



STATE OF WISCONSIN

CIRCUIT COURT  
Branch 9

DANE COUNTY

---

**STATE OF WISCONSIN,**

Plaintiff,

Case No. 04-CV-1709

v.

**NOVARTIS PHARMACEUTICALS  
CORPORATION,**

Defendant.

---

**STIPULATION AND AGREED ORDER**

---

WHEREAS, on December 19, 2014 Plaintiff State of Wisconsin (“Plaintiff”) filed a motion for leave to serve a supplemental expert report of Thomas DiPrete, Ph.D., that addresses the recovered NCPDP data, and attached a copy of Dr. DiPrete’s proposed supplemental expert report to its motion; and

WHEREAS, Defendant Novartis Pharmaceuticals Corporation (“Novartis”) does not oppose Plaintiff’s motion as untimely but wishes to reserve the right: (a) to oppose the admission into evidence of the opinions contained in Dr. DiPrete’s supplemental expert report; and (b) to serve a supplemental expert report in response to Dr. DiPrete’s supplemental expert report; and

WHEREAS, Plaintiff wishes to reserve the right to oppose the admission into evidence of the opinions contained in any supplemental expert report that Novartis may serve in response to Dr. DiPrete’s supplemental expert report; and

WHEREAS, Plaintiff and Novartis believe that the interests of efficiency and economy will be advanced by the parties reserving their respective rights to object to the admission of any opinions contained in Dr. DiPrete’s proposed supplemental expert report or any opinions

contained in any supplemental expert report that Novartis may serve in response thereto until a date closer to trial, the parties hereby STIPULATE AND AGREE to the following:

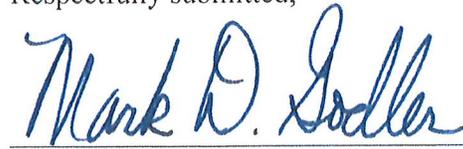
1. Novartis reserves the right to object to the admission into evidence of any opinion contained in Dr. DiPrete's supplemental report on any grounds other than timeliness, either by motion in limine or at the time such opinion is offered. If the Court has not ruled on the admissibility of the opinions contained in Dr. DiPrete's supplemental report prior to trial, Plaintiff shall not refer to or offer into evidence the opinions contained in Dr. DiPrete's supplemental report without first providing 48 hours advance notice of its intent to do so to Novartis outside of the presence of the jury and obtaining leave of Court to do so.
2. On or before January 2, 2015, Novartis may serve on Plaintiff a supplemental expert report that is responsive to Dr. DiPrete's supplemental report. Plaintiff reserves the right to object to the admission into evidence of any opinion contained in any such supplemental expert report on any grounds other than that the controlling case management order does not provide for responsive supplemental expert reports. If the Court has not ruled on the admissibility of the opinions contained in any supplemental expert report of Novartis under this paragraph prior to trial, Novartis shall not refer to or offer into evidence the opinions contained in such supplemental expert report without first providing 48 hours advance notice of its intent to do so to Plaintiff outside of the presence of the jury and obtaining leave of Court to do so.

Dated this 18<sup>th</sup> day of December, 2014.

  
\_\_\_\_\_  
One of Plaintiff's Attorneys

J.B. VAN HOLLEN

Respectfully submitted,

  
\_\_\_\_\_  
One of Novartis' Attorneys

Mark D. Godler

Attorney General

THOMAS L. STORM  
TIMOTHY C. SAMUELSON  
Assistant Attorneys General  
Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 266-9945 (Storm)  
(608) 266-3542 (Samuelson)

CHARLES BARNHILL  
ELIZABETH J. EBERLE  
SARAH E. SISKIND  
BARRY J. BLONIEN  
BENJAMIN J. BLUESTEIN (admitted *pro hac vice*)  
ROBERT S. LIBMAN (admitted *pro hac vice*)  
Miner, Barnhill & Galland  
44 E. Mifflin St., Suite 803  
Madison, WI 53703  
(608) 255-5200

*Attorneys for Plaintiff,  
State of Wisconsin*

So Ordered.

Date: \_\_\_\_\_

Barb Neider  
State Bar Number 1006157  
Meg Vergeront  
State Bar Number 1020971  
Kyle W. Engelke  
State Bar Number 1088993

Stafford Rosenbaum LLP  
222 West Washington Avenue, Suite 900  
Post Office Box 1784  
Madison, Wisconsin 53701-1784  
[bneider@staffordlaw.com](mailto:bneider@staffordlaw.com)  
[mvergeront@staffordlaw.com](mailto:mvergeront@staffordlaw.com)  
[kengelke@staffordlaw.com](mailto:kengelke@staffordlaw.com)  
(608) 256-0226

KAYE SCHOLER LLP  
Saul P. Morgenstern  
Samuel N. Lonergan  
Mark D. Godler  
250 West 55<sup>th</sup> Street  
New York, New York 10018-9710  
(212) 836-8000

*Attorneys for Defendant  
Novartis Pharmaceuticals Corporation*

\_\_\_\_\_  
Richard G. Niess  
Dane County Circuit Court Judge