

3. BMS's responses are made based upon reasonable and diligent investigation conducted to date. Discovery and investigation in this matter are ongoing and BMS reserves the right to amend its responses 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 Plaintiff's Requests, unless a specific definition or instruction has been provided.

4. BMS's responses to these Requests are contingent upon, and are made subject and pursuant to, the protective order entered in this action and must be treated accordingly.

5. BMS's responses to these Requests are submitted without prejudice to BMS's right to produce evidence of any subsequently discovered facts and to present in any proceeding and at trial any further information and documents obtained during discovery and preparation for trial. BMS reserves its right to provide further responses as additional facts are ascertained.

6. Any statement by BMS contained in these objections and responses that non-privileged documents or information will be produced in response to a specific request does not mean that any such documents or information actually exist, but only that they will be produced to the extent that they exist.

GENERAL OBJECTIONS

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

2. BMS objects to the Requests to the extent that they seek information or documents from outside the statute of limitations applicable to the claims in this action or beyond the time period relevant to this action.

3. BMS objects to these Requests to the extent that they seek documents and information that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence, or are overly broad, unduly burdensome, ambiguous and vague. In response to these Requests, BMS will produce information concerning only those drugs that the parties have agreed are at issue in this action.

4. BMS objects to these Requests to the extent they call for the production of documents or information that are privileged or otherwise protected against discovery pursuant to the attorney-client privilege, joint defense/prosecution privilege, the work product doctrine, the consulting expert rule, the common interest doctrine or other applicable statutory or common law. To the extent that any such protected documents or information are inadvertently produced in response to these Requests, the production of such documents or information shall not constitute a waiver of BMS's right to assert the applicability of any privilege or immunity to the documents or information, and any such documents or information shall be returned to BMS's counsel immediately upon discovery thereof.

5. BMS objects to these Requests to the extent that they seek documents and information not within BMS's possession, custody, or control or are more appropriately sought from third parties to whom requests have been or may be directed.

6. BMS objects to these Requests to the extent that they seek production of publicly available documents or information, or information which Plaintiff has in its possession or can obtain from other sources.

7. BMS objects to these Requests to the extent that they purport to impose obligations beyond, or inconsistent, with those imposed by applicable law. BMS will respond to these Requests, subject to other objections, as required by the Wisconsin Rules of Civil Procedure.

8. BMS objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in these Requests. BMS's response that it will produce documents in connection with a particular Request, or that it has no responsive documents, is not intended to indicate that BMS agrees with any implication or any explicit or implicit characterization of facts, events, circumstances, or issues in the Requests or that such implications or characterizations are relevant to this action.

9. BMS objects to these Requests to the extent they call for the production of trade secret, proprietary, commercially sensitive, or other confidential information.

10. BMS incorporates the above General Objections and the below Objections to Definitions into each response to the Requests set forth below as if set forth fully therein. The response to a Request shall not operate as a waiver of any applicable specific or general objection to any Request.

OBJECTIONS TO DEFINITIONS

(1) The term "document" means any writing or recording of any kind, including, without limitation, agendas, agreements, analyses, announcements, audits, booklets, books, brochures, calendars, charts, contracts, correspondence, electronic mail (e-mail), facsimiles (faxes), film, graphs, letters, memos, maps, minutes (particularly Board of Directors and/or Executive Committee meeting minutes), notes, notices, photographs, reports, schedules, summaries, tables, telegrams, and videotapes, in any medium, whether written, graphic, pictorial, photographic, electronic, phonographic, mechanical, taped, saved on computer disk, hard drives,

data tapes, or otherwise, and every non-identical copy. Different versions of the same document, such as different copies of a written record bearing different handwritten notations, are different documents within the meaning of the term as used. In case originals or original non-identical copies are not available, “document” includes copies of originals or copies of non-identical copies as the case may be.

OBJECTION: BMS objects to the definition of “Document” as set forth in Definition No. 1 on the grounds that it is vague and ambiguous. BMS also objects to this definition to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, BMS’s obligations under the Wisconsin Rules of Civil Procedure. BMS further objects to this definition to the extent it requires or seeks to require BMS to: (i) produce documents or data in a particular form or format; (ii) convert documents or data into a particular or different file format from that which the documents are now stored; (iii) produce metadata constituting attorney work product, including without limitation, fields, records, or reports about produced documents or data; (iv) produce documents or data on any particular media; (v) search for and/or produce any documents or data on back-up tapes and/or such other storage media that may be inaccessible in the normal course of business; (vi) produce any proprietary software, data, programs, or databases; or (vii) violate any licensing agreements or copyright laws.

(2) The term “identify,” when used in reference to a natural person, means to state the person’s:

- (a) first and last name;
- (b) current or last-known job title;
- (c) current or last-known business address;
- (d) current or last-known business telephone number;
- (e) current or last-known home address; and
- (f) current or last-known home telephone number.

OBJECTION: BMS objects to the definition of “Identify” as set forth in Definition No. 2 on the grounds that it is overly broad and unduly burdensome. BMS further objects to this definition to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, BMS’s obligations under the Wisconsin Rules of Civil Procedure.

(3) The term “incentive” means anything of value provided to a customer or other party to induce that customer to purchase, promote, prescribe, dispense, or administer a pharmaceutical (see definition below) or course of treatment; to reward a customer or other party for purchasing, promoting, prescribing, dispensing or administering a pharmaceutical or course of treatment; or which had, will have, or is intended to have, the effect of lowering the cost of a pharmaceutical to the customer in any way, regardless of the time the “incentive” was provided (for example, at the time of invoicing, shipment, or payment, or monthly, quarterly, annually, or at any other time or on any other basis) and regardless of its name. As used in this definition, the term “customer or other party” includes, but is not limited to, a drug wholesaler, physician, clinic, store chain, pharmacy, pharmaceutical benefit manager, hospital, federal or state government agency, health maintenance organization, or other managed care organization. The term “incentive” therefore includes, but is not limited to, payments or proposed payments in cash or in kind; chargebacks (see definition above); credits, discounts such as return-to-practice discounts, prompt-pay discounts, volume discounts, on-invoice discounts, or off-invoice discounts; rebates such as market-share rebates, access rebates, or bundled-drug rebates; free goods or samples; credits; administrative fees or administrative fee reimbursements; marketing fees; stocking fees; conversion fees; patient education fees; off-invoice pricing; educational or other grants; research funding; payments for participation in clinical trials; honoraria; speaker’s fees or payments; patient education fees; or consulting fees.

OBJECTION: BMS objects to the definition of “Incentive” as set forth in Definition No. 3 on the grounds that it is overly broad, unduly burdensome, ambiguous, vague and undefined, particularly with respect to the language “promote,” “pharmaceutical,” “course of treatment,” “reward,” “administering,” “at any other time,” “on any other basis,” “drug wholesaler,” “physician,” “clinic,” “store chain,” “pharmacy,” “federal or state government agency,” “other managed care organization,” “in kind,” “chargebacks,” “credits,” “discounts,” “return-to-practice discounts,” “prompt-pay-discounts,” “volume discounts,” “on-invoice discounts,” “off-invoice discounts,” “rebates,” “market-share rebates,” “access rebates,” “bundled-drug rebates,” “free

goods or samples,” “administrative fees or administrative fee reimbursements,” “marketing fees,” “stocking fees,” “conversion fees,” “patient education fees,” “off-invoice pricing,” “educational or other grants,” “research funding,” “clinical trials,” “honoraria,” “speaker's fees or payments,” “patient education fees” and “consulting fees.” BMS further objects to the definition of “customer or other party” on the grounds that it is grossly overly broad and unduly burdensome.

(4) The term “you,” “your,” “your company” means each defendant, its domestic or foreign parents, and any other affiliated company, subsidiary, division, joint venture or other entity having at least 10% ownership interest in defendant; defendant’s agents, independent contractors, directors, employees, officers, and representatives; and merged, consolidated or acquired predecessors; and any other person or entity acting on behalf of defendant.

OBJECTION: BMS objects to the definitions of “You” and “Your” as set forth in Definition No. 4 on the grounds that they are overly broad, unduly burdensome, vague and ambiguous. BMS states that all Responses contained herein are on behalf of defendant Bristol-Myers Squibb Company.

SPECIFIC RESPONSES TO DISCOVERY REQUESTS

CONSOLIDATED DISCOVERY REQUEST NO. 1

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

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Admission No. 1 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS further objects to this Request on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “explicitly approved,” “practice,” “reporting,” “average wholesale prices,” “true average prices,” “wholesalers,” “customers” and “your drugs.” BMS also objects to this request to the extent it seeks documents or information regarding drugs that are not at issue in this action. Additionally, BMS objects to this request to the extent that it incorrectly implies that AWP was intended to equal an average price charged by wholesalers to their customers and that BMS had access to such information. BMS states that it has been widely known for decades, including by state Medicaid agencies such as the State of Wisconsin, that AWP are not mathematical averages of prices paid by pharmacies but rather are benchmarks that may exceed pharmacy acquisition costs. Moreover, BMS objects to this request insofar as it suggests that BMS determined, calculated or reported AWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS denies this request for admission. BMS further states that it does not set, determine or calculate AWP. Moreover, BMS states that it does not report AWP information to any individual or entity, including First DataBank (or any other publication). AWP are determined by the pricing publications.

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.

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Interrogatory No. 1 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this interrogatory on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “state all bases,” “approved,” “approval,” “practice” and “all.” BMS further objects to this interrogatory to the extent it seeks documents or information regarding drugs that are not at issue in this action. Moreover, BMS objects to this interrogatory insofar as it suggests that BMS determined, calculated or reported AWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS refers Plaintiff to BMS’s response to Request for Admission No. 1. In response to this Interrogatory, BMS also states it has already produced to Plaintiff the documents and information in its possession, custody and control concerning the prices that BMS reports to the publications, including First DataBank. In particular, BMS directs Plaintiff to the testimony of Denise Kaszuba and Zoltan Szabo (including deposition testimony from MDL 1456 and testimony in the trial of the Class 2 and 3 claims in MDL 1456).

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

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Production No. 1 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to

the discovery of admissible evidence. BMS also objects to this Request on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “all.” BMS further objects to this request to the extent it seeks documents or information regarding drugs that are not at issue in this action. Moreover, BMS objects to this request insofar as it suggests that BMS determined, calculated or reported AWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS refers Plaintiff to BMS’s response to Request for Admission No. 1. BMS further states it has already produced to Plaintiff the documents and information in its possession, custody and control concerning the prices that BMS reports to the publications, including First DataBank. In particular, BMS directs Plaintiff to the testimony of Denise Kaszuba and Zoltan Szabo (including deposition testimony from MDL 1456 and testimony in the trial of the Class 2 and 3 claims in MDL 1456).

CONSOLIDATED DISCOVERY REQUEST NO. 2

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

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Admission No. 2 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS further objects to this Request on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “explicitly approved,” “practice,” “reporting,” “suggested wholesale prices,” “true average prices,” “wholesalers,” “customers” and “your drugs.” BMS also objects to this request to the extent it seeks documents or information regarding drugs that are not at issue in this action. In addition, BMS objects to Request for Admission No. 2 on the basis that it is not relevant to Plaintiff’s claims because the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, did not utilize SWP as a basis for reimbursement for prescription drugs in the Wisconsin Medicaid Program. Moreover, BMS objects to this request insofar as it suggests that BMS determined, calculated or reported SWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS denies this request for admission. BMS further states that it does not report SWP information to any individual or entity, including First DataBank (or any other publication).

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.

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Interrogatory No. 2 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this interrogatory on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “state all bases,” “approved,” “approval,” “practice,” and “all.” BMS further objects to this interrogatory to the extent it seeks documents or information regarding drugs that are not at issue in this action. In addition, BMS objects to Interrogatory No. 2 on the basis that it is not relevant to Plaintiff’s claims because the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, did not utilize SWP as a basis for reimbursement for prescription drugs in the Wisconsin Medicaid Program. Moreover, BMS objects to this interrogatory insofar as it suggests that BMS determined, calculated or reported SWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS refers Plaintiff to BMS’s response to Request for Admission No. 2. In response to this Interrogatory, BMS also states it has already produced to Plaintiff the documents and information in its possession, custody and control concerning the prices that BMS reports to the publications, including First DataBank. In particular,

BMS directs Plaintiff to the testimony of Denise Kaszuba and Zoltan Szabo (including deposition testimony from MDL 1456 and testimony in the trial of the Class 2 and 3 claims in MDL 1456).

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

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Production No. 2 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this request to the extent it seeks documents or information regarding drugs that are not at issue in this action. BMS further objects to this Request on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “all.” Moreover, BMS objects to this request insofar as it suggests that BMS determined, calculated or reported SWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS refers Plaintiff to BMS’s response to Request for Admission No. 2. BMS further states it has already produced to Plaintiff the documents and information in its possession, custody and control concerning the prices that BMS reports to the publications, including First DataBank. In particular, BMS directs Plaintiff to the testimony of Denise Kaszuba and Zoltan Szabo (including deposition testimony from MDL 1456 and testimony in the trial of the Class 2 and 3 claims in MDL 1456).

CONSOLIDATED DISCOVERY REQUEST NO. 3

REQUEST FOR ADMISSION NO. 3: At no time has the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, explicitly approved your practice of reporting to First DataBank wholesale acquisition costs (“WACs”) for your drugs that were not the true average prices, net of discounts, rebates, chargebacks, and incentives, paid by wholesalers to you for your drugs.

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Admission No. 3 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS further objects to this Request for Admission on the grounds that the terms “explicitly approved,” “practice,” “reporting,” “wholesale acquisition costs,” “true average prices,” “net of discounts,” “rebates,” “chargebacks,” “wholesalers” and “your drugs” are grossly overbroad, vague, ambiguous, confusing and undefined. BMS also objects to this request to the extent it seeks documents or information regarding drugs that are not at issue in this action. Additionally, BMS objects to Request for Admission No. 3 on the basis that it is not relevant to Plaintiff’s claims because the State of Wisconsin, its Department of Health & Family Services, or

any employee thereof, did not utilize WAC as a basis for reimbursement for prescription drugs in the Wisconsin Medicaid Program. BMS also objects to this request to the extent it incorrectly implies that WAC was intended to equal the net amount paid by wholesalers. BMS 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 discounts or other price concessions referred to above. Moreover, BMS objects to this Request on the grounds that it falsely implies that it is necessary for "the State of Wisconsin, its Department of Health and Family Services, or any employee thereof" to "approve" the prices that BMS reported to the publications, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS denies this request for admission. BMS further states that it does not provide wholesale acquisition cost ("WAC") to First DataBank; rather, BMS reports wholesale list price ("WLP") information to First DataBank. BMS also states a list price, by definition, does not include the discounts or other price concessions referred to above. Furthermore, BMS states that documents indicating this well-known fact 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.

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.

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Interrogatory No. 3 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this interrogatory to the extent it seeks documents or information regarding drugs that are not at issue in this action. BMS further objects to this interrogatory on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “state all bases,” “approval,” “approved,” “practice,” and “all.” In addition, BMS objects to Interrogatory No. 3 on the basis that it is not relevant to Plaintiff’s claims because the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, did not utilize WAC as a basis for reimbursement for prescription drugs in the Wisconsin Medicaid Program. Moreover, BMS objects to this interrogatory on the grounds that it falsely implies that it is necessary for “the State of Wisconsin, its Department of Health and Family Services, or any employee thereof” to “approve” the prices that BMS reported to the publications, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS refers Plaintiff to BMS’s response to Request for Admission No. 3. In response to this Interrogatory, BMS also states it has already produced or will produce to Plaintiff the documents and information in its possession, custody and control concerning the prices at which BMS sells its products to wholesalers. In particular, BMS directs Plaintiff to the testimony of Zoltan Szabo and Gregory K. Bell, Ph.D. (including deposition testimony from MDL 1456 and written and oral testimony in the trial of the Class 2 and 3 claims in MDL 1456).

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

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Production No. 3 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this request to the extent it seeks documents or information regarding drugs that are not at issue in this action. BMS further objects to this Request on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “all.” In addition, BMS objects to this request on the basis that it is not relevant to Plaintiff’s claims because the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, did not utilize WAC as a basis for reimbursement for prescription drugs in the Wisconsin Medicaid Program. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS states it has already produced or will produce to Plaintiff the documents and information in its possession, custody and control concerning the prices at which BMS sells its products to wholesalers. In particular, BMS directs Plaintiff to the testimony of Zoltan Szabo and Gregory K. Bell, Ph.D. (including deposition testimony from MDL 1456 and written and oral testimony in the trial of the Class 2 and 3 claims in MDL 1456).

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 AWP’s 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 the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Admission No. 4 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this request to the extent it seeks documents or information regarding drugs that are not at issue in this action. BMS further objects to this Request on the grounds that the terms “average wholesale prices,” “true average prices,” “wholesalers,” “customers,” “your drugs,” and “reported” are vague, ambiguous and grossly overbroad, confusing and undefined. Additionally, BMS objects to this request to the extent that it incorrectly implies that AWP was intended to equal an average price charged by wholesalers to their customers and that BMS had access to such information. BMS states that it has been widely known for decades, including by state Medicaid agencies such as the State of Wisconsin, that AWP’s are not mathematical averages of prices paid by pharmacies but rather are benchmarks that may exceed pharmacy acquisition costs. Moreover, BMS objects to this request for admission insofar as it suggests that BMS determined, calculated or reported AWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS denies this request for admission. BMS further states that it does not set, determine or calculate AWP’s. Moreover, BMS states that it does not report AWP information to any individual or entity, including First DataBank (or any other publication). AWP’s are determined by the pricing publications.

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 the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Interrogatory No. 4 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this interrogatory to the extent it seeks documents or information regarding drugs that are not at issue in this action. BMS further objects to this interrogatory on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “state all bases” and “all.” In addition, BMS objects to this interrogatory insofar as it suggests that BMS determined, calculated or reported AWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement,

General Objections, Objections to Definitions and Specific Objections, BMS refers Plaintiff to BMS's response to Request for Admission No. 4. In response to this Interrogatory, BMS also states it has already produced to Plaintiff the documents and information in its possession, custody and control concerning the prices that BMS reports to the publications, including First DataBank. In particular, BMS directs Plaintiff to the testimony of Denise Kaszuba and Zoltan Szabo (including deposition testimony from MDL 1456 and testimony in the trial of the Class 2 and 3 claims in MDL 1456).

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

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Production No. 4 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this request to the extent it seeks documents or information regarding drugs that are not at issue in this action. BMS further objects to this Request on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language "all." In addition, BMS objects to this request insofar as it suggests that BMS determined, calculated or reported AWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS states it has already produced to Plaintiff the documents and information in its possession, custody and control concerning the prices that BMS reports to the publications, including First DataBank. In particular, BMS directs Plaintiff to the testimony of Denise Kaszuba and Zoltan Szabo (including deposition testimony from MDL 1456 and testimony in the trial of the Class 2 and 3 claims in MDL 1456).

CONSOLIDATED DISCOVERY REQUEST NO. 5

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 the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Admission No. 5 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this request to the extent it seeks documents or information regarding drugs that are not at issue in this action. BMS further objects to this Request on the grounds that the terms "suggested wholesale prices," "true average prices,"

“wholesalers,” “customers,” “your drugs,” and “reported” are vague, ambiguous and grossly overbroad, confusing and undefined. In addition, BMS objects to Request for Admission No. 5 on the basis that it is not relevant to Plaintiff’s claims because the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, did not utilize SWP as a basis for reimbursement for prescription drugs in the Wisconsin Medicaid Program. Moreover, BMS objects to this request for admission insofar as it suggests that BMS determined, calculated or reported SWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS denies this request for admission. BMS further states that it does not report SWP information to any individual or entity, including First DataBank (or any other publication).

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 the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Interrogatory No. 5 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this interrogatory to the extent it seeks documents or information regarding drugs that are not at issue in this action. BMS further objects to this interrogatory on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “state all bases” and “all.” In addition, BMS objects to Interrogatory No. 5 on the basis that it is not relevant to Plaintiff’s claims because the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, did not utilize SWP as a basis for reimbursement for prescription drugs in the Wisconsin Medicaid Program. Moreover, BMS objects to this interrogatory insofar as it suggests that BMS determined, calculated or reported SWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS refers Plaintiff to BMS’s response to Request for Admission No. 5. In response to this Interrogatory, BMS also states it has already produced to Plaintiff the documents and information in its possession, custody and control concerning the prices that BMS reports to the publications, including First DataBank. In particular, BMS directs Plaintiff to the testimony of Denise Kaszuba and Zoltan Szabo (including deposition testimony from MDL 1456 and testimony in the trial of the Class 2 and 3 claims in MDL 1456).

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

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Production No. 5 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this request to the extent it seeks

documents or information regarding drugs that are not at issue in this action. BMS further objects to this Request on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “all.” Moreover, BMS objects to this request insofar as it suggests that BMS determined, calculated or reported SWP information to any individual or entity, including First DataBank. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS further states that it has already produced to Plaintiff the documents and information in its possession, custody and control concerning the prices that it reports to the publications, including First DataBank. In particular, BMS directs Plaintiff to the testimony of Denise Kaszuba and Zoltan Szabo (including deposition testimony from MDL 1456 and testimony in the trial of the Class 2 and 3 claims in MDL 1456).

CONSOLIDATED DISCOVERY REQUEST NO. 6

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 the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Admission No. 6 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this request on the grounds that the terms “wholesale acquisition costs,” “reported,” “true average prices,” “net of discounts,” “rebates,” “chargebacks,” “incentives,” “wholesalers” and “your drugs,” are grossly overbroad, vague, ambiguous, confusing and undefined. BMS further objects to this Request for Admission to the extent it seeks documents or information regarding drugs that are not at issue in this action. Additionally, BMS objects to Request for Admission No. 6 on the basis that it is not relevant to Plaintiff’s claims because the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, did not utilize WAC as a basis for reimbursement for prescription drugs in the Wisconsin Medicaid Program. BMS also objects to this request to the extent it incorrectly implies that WAC was intended to equal the net amount paid by wholesalers. BMS 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 discounts or other price concessions referred to above. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS denies this request for admission. BMS further states that it does not provide WACs to First DataBank; rather, BMS provides WLP information to First DataBank. BMS also states that a list price, by definition, does not include the discounts or other price concessions referred to above. Furthermore, BMS states that documents indicating this well-known fact 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.

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 the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Interrogatory No. 6 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this interrogatory to the extent it seeks documents or information regarding drugs that are not at issue in this action. BMS further objects to this interrogatory on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “state all bases” and “all.” Moreover, BMS objects to Interrogatory No. 6 on the basis that it is not relevant to Plaintiff’s claims because the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, did not utilize WAC as a basis for reimbursement for prescription drugs in the Wisconsin Medicaid Program. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS refers Plaintiff to BMS’s response to Request for Admission No. 6. Furthermore, in response to this Interrogatory, BMS states it has already produced or will produce to Plaintiff the documents in its possession, custody and control concerning the prices at which BMS sells its products to wholesalers. In particular, BMS directs Plaintiff to the testimony of Zoltan Szabo and Gregory K. Bell, Ph.D. (including deposition testimony from MDL 1456 and written and oral testimony in the trial of the Class 2 and 3 claims in MDL 1456).

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

RESPONSE: In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Request for Production No. 6 on the grounds that it is grossly overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. BMS also objects to this request to the extent it seeks documents or information regarding drugs that are not at issue in this action. BMS further objects to this Request on the grounds that it is vague, ambiguous and grossly overbroad with respect to the language “all.” In addition, BMS objects to this request on the basis that it is not relevant to Plaintiff’s claims because the State of Wisconsin, its Department of Health & Family Services, or any employee thereof, did not utilize WAC as a basis for reimbursement for prescription drugs in the Wisconsin Medicaid Program. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and Specific Objections, BMS states it has already produced or will produce to Plaintiff the documents and information in its possession, custody and control concerning the prices at which BMS sells its products to wholesalers. In particular, BMS directs Plaintiff to the testimony of Zoltan Szabo and Gregory K. Bell, Ph.D. (including deposition testimony from MDL 1456 and written and oral testimony in the trial of the Class 2 and 3 claims in MDL 1456).

Dated: June 16, 2008

Respectfully Submitted,

GODFREY & KAHN, S.C.

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Certificate of Service

I, Adam C. Briggs, 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®.


Adam C. Briggs