and location of the deposition; and
- d) The name and address of the plaintiff's attorney.

DEY'S RESPONSE

In addition to its General Objections, Dey objects to this Interrogatory on the grounds that it seeks information concerning drugs other than the Subject Drugs and information concerning matters unrelated to any issue in this action.

Subject to and without waiving the foregoing general and specific objections, Dey states that the information that is responsive to subparts (a), (b) and (d) of this Request is attached in Appendix 31-A. Information that is responsive to subpart (c) of this Request is attached in Appendix 31-B.

Dey further states that the depositions and witness statements listed in Appendix 31-B were taken in State of Texas v. Dey, Inc., et. al., Docket Number GV 002327 (District Court) and In re: Pharmaceutical Industry Average Wholesale Price Litigation (D. Mass.), Civ. Action No. 01-12257-PBJ, which are the only two cases in which Dey employees have been deposed as of the date of this Response.

INTERROGATORY NO. 32

Identify and describe your policies and procedures for the retention and destruction of documents.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey objects to this Interrogatory on the grounds that the phrase "your policies and procedures for the retention and distribution of documents" is vague and ambiguous. Dey further objects to this Interrogatory as overbroad because it seeks information concerning matters unrelated to any issue in this action.

Subject to and without waiving the foregoing general and specific objections, Dey states that, upon entry of an appropriate protective order, it will produce or make available for inspection documents that are responsive to this interrogatory, to the extent that they exist and can be reasonably located.

INTERROGATORY NO. 33

Identify each audit, study, survey, analysis or investigation of the Spreads, AWP's, WACs, ASPs, DP's or prices paid by the Medicare Part B or Medicaid programs or the Medical Assistance Program for your Pharmaceuticals; including but not limited to, the date, scope, author(s), results, and actions taken in response. Additionally, identify each document that relates to any such audit, study, survey, analysis, or investigation.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey objects to this Interrogatory as grossly overbroad, unduly burdensome, and harassing because it seeks to compel Dey to disclose information over which Dey has no control or possession, and concerning subjects about which Dey has no knowledge. Dey further objects to this interrogatory as vague, ambiguous, grossly overbroad, unduly burdensome, and harassing to the extent it seeks information concerning every single document "relate[d] to" these subjects. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this Interrogatory vague, ambiguous, and potentially overbroad: "audit", "study", "survey", "analysis" and "investigation". Dey also objects to this Interrogatory to the extent that it seeks information already in Plaintiff's possession, publicly available information, information equally available to Plaintiff, or information more appropriately sought from third-parties to whom subpoenas or Interrogatories could be directed.

INTERROGATORY NO. 34

Describe your corporate structure, identifying all domestic and/or foreign parents and any other affiliated company, subsidiary, division, joint venture or other entity having at least 10% ownership interest in you, or in which you have at least a 10% ownership interest.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this interrogatory on the grounds that the phrase "[d]escribe your corporate structure" is vague. Dey further objects to this interrogatory because it seeks information concerning matters unrelated to any issue in this action.

Subject to and without waiving the foregoing general and specific objections, Dey states that Dey Laboratories, Inc. was formed in 1977. Dey L.P., Inc. and Dey L.P. were both formed in 1993 under the respective names of "Dey Laboratories L.P., Inc. and "Dey Laboratories L.P." On June 30, 1998, all three Dey Companies removed the word "Laboratories" from their corporate names.

The corporate relationship of the companies is as follows: Dey L.P. is owned by Dey, Inc. and Dey L.P., Inc. Dey L.P., Inc. is owned by Dey, Inc. Dey, Inc. is owned by EMD, Inc., which is a U.S. company. EMD, Inc. is owned by a foreign company, Merck S.A., which is itself owned by two other European Merck affiliates.

Since 1994, all of the Dey's business activities in the United States relating to the Subject Drugs, including sales, accounting, marketing, and manufacturing activities, have taken place within Dey L.P.

INTERROGATORY NO. 35

Identify and describe in detail all instructions, guidance, criteria, and policies or sales materials given in written, verbal, electronic or other form, to any person or entity relating in any way to marketing sales, advertising or promotional efforts in which the difference between Actual Price(s), WAC, AWP, AMP, DP, ASP, SWP, Best Price, or Reimbursement Price(s) were mentioned, or referred to.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven

years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent that it implies that Dey has an obligation to obtain information or create data, not already in existence, which shows the information requested. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, upon entry of an appropriate protective order, it will produce sales training materials relating to the Subject Drugs that may be responsive to this Request to the extent such documents exist and can be reasonably located.

INTERROGATORY NO. 36

Describe all actions taken, and identify all persons or entities taking such action, to modify AWP, AMP, WAC, or Best Price for the Subject Drugs since you became aware of any federal or state investigations into your price reporting practices. Identify all documents relating to, discussing or referring to any such investigation or corrective action and describe those documents to the extent they are not protected by a valid privilege.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this

Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey further objects to this Interrogatory on the grounds that the following terms and phrases are not defined, rendering this Interrogatory vague, ambiguous, and potentially overbroad: "price reporting practices", "investigation" and "corrective action". Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that it will produce documentation concerning the Subject Drugs and relating to Dey's AMP calculations and price notification letters sent to customers and price reporting databases that show changes in Dey's reported prices over the relevant time period.

INTERROGATORY NO. 37

Identify and describe all documents that relate to, refer to, or arise from any instance in which you, or a person or entity acting on your behalf, provided free Pharmaceuticals to any health care provider in Kentucky which provided services to Medicaid patients and was not a licensed physician, including any pharmacy or home care company. Identify all persons and entities participating in or with knowledge of such transfer of free Pharmaceuticals.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this

Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that it will produce invoices, including credit memos, documentation from customer contract files, and other documentation concerning the Subject Drugs that may be responsive to this Request, pursuant to an appropriate protective order.

INTERROGATORY NO. 38

Identify and describe the services provided to you by all outside consultants, contractors, etc., such as Health IQ, IMS, Lewin Group, Reimbursement Dynamics, and Janice Alvarado, who provided any services relating to your setting, reporting or marketing of prices, and/or your participation with government reimbursement programs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it

seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that it will produce documentation relating to the Subject Drugs, including marketing expense documentation, that may be responsive to this Request.

INTERROGATORY NO. 39

Please identify and describe each and every instance when you provided any form of bonus, Chargeback, loyalty bonus, rebate, free goods, off invoice price arrangement, educational grants, samples, administration payment, or other thing of value to any Kentucky Customer that purchased your Pharmaceuticals within the Defined Time Period.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey further objects to this Interrogatory on the grounds that the following terms and phrases are not defined, rendering this Interrogatory vague, ambiguous, and potentially overbroad: "bonus", "loyalty bonus", "rebate", "free goods", "off invoice price arrangement", "educational grants", "samples", "administration payment", and "other thing of value". Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that it will produce documentation from customer contract files, chargeback documentation, invoices, including credit memos, and rebate documentation relating to the Subject Drugs that may be responsive to this Request.

INTERROGATORY NO. 40

Identify and describe arrangements, contracts, agreements, and business relationships, whether express or implied, written or oral, between you and other drug manufacturers that relate in any way to the Subject Drugs. Also identify and describe all documents relating to or referring to such relationships, including, contracts, correspondence, New Drug Applications, Abbreviated New Drug Applications, FDA approvals and accounting records, worksheets, statements, reports, and other documents relating to or reflecting financial information.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

INTERROGATORY NO. 41

Identify and describe all communications of any kind with HCFA (CMS) regarding your Medicaid Rebate Agreement and any information or representations about calculation of Medicaid rebates for all Subject Drugs, including any requests by you for clarification(s) regarding your obligations as to your classification of each of the Subject Drugs as a "multi-source innovator," "single source," or "non-innovator multi-source drug."

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, upon entry of an appropriate protective order, it will produce contracts and communications relating to the Subject Drugs that may be responsive to this Request to the extent such documents exist and can be reasonably located.

INTERROGATORY NO. 42

For the Subject Drugs on a quarterly basis during the Defined Time Period, list all "net," "dead net," "net-net," "wholesale net," or any other price term or price designation which is reduced by a discount rebate, bonus, or chargeback, paid to you by the following wholesalers: Bergen Brunswig Cardinal Health, AmeriSource, McKesson (and/or McKesson HBOC or McKesson Corporation), Bindley Western, JJ. Balan and Anda.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Interrogatory as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this

Interrogatory on the grounds that the following terms and phrases are not defined, rendering this Interrogatory vague, ambiguous, and potentially overbroad: “net,” “dead net,” “net-net,” “wholesale net,” and “any other price term or price designation which is reduced by a discount rebate, bonus, or chargeback”. Dey further objects to this Interrogatory as grossly overbroad and unduly burdensome to the extent it seeks information concerning drugs that are not at issue in this action with respect to Dey and information that is unrelated to any issue in this action. Dey also objects to this Interrogatory to the extent that it implies that Dey has an obligation to obtain information or create data, not already in existence, which shows the information requested. Dey further objects to this interrogatory to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Interrogatory to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Interrogatory to the extent it seeks information that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, upon entry of an appropriate protective order, it will produce customer contract files relating to the Subject Drugs that may contain information that is responsive to this Request.

II. REQUESTS FOR PRODUCTION

REQUEST NO. 1

All documents identified and/or referenced in your responses to Plaintiff's First Set of Interrogatories.

To the extent not produced in response to the above, please also provide the following documents.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey refers Plaintiff to Dey's responses to Plaintiff's Interrogatories which set forth additional objections which are incorporated herein and also set forth in the documents that Dey has agreed to produce in response to Plaintiff's Interrogatories.

REQUEST NO. 2

All documents regarding your ordinary course of business definition or explanation or definition of terms used to report, describe, advertise or, market pharmaceutical prices, and the differences between prices, including but not limited to, AWP, ASP, SWP, WAC, DP, "List Price," "Net Wholesale Price," AMP, Best Price, "Contract Price," "Earned Margin," "X Code Price," "Ex-Factory Price," "Retail Price," Incentive or Spread. For all document requests, to the extent your definition of one of these terms differs from the above Definition for the above terms, please provide documents using both definitions and identify (where possible) which definition applies to a particular production.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other

applicable privilege. Dey objects to this Request because it seeks information that is too remote and tangential and not calculated to lead to the discovery of admissible evidence. Dey objects to producing documents relating to ASP because Plaintiff has failed to adequately define ASP or show the relevance of ASP to the claims that Plaintiff asserts in this action. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “List Price”, “Net Wholesale Price”, “Contract Price”, “Earned Margin”, “X Code Price”, “Ex-Factory Price”, and “Retail Price”. Dey further objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that to the extent such documents exist, and can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection price lists, sales reports, customer contract files, and a glossary relating to the Subject Drugs that may contain documentation explaining various pricing terms that may be responsive to this Request.

REQUEST NO. 3

All documents relating to AWP, including, but not limited to:

- a) documents regarding what the AWP is for the Subject Drugs;
- b) documents regarding how AWP is calculated, regardless of who calculated AWP;

- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the AWP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
- d) any training material regarding AWP;
- e) any promotional material regarding AWP;
- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding AWP; and
- g) any and all documents regarding the relationship between a Pharmaceutical's AWP and the Pharmaceutical's AMP, WAC, DP, SWP, ASP, FUL, MAC, or its Actual Acquisition Price.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey objects to this Request on the grounds that it is overly broad, unduly burdensome, harassing, and not reasonably limited in scope insofar as it seeks information about drugs that are not Subject Drugs. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection price

lists, memoranda, and customer contract files relating to Dey's use and/or calculation of AWP for the Subject Drugs that may be responsive to this Request.

REQUEST NO. 4

All documents relating to WAC, including, but not limited to:

- a) documents regarding what the WAC is for the Subject Drugs;
- b) documents regarding how WAC is calculated, regardless of who calculated WAC;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the WAC for any Subject Drugs you manufacture, market, or sell;
- d) any training material regarding WAC;
- e) any promotional material regarding WAC;
- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding WAC; and
- g) any and all documents regarding the relationship between a Pharmaceutical's WAC and the Pharmaceutical's AMP, DP, ASP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey objects to this Request on the grounds that it is overly broad, unduly burdensome, harassing, and not reasonably limited in scope insofar as it seeks information about drugs that are not Subject Drugs. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or

inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection price lists, memoranda, and customer contract files relating to Dey's use and/or calculation of WAC for the Subject Drugs that may be responsive to this Request.

REQUEST NO. 5

All documents regarding AMP, including but not limited to:

- a) documents regarding what the AMP is for the Subject Drugs;
- b) documents regarding how AMP is calculated, regardless of who calculated AMP;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the AMP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
- d) any training material regarding AMP;
- e) any promotional material regarding AMP;
- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding AMP; and
- g) any all documents regarding the relationship between a Pharmaceutical's AMP and, the Pharmaceutical's ASP, WAC, DP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is

not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey objects to this Request on the grounds that it is overly broad, unduly burdensome, harassing, and not reasonably limited in scope insofar as it seeks information about drugs that are not Subject Drugs. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection AMP calculation documentation relating to the Subject Drugs that may be responsive to this Request.

REQUEST NO. 6

All documents regarding ASP, including, but not limited to:

- a) documents regarding what the ASP is for the Subject Drugs;
- b) documents regarding how ASP is calculated, regardless of who calculated ASP;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the ASP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
- d) any training material regarding ASP;
- e) any promotional material regarding ASP;

- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding ASP; and
- g) any and all documents regarding the relationship between a Pharmaceutical's ASP and the Pharmaceutical's AMP, WAC, DP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests. Dey further objects to this request because it seeks information that is not relevant nor reasonably calculated to lead to the discovery of admissible evidence, particularly to the extent it seeks "average sales price" or "ASP" information reported to CMS because the pricing benchmark of "average sales price" was not created by Congress until after the Amended Complaint was filed and because the reporting obligations were only recently finalized by the relevant federal agency. *See Pub. L. No. 108-173, 117 Stat. 2066 (2003), § 303.* Moreover, Magistrate Judge Bowler in the District of Massachusetts ruled in a similar case that plaintiffs were not entitled to the ASP information submitted by defendants to CMS. *See In re Pharmaceutical Industry Average*

Wholesale Price Litigation, MDL No. 1456, Civil Action No. 01-CV-12257-PBS (electronic order dated 9/27/04).

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection sales reports relating to Dey's calculation of ASP as it relates to Dey's internal use of the term for the Subject Drugs that may be responsive to this Request.

REQUEST NO. 7

All documents regarding DP, including, but not limited to:

- a) documents regarding what the DP is for the Subject Drugs;
- b) documents regarding how DP is calculated, regardless of who calculated DP;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the DP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
- d) any training material regarding DP;
- e) any promotional material regarding DP;
- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding DP; and
- g) any and all documents regarding the relationship between a Pharmaceutical's DP and the Pharmaceutical's AMP, ASP, WAC, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it

seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs. Dey further objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection customer contract files relating to the Subject Drugs that may contain documentation that may be responsive to this Request.

REQUEST NO. 8

All documents regarding SWP, including, but not limited to:

- a) documents regarding what the SWP is for the Subject Drugs;
- b) documents regarding how SWP is calculated, regardless of who calculated SWP;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the SWP for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
- d) any training material regarding SWP;
- e) any promotional material regarding SWP;

- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding SWP; and
- g) any and all documents regarding the relationship between a Pharmaceutical's SWP and the Pharmaceutical's AMP, ASP, WAC, AWP, FUL, MAC, or its Actual Acquisition Price.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection customer contract files relating to the Subject Drugs that may be responsive to this Request.

REQUEST NO. 9

All documents regarding Spread, including, but not limited to:

- a) documents regarding what the Spread is for the Subject Drugs;

- b) documents regarding how Spread is calculated, regardless of who calculated Spread;
- c) documents regarding any formula, methodology, guideline, policy, procedure, or strategy you use to establish, calculate, adjust, or market the Spread for any Pharmaceutical you manufacture, market, or sell, including, but not limited to, the Subject Drugs;
- d) any training material regarding Spread;
- e) any promotional material regarding Spread;
- f) any correspondence, memoranda, contracts, studies, analyses, or reports regarding Spread; and
- g) any and all documents regarding the relationship between a Pharmaceutical's Spread, and the Pharmaceutical's AMP, ASP, WAC, DP, SWP, AWP, FUL, MAC, or its Actual Acquisition Price.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon

entry of an appropriate protective order, Dey will produce or make available for inspection documents, including memoranda, correspondence, and customer contract files relating to the Subject Drugs that may contain documentation that may be responsive to this Request.

REQUEST NO. 10

All documents that identify the “Ex-Factory Price,” “Earned Margin” (the difference between AWP and your actual product cost), Actual Acquisition Price, “Net Wholesale Price,” or any other information related to the actual net prices paid by wholesalers, distributors, Group Purchasing Organizations, independent distribution networks, pharmacy benefit managers, or Healthcare Providers for any of the Subject Drugs. Such documents shall include, but not be limited to, price lists, catalogs and/or sell sheets.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overly broad: “Ex-Factory Price”, “actual product cost”, “Net Wholesale Price”, “independent distribution networks”, “pharmacy benefit managers”, “price lists”, “catalogs,” and “sell sheets”. Dey further objects to this Request because the term “Earned Margin” is defined with vague, ambiguous and potentially overbroad terms rendering the definition of “Earned Margin” vague, ambiguous and potentially overbroad. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey

further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection customer contract files relating to the Subject Drugs that may contain documentation that may be responsive to this Request.

REQUEST NO. 11

All documents that identify whether the AWP, ASP, WAC, AMP, DP, SWP, and/or Earned Margin of any Subject Drugs, include all rebates, discounts, allowances, credits, and any other Incentive provided to third parties (i.e., wholesalers) or Healthcare Providers.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "Earned Margin", "rebates", "discounts", "allowances", and "credits". Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information

or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection customer contract files that may contain documentation relating to the Subject Drugs that may be responsive to this Request. Dey notes that the documents produced in response to Request Nos. 3 through 8 may also be responsive to this Request.

REQUEST NO. 12

All documents relating to any Publisher, including, but not limited to, any communications, correspondence, reports, analysis of pricing methodology, contracts, or agreements by and between you and any Publisher, whether or not such documents relate to the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that the following phrase is not defined, rendering this request vague, ambiguous, and potentially overly broad: "analysis of pricing methodology." Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery

obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection price lists and price notification letters relating to the Subject Drugs that may be responsive to this Request.

REQUEST NO. 13

All documents relating to any communications by and between you and the Kentucky Cabinet for Health and Family Services and/or the Medical Assistance Programs including, but not limited to, correspondence, contracts, or agreements, and Medicaid rebate program invoices.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents already in Plaintiff's possession, documents not in Dey's custody or control, publicly available information or documents, documents or information equally available to Plaintiff, or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey

further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection correspondence and customer contract files relating to the Subject Drugs that may contain documentation that may be responsive to this Request.

REQUEST NO. 14

All documents relating to communications between you and any other Kentucky State agency, office, official, or employee, including, but not limited to, communications to the Legislative Research Commission or General Assembly regarding Kentucky statutes, regulations, and legislation regarding the Medical Assistance Program.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents already in Plaintiff's possession, documents not in Dey's custody or control, publicly available information or documents, documents or information equally available to Plaintiff, or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey

further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection correspondence with CMS related to the Subject Drugs and the Commonwealth of Kentucky that may be responsive to this Request.

REQUEST NO. 15

All documentation of communications between you and any state (other than Kentucky) agency, office, official, or Entity concerning the Medicaid reimbursement system, procedures, rules, and requirements.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Request because it seeks documents not related to the Commonwealth of Kentucky and documents that are unrelated and irrelevant to any issue in this action. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "procedures", "rules", and "requirements". Dey also objects to this Request to the extent that it seeks information or production of documents already in Plaintiff's possession, documents not in Dey's custody or control, publicly available information or documents, documents or information equally available to Plaintiff, or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's

obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 16

All documents relating to any communications by and between you and CMS, relating to reimbursement under the Medicare Part B and the Medicaid program for any of your Pharmaceuticals. Such documents shall include, but not be limited to, correspondence, contracts, or agreements.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs. Dey also objects to this Request to the extent that it seeks information or production of documents already in Plaintiff's possession, documents not in Dey's custody or control, publicly available information or documents, documents or information equally available to Plaintiff, or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon

entry of an appropriate protective order, Dey will produce or make available for inspection correspondence with CMS related to the Subject Drugs and the Commonwealth of Kentucky that may be responsive to this Request.

REQUEST NO. 17

All documents relating to how any formula, calculation, methodology, guideline, survey, policy, or procedure used or applied by the CMS to establish or adjust a Federal Upper Limit affects reimbursement for any of the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request because it seeks documents not related to the Commonwealth of Kentucky and documents that are unrelated and irrelevant to any issue in this action. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, potentially overbroad, and incomprehensible: "formula", "calculation", "methodology", "guideline", "survey", "policy", and "procedure". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents already in Plaintiffs' possession, documents not in Dey's custody or control, publicly available information or documents, documents or information equally available to Plaintiffs, or information or documents more appropriately sought from third-parties to whom subpoenas or

Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure.

REQUEST NO. 18

All documents relating to how any formula, calculation, methodology, guideline, survey, policy, or procedure used or applied by the CMS to establish or adjust the reimbursement amount for any Healthcare Common Procedure Coding System ("HCPCS") code that encompasses any of the Subject Drugs, affects reimbursement for any of the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "formula", "calculation", "methodology", "guideline", "survey", "policy", and "procedure". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents already in Plaintiffs' possession, documents not in Dey's custody or control, publicly available information or documents, documents or information equally available to Plaintiffs, or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure.

REQUEST NO. 19

For sales of Subject Drugs in the United States, all documents relating to the market share for any Subject Drug within the Defined Period of Time, and, if available, both overall and by Pharmaceutical Class of Trade.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that "market share" is not defined, rendering this request vague, ambiguous, and potentially overbroad. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection documents that Dey considers to be "market share" reports relating to the Subject Drugs prepared by Dey personnel and market share data purchased from third parties that are responsive to this Request.

REQUEST NO. 20

All documents relating to the market share in the United States for any Competing Pharmaceutical within the Defined Period of Time, and, if available, both overall and by Pharmaceutical Class of Trade.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that "market share" is not defined, rendering this request vague, ambiguous, and potentially overbroad. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection documents that Dey considers to be "market share" reports relating to the Subject Drugs prepared by Dey personnel and market share data purchased from third parties that are responsive to this Request.

REQUEST NO. 21

For sales of Subject Drugs in the United States, all reports or memoranda relating to the sales (by dollar and by unit), cost of sales, revenues, and profits for any Subject Drugs, by each quarter of your fiscal year within the Defined Period of Time, and, if available, both overall and by Pharmaceutical Class of Trade.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "reports", "memoranda", "cost of sales", "revenues", and "profits". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection sales reports relating to the Subject Drugs that may be responsive to this Request.

REQUEST NO. 22

All documents prepared by you, a defendant, a competitor, or a third party, which analyze, evaluate, or summarize information referring or relating to the market allocation, sales territories, distribution, marketing, pricing, or selling of the Subject Drugs including, without limitation, documents referring or relating to sales volumes, product lines, profitability, competition, market share, competitive position, or sales territories.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "analyze", "evaluate", "market allocation", "sales territories", "distribution", "marketing", "pricing", "sales volumes", "product lines", "profitability", "competition", "market share", "competitive position", and "sales territories". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey's custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks

information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection documents that Dey considers to be "market share" reports relating to the Subject Drugs prepared by Dey personnel and market share data purchased from third parties that are responsive to this Request.

REQUEST NO. 23

For sales of Subject Drugs in Kentucky (or, if not available by state, by geographic region that includes Kentucky), all documents relating to the market share for any Competing Pharmaceutical within the defined period of time, and, if available, both overall and by Pharmaceutical Class of Trade.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs. Dey further objects to this Request on the grounds that "market share" is not defined, rendering this request vague, ambiguous, and potentially overbroad. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also

objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection documents that Dey considers to be "market share" reports relating to the Subject Drugs prepared by Dey personnel and market share data purchased from third parties that are responsive to this Request.

REQUEST NO. 24

For sales of Subject Drugs in Kentucky (or, if not available by state, by geographic region that includes Kentucky), all reports or memoranda relating to the sales (by dollar and by unit), prices, price premiums, profit margins, cost of sales, revenues, and profits for any Subject Drugs, by each quarter of your fiscal year within the Defined Period of Time, and, if available, both overall and by Pharmaceutical Class of Trade.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "reports", "memoranda", "prices", "price premiums", "profit margins", "cost of sales", "revenues", and "profits". Dey further objects to this Request to the extent it seeks information

that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection sales reports relating to the Subject Drugs that may be responsive to this Request.

REQUEST NO. 25

For each Pharmaceutical Class of Trade, all documents regarding the fifteen (15) largest United States purchasers (by units) of Subject Drugs within each Pharmaceutical Class of Trade, including, but, not limited to contracts, correspondence, Price Representations, sales/marketing information, and invoices.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on

the grounds that “sales/marketing information” is not defined, rendering this request vague, ambiguous, and potentially overbroad. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey’s custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection sales reports, invoices, and customer contract files relating to the Subject Drugs that may contain documentation that may be responsive to this Request.

REQUEST NO. 26

For each Pharmaceutical Class of Trade, all documents regarding the fifteen (15) largest Kentucky purchasers (by units) of Subject Drugs within each Pharmaceutical Class of Trade, including, but not limited to, contracts, correspondence, Price Representations, sales/marketing information, and invoices.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey

also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that “sales/marketing information” is not defined, rendering this request vague, ambiguous, and potentially overbroad. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey’s custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection sales reports, invoices, and customer contract files relating to the Subject Drugs that may be responsive to this Request.

REQUEST NO. 27

All documentation containing or relating to your company policies, procedures, manuals, or guidelines pertaining to pricing, marketing, selling, distributing, or advertising of your drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "company policies", "procedures", "manuals", "guidelines pertaining to pricing", "marketing", "selling", "distributing", and "advertising". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection documentation related to Dey's sales and marketing policies and procedures, including sales training manuals, relating to the Subject Drugs.

REQUEST NO. 28

All catalogues and sales materials for the Subject Drugs and all reports, memoranda, circulars, letters, bulletins, instructions, or other documents sent, or provided to salesmen, service representatives, customers, distributors or other persons relating to the Subject Drugs, including, but not limited to, all documents relating to any Incentive related to the distribution or sale of any of the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "catalogues", "sales materials", "reports", "memoranda", "circulars", "letters", "bulletins", and "instructions". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection

documentation, including sales training manuals, product launch files, advertisements, and various memoranda relating to the Subject Drugs that may be responsive to this Request.

REQUEST NO. 29

All documents relating to any analyses, survey, study, or report related to actual, contemplated, or proposed methods or rates of reimbursement for Pharmaceuticals for the Medicare Part B (or beneficiary thereof), or Medicaid program, or the Medical Assistance Program. Such documents shall include but not be limited to, those generated by you or on your behalf and those generated by third party sources.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "analyses", "survey", "study", "report", and "methods or rates of reimbursement". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey's custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to

the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection memoranda and customer contract files relating to the Subject Drugs that may contain documentation that may be responsive to this Request.

REQUEST NO. 30

All documents relating to any analyses, survey, study, or report related to how any of your Price Representations or any other price related decisions you made for any of the Subject Drugs, or any Competing Pharmaceutical, affected the amount of reimbursement any of your customers received from the Medicare Part B (or beneficiary thereof), or Medicaid program, or the Medical Assistance Program.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "analyses", "survey", "study", and "report". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the

extent that it seeks information or production of documents not in Dey's custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection customer contract files relating to the Subject Drugs that may contain documentation that may be responsive to this Request.

REQUEST NO. 31

All documents relating to the percentage of your sales of any of the Subject Drugs within a Pharmaceutical Class of Trade that were sold to GPOs under contract and/or that were sold to a wholesaler or distributor under contract.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also

objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection sales reports and customer contract files relating to the Subject Drugs that may contain documentation that may be responsive to this Request.

REQUEST NO. 32

Electronic data sufficient to identify:

- a) each sale and/or other transaction involving the Subject Drugs including the date thereof;
- b) for each sale and/or other transaction involving the Subject Drugs, the name and address of the person to whom you bill for the sale of the Subject Drugs (the "bill-to-customer") and, in addition, the full name and address of the parent company, if the database or documents identify a subsidiary, corporate affiliate, division, satellite office, or warehouse;
- c) for each sale and/or other transaction involving the Subject Drugs, the name and address of the person to whom you ship the Subject Drugs (the "ship to customer") and, in addition, the full name and address of the parent company, if the database or documents identify a subsidiary, corporate affiliate, division, satellite office, or warehouse;
- d) discounts, rebates, Chargebacks, returns and/or other price and quantity adjustments relating to each sale, transaction, and/or set of sales or transactions involving or relating to the Subject Drugs;
- e) any other price or unit adjustments — whether monthly, quarterly or on any other basis — involving or relating to sales or transactions involving the Subject Drugs; and

- f) the net amount in dollars, and in dollars per unit, for each sale and/or other transaction involving, or relating to the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad, unduly burdensome and harassing because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and overly broad: "discounts", "rebates", "returns", "other price and quantity adjustments", and "price or unit adjustments". Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such data exists, can be extracted without undue burden, and upon entry of an appropriate protective order, it will produce data sufficient to show sales by customer type in dollars and units for the Subject Drugs purchased from customers with Kentucky addresses, from which Plaintiff may extract some of the information sought by this Request.

REQUEST NO. 33

Documents sufficient to explain the record layout, including, but not limited to, any or all of the data fields of electronic data produced in response to any of these requests, and/or the operation of any equipment or software utilized by you to maintain the responsive electronic data.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that "record layout" is not defined, rendering this request vague, ambiguous, and potentially overbroad. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure.

REQUEST NO. 34

Excluding hospital sales, documents that identify the distribution or sales you or any wholesaler, distributor, Group Purchasing Organization, independent distribution network, pharmacy benefit manager, or other Entity made to a customer, or Healthcare Provider at or above AWP, WAC, DP or SWP, for any of the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague,

ambiguous, and potentially overbroad: “wholesaler”, “distributor”, “independent distribution network”, and “pharmacy benefit manager”. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated and irrelevant to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey’s custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection customer contract files and data sufficient to show sales by customer type in dollars and units for the Subject Drugs purchased from customers with Kentucky addresses, from which Plaintiff may extract some of the information sought by this Request.

REQUEST NO. 35

All documents which discuss, study, or compare the quality of the Subject Drugs manufactured by you, or on your behalf; with any therapeutically equivalent drugs manufactured, produced, or distributed by any other company.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is

not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey's custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 36

The minutes of; and materials distributed at, all meetings of your board(s) of directors (or any subset thereof) relating to any government investigation, inquiry, or any litigation related to any allegation that you misrepresented, misstated, or otherwise manipulated any price representation, or improperly provided a kickback, inducement, payment, or other benefit to a Healthcare Provider for the purpose of influencing a Healthcare Provider to purchase, prescribe, administer, or dispense any Pharmaceutical.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated and irrelevant to any

issue in this action. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “price representation”, “kickback”, “inducement”, “payment”, and “other benefit”. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure.

REQUEST NO. 37

To the extent that you divested any Subject Drugs, all documents relating to any due diligence related to such divestiture.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that the terms “divestiture” and “related to such divestiture” are not defined, rendering this request vague, ambiguous, potentially overbroad, and incomprehensible. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents that are unrelated and irrelevant to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under

the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that it will consider responding to this Request if Plaintiff provides clarification.

REQUEST NO. 38

All documents relating to your policies, procedures, and or practices concerning the retention and destruction of documents.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "policies", "procedures", and "practices". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents that are unrelated and irrelevant to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon

entry of an appropriate protective order, Dey will produce or make available for inspection documentation relating to the Subject Drugs that is responsive to this Request.

REQUEST NO. 39

All affidavits, declarations, depositions, or other written statements under oath provided by you relating to any allegation that you overstated, misstated, or otherwise manipulated the AMP, AWP, DP or WAC, or Best Price for any of your Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey also objects to this Request because it seeks documents from other litigations that are covered by protective orders to which Plaintiff is not a party.

REQUEST NO. 40

All documents sufficient to identify your distribution policies, and procedures in the United States pharmaceuticals market for any of your Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request as vague,

ambiguous, and grossly overbroad and unduly burdensome because it purports to seek virtually every document in Dey's possession relating to its distribution of product. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "distribution policies" and "procedures". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 41

Regarding AWP, ASP, and any other Price Representation, all documents related to any communications by and between you and any lobbyists, public relations firms, industry consultants, or industry trade groups (including, but not limited to, the Pharmaceutical Research and Manufacturers of America, the National Pharmaceutical Council, or the Generic Pharmaceutical Association).

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is

proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “lobbyists”, “public relations firms”, “industry consultants”, and “industry trade groups”. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection relating to the AWP for the Subject Drugs in Kentucky that may be responsive to this Request.

REQUEST NO. 42

All documents relating to any communication, including any meetings, whether formal or informal, between you and any other pharmaceutical manufacturer regarding:

- a) any actual, proposed, or prospective price announcements, price changes, or price lists for any Pharmaceuticals;
- b) any actual, proposed, or prospective pricing methods, practices, policies, or strategies for any Pharmaceuticals;
- c) any actual, proposed, or prospective marketing methods, practices, policies, or strategies for any Pharmaceuticals;
- d) territories, markets, marketing agreements, or specific customers for sales of any Pharmaceuticals;

- e) Medicare Part B, Medicaid, and their respective policies of reimbursement for any Pharmaceuticals; and
- f) a Price Representation for any Pharmaceutical.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "price announcements", "price changes", "price lists", "pricing methods", "practices", "policies", and "strategies". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request as grossly overbroad and unduly burdensome because it purports to compel Dey to provide documentation concerning every interaction Dey has ever had with another pharmaceutical manufacturer. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 43

All documents related to any contract or agreement (formal or informal) between you and any other pharmaceutical manufacturer relating to any Price Representation, pricing discount, rebate,

request for proposal, bid, free goods, samples, grants, fees, penalties, or other Incentives for any of the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "pricing discount", "rebate", "request for proposal", "bid", "free goods", "samples", "grants", "fees", and "penalties". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 44

All documents relating to discounts, rebates, credits, or any other reduction from list prices, announced prices, or any other prices offered by you or any other company relating to the sale of the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it

seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “discounts”, “rebates”, “credits”, “other reduction”, “list prices”, “announced prices”, and “other prices”. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey’s custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey states that it will produce or make available for inspection documentation relating to the Subject Drugs, including customer contract files and sales promotion materials, that may be responsive to this Request.

REQUEST NO. 45

All documents produced by you in any state or federal government investigation or inquiry related to the use of AWP or any other Price Representation relating to Medicare Part B or Medicaid reimbursement for Pharmaceuticals.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents that are unrelated and irrelevant to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 46

All documents produced by you in response to any Civil Investigative Demand, subpoena, discovery request, or document requests regarding any pharmaceutical pricing issues, including, but not limited to, cases involving Ven-A-Care of the Florida Keys, Inc.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents that are unrelated and irrelevant to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further

objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 47

All documents provided by you, directly or indirectly, to wholesalers, distributors, Group Purchasing Organizations, independent distribution networks, pharmacy benefit managers, customers, or any Healthcare Provider, relating to the Spread for any of the Subject Drugs, including those of a competitor. Such documents shall include, without limitation, computer programs, databases, PowerPoint presentations, DVDs, CD-ROM, printouts, proposals, or sell-sheets.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "printouts", "proposals", and "sell-sheets". Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey's custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information

or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests. Dey also objects to this Request to the extent it seeks documents that are not in Dey's control, or never were in Dey's control, or over which Dey has no authorization.

Subject to and without waiving the foregoing general and specific objections, Dey states that some of the documents it has described in response to other Requests herein may be responsive to this Request as well.

REQUEST NO. 48

All documentation of internal communications between or among you and/or external communications between you and other entities, including, but not limited to, emails, notes, minutes of meetings, memorandum, regarding the Kentucky Medicaid program's calculation, or determination of Medicaid reimbursement rates for your Pharmaceuticals.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Interrogatory to the extent it seeks information concerning drugs other than the Subject Drugs. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection sales account call records and customer contract files relating to the Subject Drugs that may contain documentation that is responsive to this Request.

REQUEST NO. 49

All documentation sent by you to any State of Kentucky agency or other state or federal Entity concerning Medicaid rebate payment or reporting obligations, including, but not limited to, rebate agreements, checks, lowest price disclosures, or Price Representations.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Request on the grounds that the phrase "lowest price disclosures" is not defined, rendering this request vague, ambiguous, and potentially overbroad. Dey also objects to this Request to the extent that it seeks information or production of documents already in Plaintiffs' possession, documents not in Dey's custody or control, publicly available information or documents, documents or information equally available to Plaintiffs, or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further

objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 50

All documentation of contracts, agreements, accords, relationships, or ventures between you and all Kentucky Customers.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "agreements, accords, relationships, or ventures." Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection customer contract files relating to the Subject Drugs that may contain documentation that is responsive to this Request.

REQUEST NO. 51

All documentation of contracts, agreements, accords, relationships, or ventures between you and all Entities who performed any service for you, which pertained to your duties, responsibilities, or requirements to any federal or state agency or Entity, including, but not limited to, the Kentucky Medicaid program, concerning, in any way, Medicaid reimbursements and Medicaid rebates.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "agreements, accords, relationships, or ventures." Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 52

To the extent not previously requested, copies of all National Sales Meeting agendas, presentations, hand-outs, and notes, including, but not limited to materials from your 1995 National Sales Meeting.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "agendas", "presentations", "hand-outs", and "notes". Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be reasonably located, and upon entry of an appropriate protective order, Dey will produce or make available for inspection national sales meeting materials relating to the Subject Drugs that may be responsive to this Request.

REQUEST NO. 53

Agendas, presentations, hand-outs, and notes prepared in anticipation of, distributed during, or after, or taken in all Dey Corporation Strategic Planning Meetings.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "agendas", "presentations", "hand-outs", and "notes". Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 54

All Strategic Plans and drafts of Strategic Plans prepared in anticipation of, during, or following a Dey Corporation Strategic Planning Meeting.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the term "Strategic Plan" is not defined, rendering this

request vague, ambiguous, and potentially overbroad. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 55

The four boxes of files and documents created, edited, and/or maintained by Cindy Daulong while she was employed at Dey Corporation, and delivered by Ms. Daulong to Willa Tate and/or Pam Marrs upon Ms. Daulong's departure from Dey Corporation in May 2001.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent the four boxes of documents that Plaintiff references in this Request contain documents concerning the Subject Drugs that are responsive to Plaintiff's other Requests, Dey will produce or make those documents available for inspection upon entry of an appropriate protective order.

REQUEST NO. 56

All documents concerning your communications or contact with representatives of the Ogilvy, Reinhart, and Adams Public Relations Firm, (including, but not limited to, communications and contacts with Peter Carson, Joe Snodgrass, and Michael Stein), relating to drug marketing, pricing, price reporting, and reimbursement; specifically including, but not limited to, all notices, invitations, bulletins, letters, emails, materials, notebooks, agendas, notes, outlines from meetings, conferences, or gatherings with representatives of the Public Relations Firm, or prepared in anticipation of such meetings, conferences, or gatherings.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "the Public Relations Firm." Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "drug marketing", "pricing", "price reporting", "notices", "invitations", "bulletins", "materials", "notebooks", "agendas", and "notes". Dey further objects to this Request as grossly overbroad and unduly burdensome to the

extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 57

All documents concerning your communications or contact with members of the United States Congress, and/or their staffs, relating to drug marketing, pricing, price reporting, and reimbursement; specifically including, but not limited to, all notices, invitations, bulletins, letters, emails, materials, notebooks, agendas, notes, or outlines from meetings, conferences, or gatherings with such members of Congress and/or their staffs, or prepared in anticipation of such meetings, conferences, or gatherings.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "drug marketing", "pricing", "price reporting", "notices", "invitations", "bulletins", "materials", "notebooks", "agendas", and "notes". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to

impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

REQUEST NO. 58

All data received from the outside audit service, IMS, regarding Dey's market share for its Subject Drugs, and regarding the marketing of its Subject Drugs. This request includes, but is not limited to, materials presented to Dey by IMS on an annual basis.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request because the term "market share" is not defined, rendering this request vague, ambiguous, and potentially overbroad. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such data exists, can be located without undue burden, is not protected from disclosure from a confidentiality agreement with IMS, and upon entry of an appropriate protective order, Dey will produce or make available for inspection data relating to the Subject Drugs that is responsive to this Request.

REQUEST NO. 59

All documents concerning your communications or contact with your outside strategic planning facilitator, Dr. Paul Tiffany, relating to drug marketing, pricing, price reporting, and reimbursement; specifically including, but not limited to, all notices, invitations, bulletins, letters, emails, materials, notebooks, agendas, notes, or outlines from meetings, conferences, or gatherings with Dr. Tiffany, or prepared in anticipation of such meetings, conferences, or gatherings.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "drug marketing", "pricing", "price reporting", "notices", "invitations", "bulletins", "materials", "notebooks", "agendas", and "notes". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to

impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate order, Dey will produce or make available for inspection documents relating to the Subject Drugs that are responsive to this Request.

REQUEST NO. 60

All documents concerning your communications or contact with representatives of Fulbright & Jaworski, (including, but not limited to Dan Wellington), relating to drug marketing, pricing, price reporting, and reimbursement; specifically including, but not limited to, all notices, invitations, bulletins, letters, emails, materials, notebooks, agendas, notes, outlines, attendance rosters, or sign-in sheets from staff training meetings, conferences, or presentations with or conducted by Fulbright & Jaworski, or prepared in anticipation of such staff training meetings, conferences, or presentations.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "staff training meetings, conferences, or presentations." Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not

defined, rendering this request vague, ambiguous, and potentially overbroad: “drug marketing”, “pricing”, “price reporting”, “notices”, “invitations”, “bulletins”, “materials”, “notebooks”, “agendas”, and “notes”. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

REQUEST NO. 61

All documents concerning your communications or contact with any of your parent companies (e.g. EMD, Inc., Lipha, S.A., Merck-Lipha, Merck, KGaA, and their predecessor and successor organizations) relating to drug marketing, pricing, price reporting, and reimbursement; specifically including, but not limited to, all reports, worksheets, graphs, narratives, sales commentaries, notices, invitations, bulletins, letters, emails, materials, notebooks, agendas, notes, or outlines from Strategic Planning Meetings, National Sales Meetings, executive management meetings, staff training meetings, conferences, or gatherings, or prepared in anticipation of such meetings, conferences, or gatherings. This request specifically covers communications from Dey to any of its parent companies, and from any of Dey’s parent companies to Dey.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “executive management meetings, staff training meetings, conferences, or gatherings.” Dey

further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request to the extent that it seeks documents in the possession, custody, or control of third-parties, of whom Dey has no control. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “reports”, “worksheets”, “graphs”, “narratives”, “sales commentaries”, “notices”, “invitations”, “bulletins”, “agendas”, “notes”, “Strategic Planning Meetings”, and “National Sales Meetings”. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey’s custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

REQUEST NO. 62

All “Working With a Representative,” “Account Call Record,” “Weekly Sales Recap,” and “Manager’s Weekly Recap” reports prepared by, or for, Jim Gist, Chris Gurchiek, Jim Saunders, Mike Wilson, Steve Robertson, Mike Ricks, Mike Hannum, Ron Krumbach, Monty Murray, Bob Pallas, Rick Upp, Jim Bucaric, Ross Uhl, Lou Baricelli, Bruce Tipton, Mary Anderle, Debbie Bronstein, Robert Mozak and/or Charles Rice.

DEY’S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent these documents exist, can be located without undue burden, Dey will produce account call records relating to the Subject Drugs that are maintained in hard copy form that are responsive to this Request.

REQUEST NO. 63

To the extent not produced in response to any other request, all memoranda, notes, reports, letters, emails, or documents reflecting communications by and between any members of Dey's sales and marketing staff, including, but not limited to, Helen Burnham, Jim Gist, Chris Gurchiek, Jim Saunders, Mike Wilson, Steve Robertson, Mike Ricks, Mike Hannum, Ron Krumbach, Monty Murray, Bob Pallas, Rick Upp, Jim Bucaric, Ross Uhl, Lou Baricelli, Bruce Tipton, Mary Anderle, Debbie Bronstein, Robert Mozak and/or Charles Rice.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is

not limited to the Commonwealth of Kentucky. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “memoranda, notes reports.” Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

REQUEST NO. 64

To the extent not produced in response to any other request, all worksheets, charts, graphs, or other documents used, intended for use or drafted for use, by Dey’s sales and marketing staff to demonstrate for Dey’s customers the difference between reimbursement profit on a Dey product, as compared with the reimbursement profit on a product manufactured by a Dey competitor. This request expressly encompasses all such documentation whether or not authorized by Dey’s management, and whether or not actually used by Dey’s sales and marketing staff.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “worksheets” and “authorized by.” Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the

extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request because the term “reimbursement profit” is not defined, rendering this request vague, ambiguous, and potentially overbroad. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

REQUEST NO. 65

To the extent not produced in response to any other request, all indemnification agreements between Dey and its parent companies, and Dey’s employees or former employees.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent, if any, it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

REQUEST NO. 66

On a quarterly basis at the minimum, produce all spreadsheets, or other summarizing documentation, in an electronic, computerized, paper, or other format, reflecting or relating to “net,” “dead net,” “wholesale net,” “net-net,” or any other pricing term or designation describing a price, which is reduced by discount, rebate, bonus, or Chargeback. (This request for Production is limited in scope to the Defined Time Period for the Subject Drugs.)

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “summarizing documentation.” Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent that it implies that Dey has an obligation to create documents, not already in existence, which show the information requested. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “net”, “dead net”, “wholesale net”, “net-net”, “discount”, “rebate”, and “bonus”. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection monthly sales reports, sales transactional data for customers with Kentucky addresses, and invoices relating to the Subject Drugs from which Plaintiff can extract some of the information sought in this Request.

REQUEST NO. 67

For each year during the Defined Time Period, all documents, such as organizational charts, sufficient to show the organization of each division, department, unit, or subdivision of your company that had any role in the production, manufacture, market allocation, distribution, marketing, pricing, or sale of the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "division, department, unit, or subdivision." Dey also objects to this Request to the extent that it implies that Dey has an obligation to create documents, not already in existence, which show the information requested. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "organizational charts", "market allocation", "distribution", "marketing",

and “pricing”. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection organizational charts sufficient to show the organization of Dey’s sales, marketing, and accounting departments that may be responsive to this Request.

REQUEST NO. 68

Any promotional documents and public statements, announcements, disclosures, or press releases issued by you, any defendant, or any of your competitors referring, or relating to the price, distribution, marketing, or sale of the Subject Drugs, including any media files maintained by you.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “media files.” Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this

Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “promotional documents”, “public statements”, “announcements”, “disclosures”, “distribution”, and “marketing”. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey’s custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection advertisements, promotional flyers, and price notification letters for the Subject Drugs.

REQUEST NO. 69

All business plans, budgets, forecasts, sales, or profit projections referring or relating, in whole or in part, to the Subject Drugs.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is

not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “business plans”, “budgets”, “forecasts”, “sales”, and “profit projections”. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection, business plans, sales reports, and forecast materials relating to the Subject Drugs that are responsive to this Request.

REQUEST NO. 70

All documents which reflect the prices charged to, and other terms and/or conditions of sale for the Subject Drugs, including, but not limited to, pricing or contracting manuals, price lists, guidelines, matrices, policies, and/or formulas, for each customer and/or Pharmaceutical Class of Trade, or subgroup thereof, or other documents that are sufficient to identify:

- a) the wholesale acquisition cost and/or other published prices for the Subject Drugs;

- b) payment terms;
- c) discounts, rebates, Chargebacks and/or other adjustments offered to any purchaser and/or Pharmaceutical Class of Trade;
- d) prices and terms of sale for wholesale purchasers;
- e) prices, discounts, rebates, or other adjustments for chain pharmacy purchasers;
- f) prices, discounts, rebates, or other adjustments for hospital purchasers;
- g) prices, discounts, rebates, or other adjustments for managed care purchasers;
- h) prices, discounts, rebates, or other adjustments for mail order purchasers;
- i) prices, discounts, rebates, or other adjustments for any and all other purchaser class of trade or subgroup.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "pricing or contracting manuals", "price lists", "guidelines", "matrices", "policies", "formulas", "payment terms", "discounts", and "rebates". Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to

the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection pricing and rebate matrices and customer contract files relating to the Subject Drugs which contain documentation that is responsive to this Request.

REQUEST NO. 71

All documents constituting or relating to written contracts which, in whole or in part, govern the sale of the Subject Drugs by you, whether or not those contracts are with customers who purchase the Subject Drugs directly from you, including drafts, correspondence, supporting detail, and data (in electronic form where available).

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey's custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to

this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be reasonably located, and upon entry of an appropriate protective order, Dey will produce or make available for inspection customer contract files relating to the Subject Drugs which contain documentation that is responsive to this Request.

REQUEST NO. 72

Documents sufficient to reflect the Organization and any changes occurring in each and every division, subdivision, unit, subsidiary, and affiliate of your company having any involvement with any of the Subject Drugs during any period in which the Subject Drugs were being considered, developed, marketed, and/or sold.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "Organization." Dey also objects to this Request to the extent that it implies that Dey has an obligation to create documents, not already in existence, which show the information requested. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey

also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection organizational charts sufficient to show the organization of Dey's sales, marketing, and accounting departments that may be responsive to this Request.

REQUEST NO. 73

All documents relating to pre- and post-market entry strategy regarding the Subject Drugs, including analysis, forecasting and projections, pricing, and any other matters in connection therewith.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent that it implies that Dey has an obligation to create documents, not already in existence, which show the information requested. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey

further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “pre- and post-market entry strategy”, “analysis”, “forecasting”, “projections”, and “pricing”. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection product launch files, customer contract files, and pricing notification letters relating to the Subject Drugs that are responsive to this Request.

REQUEST NO. 74

All Blue Book and Red Book Annual Product Update Reports in your possession, custody, or control relating to the Subject Drugs.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents already in Plaintiffs’ possession, documents not in Dey’s custody or control, publicly available information or documents,

documents or information equally available to Plaintiffs, or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection documentation relating to the Subject Drugs that is responsive to this Request.

REQUEST NO. 75

All National Drug Data File Product Update Reports prepared by First Data Bank in your possession, custody or control relating to the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent that it seeks information or production of documents already in Plaintiffs' possession, documents not in Dey's custody or control, publicly available information or documents, documents or information equally available to Plaintiffs, or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey

also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection documentation relating to the Subject Drugs that is responsive to this Request.

REQUEST NO. 76

All price verification reports sent by any price reporting services relating to the Subject Drugs other than those produced in response to requests No. 74 and 75.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "price verification reports." Dey also objects to this Request to the extent that it seeks information or production of documents already in Plaintiffs' possession, documents not in Dey's custody or control, publicly available information or documents, documents or information equally available to Plaintiffs, or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could

be directed. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection documentation relating to the Subject Drugs that is responsive to this Request.

REQUEST NO. 77

All documents containing data and any other material from which you calculated AMP and Best Price for the Subject Drugs for the Medicaid rebate program, together with any record containing or outlining assumptions made by you in your calculation of AMP and Best Price.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this

Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection AMP calculation documentation relating to the Subject Drugs that is responsive to this Request.

REQUEST NO. 78

All organizational charts or other documents describing or depicting Dey, Inc., its subsidiaries, parents, affiliates, divisions, departments, offices, units, or other subdivisions and the relationship among them.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years. Dey further objects to this Request to the extent that it seeks documents in the possession, custody, or control of third-parties, of whom Dey has no control. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "divisions, departments, offices, units, or other subdivisions." Dey further objects to this Request on the grounds that the term "organizational charts" is not defined, rendering this request vague, ambiguous, and potentially overbroad. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey's custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery

obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection organizational charts sufficient to show the organization of Dey's sales, marketing, and accounting departments that may be responsive to this Request.

REQUEST NO. 79

All documents reflecting, referring to, describing, or consisting of communications between you and any healthcare management organization (HMO) or any pharmacy benefit manager (PBM) which pertains to the pharmaceutical reimbursement of the Subject Drugs, including, but not limited to, documents which pertain to the Subject Drugs being on an HMO or PBM pharmaceutical reimbursement formulary.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey's custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are

unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests. If Plaintiff clarifies this Request, Dey will consider such clarification.

REQUEST NO. 80

Limited to the Subject Drugs, all documents reflecting, referring to, describing or consisting of contracts, presentations, proposals, bids, and related correspondence between you and (a) Group Purchasing Organizations, (b) cooperatives of independent pharmacies, (c) chain drug stores which manage their own warehouses, (d) home health care companies (including, but not limited to, Apria, Managed Healthcare Associates, Pharmacy Factors, Homedco, Abbey Healthcare, and related companies), (e) "source," "generic source," "select," or "autosubstitution" wholesaler programs, (f) mail-order pharmacies, (g) elderly nursing care companies such as Gerimed, IVmed, Rxmed, and other related companies, or (h) wholesalers or distributors.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "presentations, proposals, bids," "source," and "select and autosubstitution." Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey's custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this

action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey's obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff's Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documents exist, can be located without undue burden, and upon entry of an appropriate protective order, Dey will produce or make available for inspection customer contract files relating to the Subject Drugs that may be responsive to this Request.

REQUEST NO. 81

All documents reflecting, referring to, describing, or consisting of agreements, contracts and correspondence with any agents, contractors, consultants, advisors, or other person(s) or Entity who sold, marketed, priced, advertised, negotiated, or otherwise consulted on behalf of you for your benefit concerning the Subject Drugs.

DEY'S RESPONSE

In addition to Dey's General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: "agents, contractors, consultants, advisors," "agreements," and "for your benefit." Dey also objects to this Request to the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey further objects to this Request on

the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “sold”, “marketed”, “priced”, “advertised”, “negotiated”, and “otherwise consulted”. Dey also objects to this Request to the extent that it seeks information or production of documents not in Dey’s custody or control or information or documents more appropriately sought from third-parties to whom subpoenas or Requests could be directed. Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that if Plaintiff clarifies this Request, Dey will consider such clarification.

REQUEST NO. 82

All documents reflecting, referring to, describing or consisting of price file data bases or similar data bases within the possession custody, control of, or maintained by, Dey, Inc., which contain information relating to the sale or distribution of the Subject Drugs.

DEY’S RESPONSE

In addition to Dey’s General Objections, Dey objects to this Request as overbroad and unduly burdensome because it, *inter alia*, covers a period of more than eleven years and is not limited to the Commonwealth of Kentucky. Dey further objects to this Request on the grounds that the following terms and phrases are not defined, rendering this request vague, ambiguous, and potentially overbroad: “price file databases,” “similar database,” and

“information relating to the sale or distribution.” Dey further objects to this Request as grossly overbroad and unduly burdensome to the extent it seeks documents concerning drugs that are not at issue in this action with respect to Dey and documents that are unrelated to any issue in this action. Dey further objects to this Request to the extent it seeks information that is proprietary, competitively sensitive, or is a trade secret. Dey also objects to this Request to the extent it seeks to impose discovery obligations that are broader than, or inconsistent with, Dey’s obligations under the Kentucky Rules of Civil Procedure. Dey further objects to this Request to the extent it seeks information or documentation that is duplicative of other materials that Dey will produce in response to Plaintiff’s Requests.

Subject to and without waiving the foregoing general and specific objections, Dey states that, to the extent such documentation or data exists, can be located or accessed without undue burden, and upon entry of an appropriate protective order, Dey will produce a pricing matrix relating to the Subject Drugs that is responsive to this Request.

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
CIVIL ACTION NO. 03-CI-1135
DIVISION II

COMMONWEALTH OF KENTUCKY
Ex. Rel. GREGORY D. STUMBO, Attorney General

PLAINTIFF

vs.

WARRICK PHARMACEUTICALS CORPORATION
SCHERING-PLOUGH CORPORATION
SCHERING CORPORATION
DEY, INC.

DEFENDANTS

VERIFICATION AS TO ANSWERS

Before me, the undersigned authority, personally appeared Pamela Marrs and being duly sworn upon her oath states as follows:

1. I am the Senior Vice-President and Chief Financial Officer of Dey, Inc., in Napa, California, for the purpose of answering the Interrogatories served upon Dey, Inc. by Plaintiff, Commonwealth of Kentucky ex rel. Gregory D. Stumbo, and for making this verification.

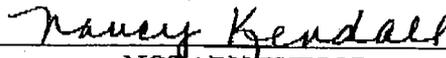
2. I have read the said Answers to the foregoing Interrogatories and they are accurate to the best of my knowledge and belief based on the information available to me.



Pamela Marrs

State of California }
County of Napa } SS.

Signed to and subscribed and sworn before me this 12 day of November, 2004 by Pamela Marrs.

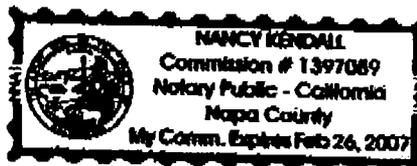


NOTARY PUBLIC

My commission expires:

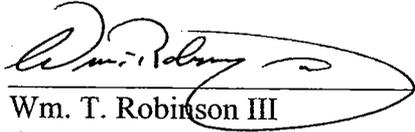
February 26, 2007

NY01/KATZC/965522.1



Dated: November 15, 2004

Respectfully submitted,



Wm. T. Robinson III
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Co-Counsel for Defendant Dey, Inc.

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Dey, Inc.'s Responses and Objections to Plaintiff's First Set of Interrogatories and First Set of Requests for Production of Documents to Defendant, Dey, Inc. was served this 15th day of November, 2004 by ordinary mail and electronic mailing to David Johnstone for the Attorney General including:

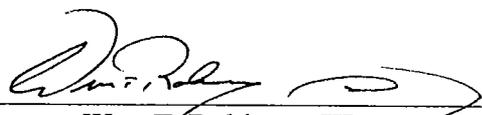
James M. Graham, Asst. Dep. Attorney General
Barbara Maines Whaley, Asst. Attorney General
Director, Medicaid Fraud & Abuse Control Unit
Todd E. Leatherman, Asst. Attorney General,
Director, Consumer Protection Division
Robert S. Jones, Asst. Attorney General,
Director, Civil Division
Scott C. Sutherland, Asst. Attorney General,
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*Counsel for Defendants Warrick Pharmaceuticals
Corporation, Schering-Plough Corporation,
and Schering Corporation*


Wm. T. Robinson III