
STATE OF WISCONSIN,)	
)	
Plaintiff,)	Case No.: 04-CV-1709
)	
v.)	
)	
ABBOTT LABORATORIES, et. al.,)	
)	
Defendants.)	

**AMGEN INC.'S RESPONSES AND OBJECTIONS TO
PLAINTIFF STATE OF WISCONSIN'S FIRST SET OF
CONSOLIDATED DISCOVERY REQUESTS TO ALL DEFENDANTS**

Pursuant to Wis. Stat. §§ 804.08, 804.09 and 804.11, defendant Amgen Inc. ("Amgen"), by its attorneys, objects and responds to Plaintiff State of Wisconsin's First Set of Consolidated Discovery Requests to All Defendants (the "Requests") as follows:

PRELIMINARY STATEMENT

1. These responses and objections are made solely for the purposes of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety, and admissibility, and to any and all other objections that may be applicable at a trial or other hearing or proceeding, all of which objections and grounds are expressly reserved and may be interposed at the time of trial.

2. Amgen's responses and objections shall not be deemed to constitute admissions:
- a. that any particular document or thing exists, is relevant, non-privileged, or admissible in evidence; or
 - b. that any statement or characterization in the Requests is accurate or complete.

3. Amgen's responses are made based upon reasonable and diligent investigation conducted to date. Discovery and investigation in this matter are ongoing and Amgen reserves the right to amend its responses, produce evidence of any subsequently discovered fact, and to raise any additional objections it may have in the future. These responses are made based upon the typical or usual interpretation of words contained in the Requests, unless a specific definition or instruction has been provided and/or agreed upon. Notwithstanding any objection set forth herein, and without waiving any such objection, Amgen will negotiate with Plaintiff in an effort to reach an agreement regarding the scope of the Requests, and will supplement or amend these objections and responses consistent with those negotiations.

4. Amgen's responses to the Requests contain information subject to the Protective Order entered on November 29, 2005 in this matter and must be treated accordingly.

5. Amgen is responding on its own behalf, and not on behalf of Immunex Corporation, a wholly-owned subsidiary of Amgen, which has been named as a separate defendant in these proceedings and is separately represented by counsel.

GENERAL OBJECTIONS

Amgen objects generally to the Requests as follows:

1. Amgen objects to Plaintiff's "Definitions" and "Instructions" to the extent Plaintiff intends to expand upon or alter Amgen's obligations under the Wisconsin Rules of Civil Procedure. Amgen will comply with applicable rules of civil procedure in providing its responses and objections to the Requests.

2. Amgen objects to each request and interrogatory to the extent that it calls for the identification or production of documents or information not relevant to the issues in this action nor reasonably calculated to lead to the discovery of admissible evidence, or is

overly broad, unduly burdensome, ambiguous, or vague.

3. Amgen objects to Plaintiff's definition of "Incentive" on the grounds that it is vague, ambiguous, overbroad, burdensome, and necessarily encompass information and materials that are neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Amgen further objects to this definition on the grounds that it references purportedly defined terms, the definitions of which are not provided in the Requests.

4. Amgen objects to the definition of "Document" on the ground that it is vague and ambiguous and to the extent it seeks to impose obligations beyond those imposed by the applicable Wisconsin Rules of Civil Procedure. Amgen further objects to this definition to the extent that it purports to require Amgen to identify or produce documents or data in a particular form or format, to convert documents or data into a particular file format, to produce documents or data on any particular media, to search for and/or produce or identify documents or data on back-up tapes, to produce any proprietary software, data, programs or databases, to violate any licensing agreement or copyright laws, or to produce data, fields, records, or reports about produced documents or data. The production of any documents or data or the provision of other information by Amgen as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

5. Amgen objects to the extent the Requests are directed to not only Amgen but to its "domestic or foreign parents, and any other affiliated company, subsidiary, division, joint venture or other entity having at least 10% ownership interest in [Amgen]; [Amgen's] agents, independent contractors, directors, employees, officers, and representatives; and merged, consolidated or acquired predecessors; and any other person or entity acting or purporting to act on behalf of [Amgen]" on the grounds that such an expansive request is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of

admissible evidence. Amgen will conduct a reasonable search for responsive documents but does not undertake any responsibility to search for documents in the possession of other persons or separate corporate entities, which are not in Amgen's possession, custody or control.

6. Amgen objects to the extent that any request or interrogatory seeks information concerning Amgen products not at issue in this litigation.

7. Amgen objects to the extent that any request or interrogatory seeks information or documents outside the time period relevant to this action, or after the filing of the initial Complaint on June 3, 2004. The production of any documents or the provision of any other information by Amgen that pre-dates or post-dates the relevant time period shall not be deemed to constitute a waiver of this objection.

8. Amgen objects to the extent that any request or interrogatory seeks information that is protected from disclosure by the work product doctrine, the attorney-client, accountant-client, consulting expert, or investigative privileges, by any common interest or joint defense agreement, or by any other applicable privilege or protection.

9. Amgen objects to the extent that any request or interrogatory calls for information that is not within Amgen's possession, custody or control. In responding to these Requests, Amgen has undertaken or will undertake a diligent and reasonable search of documents and information within Amgen's current possession, custody or control.

10. Amgen objects to the extent that any request or interrogatory calls for information that is confidential, proprietary, and/or a trade secret of a third party. Any such materials produced will be subject to the Protective Order entered in this action.

11. Amgen objects to each request and interrogatory to the extent that it seeks disclosure of information that is a matter of public record, is equally available to the Plaintiff, or is already in the possession of the Plaintiff.

12. Amgen expressly incorporates the above General Objections into each specific answer or response to the Requests set forth below as if set forth in full therein. The response to a request or interrogatory shall not operate as a waiver of any applicable specific or general objection to the request or interrogatory.

RESPONSES TO CONSOLIDATED DISCOVERY REQUEST NO. 1

REQUEST FOR ADMISSION NO. 1: At no time has the State of Wisconsin, its Department of Health and Family Services, or any employee thereof, explicitly approved your practice of reporting to First DataBank average wholesale prices (“AWPs”) that were not the true average prices charged by wholesalers to their customers.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Request for Admission No. 1 on the grounds that it is overly broad and unduly burdensome. Amgen further objects to this request on the grounds that the terms “explicitly approved” and “true average prices” are vague, ambiguous and undefined. Amgen further objects to this request to the extent it seeks information that is not within Amgen’s possession, custody or control, publicly available, or more readily available to Plaintiff. Additionally, Amgen objects to this request to the extent it mischaracterizes the facts of this case or assumes facts that are not in evidence, specifically to the extent it incorrectly implies that “the State of Wisconsin, its Department of Health and Family Services, or any employee thereof” was directed, authorized or required to “approve” the AWPs reported to First DataBank, and to the extent it incorrectly implies that AWP was intended to equal an average price charged by wholesalers to their customers and that Amgen had access to such information. Amgen also incorporates by reference its responses and objections to Consolidated Discovery Request No. 4 of these Requests.

Notwithstanding its General and Specific Objections, and without waiving them, Amgen denies Request for Admission No. 1.

INTERROGATORY NO. 1: If your response to Request for Admission No. 1 is anything other than an unqualified admission, state all bases for your response, including the following:

- (a) identify whether the approval was made verbally or in writing;
- (b) identify the person(s) who approved the practice;
- (c) identify the date(s) on which the approval was made;
- (d) state whether the approval was communicated to you;
- (e) if the approval was communicated to you, state whether the communication was made verbally or in writing;
- (f) if the approval was communicated to you, identify the date of such communication(s);
- (g) if the approval was communicated to you, identify the person(s) who made the communication(s);
- (h) if the approval was communicated to you, identify the person(s) who received the communication(s);
- (i) identify all documents relating to the approval of the practice;
- (j) identify all documents relating to the communication of the approval to you.

ANSWER: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Interrogatory No. 1 on the grounds that it is overly broad and unduly burdensome. Amgen also objects to this interrogatory to the extent it seeks information that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff. Amgen also incorporates by reference its responses and objections to Consolidated Discovery Request No. 4 of these Requests.

Notwithstanding its General and Specific Objections, and without waiving them, Amgen states that Plaintiff is already in possession of documents, including but not limited to those already produced by Amgen, from which the answer to this interrogatory may be obtained. Additionally, Amgen refers Plaintiff to Defendants' briefing and attached exhibits filed in response to Plaintiff's motions for summary judgment, which contain information generally responsive to this interrogatory.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1: Produce all documents identified in your Answer to Interrogatory No. 1.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Request for Production of Documents No. 1 on the grounds

that it is overly broad and unduly burdensome. Amgen also objects to this request to the extent it seeks information that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff. Amgen also incorporates by reference its responses and objections to Consolidated Discovery Request No. 4 of these Requests.

Notwithstanding its General and Specific Objections, and without waiving them, Amgen states that Plaintiff is already in possession of documents generally responsive to this request, including but not limited to those already produced by Amgen.

RESPONSES TO CONSOLIDATED DISCOVERY REQUEST NO. 2

REQUEST FOR ADMISSION NO. 2: At no time has the State of Wisconsin, its Department of Health and Family Services, or any employee thereof, explicitly approved your practice of reporting to First DataBank suggested wholesale prices ("SWPs") that were not the true average prices charged by wholesalers to their customers.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Request for Admission No. 2 on the grounds that it is overly broad and unduly burdensome. Amgen also objects to this request on the grounds that information relating to SWPs is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because the State of Wisconsin did not use SWP for reimbursement of pharmaceutical products under the Wisconsin Medicaid Program. Amgen also objects to this request on the grounds that the terms "explicitly approved" and "true average prices" are vague, ambiguous and undefined. Amgen further objects to this request to the extent it seeks information that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff. Additionally, Amgen objects to this request to the extent it mischaracterizes the facts of this case or assumes facts that are not in evidence, specifically to the extent it incorrectly implies that "the State of Wisconsin, its Department of Health and Family Services, or any employee thereof" was

directed, authorized or required to “approve” the SWPs reported to First DataBank, and to the extent it incorrectly implies that SWP was intended to equal an average price charged by wholesalers to their customers and that Amgen had access to such information. Amgen also incorporates by reference its responses and objections to Consolidated Discovery Request No. 5 of these Requests.

Notwithstanding its General and Specific Objections, and without waiving them, Amgen denies Request for Admission No. 2.

INTERROGATORY NO. 2: If your response to Request for Admission No. 2 is anything other than an unqualified admission, state all bases for your response, including the following:

- (a) identify whether the approval was made verbally or in writing;
- (b) identify the person(s) who approved the practice;
- (c) identify the date(s) on which the approval was made;
- (d) state whether the approval was communicated to you;
- (e) if the approval was communicated to you, state whether the communication was made verbally or in writing;
- (f) if the approval was communicated to you, identify the date of such communication(s);
- (g) if the approval was communicated to you, identify the person(s) who made the communication(s);
- (h) if the approval was communicated to you, identify the person(s) who received the communication(s);
- (i) identify all documents relating to the approval of the practice;
- (j) identify all documents relating to the communication of the approval to you.

ANSWER: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Interrogatory No. 2 on the grounds that it is overly broad and unduly burdensome. Amgen also objects to this interrogatory on the grounds that information relating to SWPs is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because the State of Wisconsin did not use SWP for reimbursement of pharmaceutical products under the Wisconsin Medicaid Program. Amgen further objects to this interrogatory to the extent it seeks information that is not within Amgen’s possession, custody or control, publicly available, or more readily available

to Plaintiff. Amgen also incorporates by reference its responses and objections to Consolidated Discovery Request No. 5 of these Requests.

Notwithstanding its General and Specific Objections, and without waiving them, Amgen states that Plaintiff is already in possession of documents, including but not limited to those already produced by Amgen, from which the answer to this interrogatory may be obtained. Additionally, Amgen refers Plaintiff to Defendants' briefing and attached exhibits filed in response to Plaintiff's motions for summary judgment, which contain information generally responsive to this interrogatory.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 2: Produce all documents identified in your Answer to Interrogatory No. 2.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Request for Production of Documents No. 2 on the grounds that it is overly broad and unduly burdensome. Amgen also objects to this request on the grounds that information relating to SWPs is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because the State of Wisconsin did not use SWP for reimbursement of pharmaceutical products under the Wisconsin Medicaid Program. Amgen further objects to this request to the extent it seeks information that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff. Amgen also incorporates by reference its responses and objections to Consolidated Discovery Request No. 5 of these Requests.

Notwithstanding its General and Specific Objections, and without waiving them, Amgen states that Plaintiff is already in possession of documents generally responsive to this request, including but not limited to those already produced by Amgen.

RESPONSES TO CONSOLIDATED DISCOVERY REQUEST NO. 3

REQUEST FOR ADMISSION NO. 3: At no time has the State of Wisconsin, its Department of Health and Family Services, or any employee thereof, explicitly approved

your practice of reporting to First DataBank wholesale acquisition costs (“WACs”) that were not the true average prices, net of discounts, rebates, chargebacks, and incentives, paid by wholesalers to you.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Request for Admission No. 3 on the grounds that it is overly broad and unduly burdensome. Amgen also objects to this request on the grounds that information relating to WACs is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because the State of Wisconsin did not use WAC for reimbursement of pharmaceutical products under the Wisconsin Medicaid Program. Amgen further objects to this request on the grounds that the terms “explicitly approved,” “true average prices,” “discounts,” “rebates” and “chargebacks” are vague, ambiguous and undefined. Amgen further objects to this request to the extent it seeks information that is not within Amgen’s possession, custody or control, publicly available, or more readily available to Plaintiff. Additionally, Amgen objects to this request to the extent it mischaracterizes the facts of this case or assumes facts that are not in evidence, specifically to the extent it incorrectly implies that “the State of Wisconsin, its Department of Health and Family Services, or any employee thereof” was directed, authorized or required to “approve” Amgen’s WACs, and to the extent it incorrectly implies that WAC was intended to equal the net amount paid by wholesalers. Amgen also incorporates by reference its responses and objections to Consolidated Discovery Request No. 6 of these Requests.

Notwithstanding its General and Specific Objections, and without waiving them, Amgen denies Request for Admission No. 3.

INTERROGATORY NO. 3: If your response to Request for Admission No. 3 is anything other than an unqualified admission, state all bases for your response, including the following:

- (a) identify whether the approval was made verbally or in writing;
- (b) identify the person(s) who approved the practice;
- (c) identify the date(s) on which the approval was made;
- (d) state whether the approval was communicated to you;

- (e) if the approval was communicated to you, state whether the communication was made verbally or in writing;
- (f) if the approval was communicated to you, identify the date of such communication(s);
- (g) if the approval was communicated to you, identify the person(s) who made the communication(s);
- (h) if the approval was communicated to you, identify the person(s) who received the communication(s);
- (i) identify all documents relating to the approval of the practice;
- (j) identify all documents relating to the communication of the approval to you.

ANSWER: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Interrogatory No. 3 on the grounds that it is overly broad and unduly burdensome. Amgen also objects to this interrogatory on the grounds that information relating to WACs is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because the State of Wisconsin did not use WAC for reimbursement of pharmaceutical products under the Wisconsin Medicaid Program. Amgen further objects to this interrogatory to the extent it seeks information that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff. Amgen also incorporates by reference its responses and objections to Consolidated Discovery Request No. 6 of these Requests.

Notwithstanding its General and Specific Objections, and without waiving them, Amgen states that Plaintiff is already in possession of documents, including but not limited to those already produced by Amgen, from which the answer to this interrogatory may be obtained. Additionally, Amgen refers Plaintiff to Defendants' briefing and attached exhibits filed in response to Plaintiff's motions for summary judgment, which contain information generally responsive to this interrogatory.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 3: Produce all documents identified in your Answer to Interrogatory No. 3.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Request for Production of Documents No. 3 on the grounds

that it is overly broad and unduly burdensome. Amgen also objects to this request on the grounds that information relating to WACs is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because the State of Wisconsin did not use WAC for reimbursement of pharmaceutical products under the Wisconsin Medicaid Program. Amgen further objects to this request to the extent it seeks information that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff. Amgen also incorporates by reference its responses and objections to Consolidated Discovery Request No. 6 of these Requests.

Notwithstanding its General and Specific Objections, and without waiving them, Amgen states that Plaintiff is already in possession of documents generally responsive to this request, including but not limited to those already produced by Amgen.

RESPONSES TO CONSOLIDATED DISCOVERY REQUEST NO. 4

REQUEST FOR ADMISSION NO. 4: The average wholesale prices ("AWPs") that you reported to First DataBank for your drugs were not the true average prices charged by wholesalers to their customers for your drugs. Rather, the AWPs that you reported to First DataBank for your drugs were more than the true average prices charged by wholesalers to their customers for your drugs.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Request for Admission No. 4 on the grounds that it is vague, ambiguous, and misleading. Amgen also objects on the ground that the phrase "true average prices" is vague, ambiguous, and undefined. Amgen further objects to this request to the extent that it incorrectly implies that Amgen sets AWP. Amgen does not set AWPs; AWPs are established and reported by independent third-party publishers. Amgen also objects to this request to the extent that it incorrectly implies that AWP was intended to reflect an actual price charged by wholesalers to their customers. Amgen states that it has been widely known for decades, including by state Medicaid agencies such as the State of Wisconsin's, that AWPs are not mathematical averages of prices paid by pharmacies but

rather are reimbursement benchmarks that may exceed pharmacy acquisition costs. Amgen also objects to this request on the ground that it incorrectly implies that Amgen is generally aware of the exact price wholesalers charge for Amgen products. Amgen is not involved in discussions between wholesalers and their customers; wholesalers' prices are commonly the result of negotiations between wholesalers and their customers, which are wholly independent of Amgen's involvement. As a result, Amgen is generally not aware of the exact price wholesalers charge their customers for Amgen's products.

Based upon its General and Specific Objections, Amgen denies Request for Admission No. 4. Amgen admits, however, that it is generally aware, based on publicly available information concerning pharmacy acquisition costs, that the prices charged by wholesalers were typically less than the AWP's published by First DataBank.

INTERROGATORY NO. 4: If your response to Request for Admission No. 4 is anything other than an unqualified admission, state all bases for your response and identify all documents that support or relate to your response.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Interrogatory No. 4 on the grounds that it is overly broad and unduly burdensome. Amgen also objects to this interrogatory to the extent it seeks information that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff. Amgen also incorporates by reference its response to Request for Admission No. 4, and states that, as indicated by the information on pharmacy acquisition costs to which Wisconsin Medicaid had access (including information from the other state entities that purchased pharmaceuticals, pharmacists, rebate information, reports by federal agencies and third parties, information supplied by manufacturers and wholesalers, information supplied by pharmacies, and many other sources), the State was aware that the prices charged by wholesalers were less than the AWP's published by First DataBank.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 4: Produce all documents identified in your Response to Interrogatory No. 4.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Request for Production of Documents No. 4 on the grounds that it is overly broad and unduly burdensome. Amgen also objects to this request to the extent it seeks information that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff. Amgen also incorporates by reference its response to Request for Admission No. 4.

REQUEST FOR ADMISSION NO. 5: The suggested wholesale prices ("SWPs") that you reported to First DataBank for your drugs were not the true average prices charged by wholesalers to their customers for your drugs. Rather, the SWPs that you reported to First DataBank for your drugs were more than the true average prices charged by wholesalers to their customers for your drugs.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Request for Admission No. 5 on the grounds that it is vague, ambiguous, and misleading. Amgen also objects on the ground that the phrase "true average prices" is vague, ambiguous, and undefined. Amgen further objects that the values for any SWPs are not relevant to Plaintiff's claims because the State of Wisconsin did not use SWP for reimbursement in the Wisconsin Medicaid Program. Amgen also objects to this request to the extent that it incorrectly implies that the suggested AWP's provided by Amgen prior to July 2003 were intended to equal actual prices charged by wholesalers.

Based upon its General and Specific Objections, Amgen denies Request for Admission No. 5. Amgen admits, however, that it is generally aware, based on publicly available information concerning pharmacy acquisition costs, that the prices charged by wholesalers were typically less than Amgen's suggested AWP's.

INTERROGATORY NO. 5: If your response to Request for Admission No. 5 is anything other than an unqualified admission, state all bases for your response and identify all documents that support or relate to your response.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Interrogatory No. 5 on the grounds that it is overly broad and unduly burdensome. Amgen also objects to this interrogatory to the extent it seeks information that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff. Amgen also incorporates by reference its responses to Request for Admission Nos. 4 and 5, and states that, as indicated by the information on pharmacy acquisition costs to which Wisconsin Medicaid had access (including information from the other state entities that purchased pharmaceuticals, pharmacists, rebate information, reports by federal agencies and third parties, information supplied by manufacturers and wholesalers, information supplied by pharmacies, and many other sources), the State was aware that the prices charged by wholesalers were less than the AWP published by First DataBank.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 5: Produce all documents identified in your Response to Interrogatory No. 5.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Interrogatory No. 5 on the grounds that it is overly broad and unduly burdensome. Amgen also objects to this request to the extent it seeks documents related to SWPs which are not relevant to Plaintiff's claims because the State of Wisconsin did not use SWP for reimbursement in the Wisconsin Medicaid Program. Amgen also objects to this request to the extent it seeks information that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff.

REQUEST FOR ADMISSION NO. 6: The wholesale acquisition costs ("WACs") that you reported to First DataBank for your drugs were not the true average prices, net of discounts, rebates, chargebacks, and incentives, paid by wholesalers to you for your drugs. Rather, the WACs that you reported to First DataBank for your drugs were more than the true average prices, net of discounts, rebates, chargebacks, and incentives, paid by wholesalers to you for your drugs.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Request for Admission No. 6 on the grounds that it is overly broad, unduly burdensome, vague and ambiguous. Amgen further objects to this request on the grounds that the phrases and terms “true average prices,” “discounts,” “rebates” and “chargebacks” are vague, ambiguous, and undefined. Amgen also objects to this request on the grounds that information relating to WACs is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because the State of Wisconsin did not use WAC for reimbursement of pharmaceutical products under the Wisconsin Medicaid Program. Amgen also objects to this request to the extent it incorrectly implies that WAC was intended to equal the net amount paid by wholesalers. Amgen states that it is widely known, including by state Medicaid agencies such as the State of Wisconsin’s Medicaid agency, that WAC is a list price for pharmaceutical products that does not include minimal, customary prompt-pay discounts or other discounts. Documents reflecting these well-known facts include federal statutes, reports from various branches of the federal government and, upon information and belief, documents from the files of various agencies of the State of Wisconsin.

Based upon its General and Specific Objections, Amgen denies Request for Admission No. 6. Amgen admits, however, that it charged wholesalers the reported WAC price on the invoice that Amgen sent to these customers. Amgen further admits that it typically offered its customers an industry-standard “prompt pay” discount, which could be earned by the customer if it paid Amgen within a specified period, and other well-known industry discounts.

INTERROGATORY NO. 6: If your response to Request for Admission No. 6 is anything other than an unqualified admission, state all bases for your response and identify all documents that support or relate to your response.

RESPONSE: In addition to its General Objections, which are incorporated herein

by reference, Amgen objects to Interrogatory No. 6 on the grounds that it is overly broad, unduly burdensome, vague and ambiguous. Amgen also objects to this interrogatory to the extent it seeks information that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff. Amgen also objects to this interrogatory on the grounds that information relating to WACs is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because the State of Wisconsin did not use WAC for reimbursement of pharmaceutical products under the Wisconsin Medicaid Program.

Subject to its General and Specific Objections, and without waiving them, Amgen incorporates herein its response to Request for Admission No. 6. Amgen states that all sales to wholesalers were at the published WAC price. Amgen further states that it has produced sales transaction data for each Amgen NDC at issue in this litigation as well as other documents concerning Amgen's sales to wholesalers from which the information sought by this interrogatory can be obtained. Amgen also refers Plaintiff to the wholesaler transactional data produced by third parties, including AmerisourceBergen, McKesson, and Cardinal.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 6: Produce all documents identified in your Response to Interrogatory No. 6.

RESPONSE: In addition to its General Objections, which are incorporated herein by reference, Amgen objects to Request for Production of Documents No. 6 on the grounds that it is overly broad, unduly burdensome, vague and ambiguous. Amgen also objects to this request to the extent it seeks documents that is not within Amgen's possession, custody or control, publicly available, or more readily available to Plaintiff. Amgen also objects to this request on the grounds that information relating to WACs is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence because the State of

Wisconsin did not use WAC for reimbursement of pharmaceutical products under the Wisconsin Medicaid Program.

Notwithstanding its General and Specific Objections, and without waiving them, Amgen states that Plaintiff is already in possession of documents generally responsive to this request, including but not limited to those already produced by Amgen.

June 16, 2008

/s/ Jennifer A. Walker

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Certificate of Service

I hereby certify that on June 16, 2008 a true and correct copy of the foregoing was served on all counsel of record by Lexis Nexis File & Serve®.

/s/ Marc A. Marinaccio

Marc A. Marinaccio