
STATE OF WISCONSIN,

Plaintiff,

v.

AMGEN INC., et. al.,

Defendants.

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Case No.: 04-CV-1709

**THE JOHNSON & JOHNSON DEFENDANTS' RESPONSES
AND OBJECTIONS TO PLAINTIFF'S REQUESTS FOR ADMISSION TO
JOHNSON & JOHNSON AND ITS SUBSIDIARY DEFENDANTS**

Pursuant to Wisconsin Rule of Civil Procedure 804.11, Johnson & Johnson, Janssen, L.P., McNeil-PPC, Inc., Ortho Biotech Products., L.P., and Ortho-McNeil Pharmaceutical, Inc. (the "J&J Defendants"), by their attorneys, hereby serve their objections and responses to Plaintiff's Requests for Admission to Johnson & Johnson and Its Subsidiary Defendants ("Requests") as follows:

GENERAL OBJECTIONS

1. By responding to these Requests, the J&J Defendants do not waive or intend to waive: (a) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, of information provided in response to the Requests; (b) the right to object on any ground to the use of the information provided in response to the Requests at any hearing, trial, or other point during the litigation; (c) the right to object on any ground at any time to a demand for further response to the Requests; or (d) the right at any time to revise, correct, add to, supplement, or clarify any of the responses to the Requests contained herein consistent with the applicable rules.

2. The information and responses supplied herein are for use in this litigation and for no other purposes or litigations.

3. The responses made herein are based on J&J Defendants' inquiry to date of those sources within their control where they reasonably believe responsive information may exist. The J&J Defendants reserve the right to amend or supplement these responses in accordance with the applicable rules and Court orders.

4. No objection made herein, or lack thereof, is an admission by the J&J Defendants as to the existence of non-existence of any information.

5. The provision of information in response to these Requests shall not be construed as a waiver of the confidentiality of such information.

6. Unless expressly admitted, each and every Request for Admission is hereby denied.

7. The J&J Defendants expressly incorporate all of the General Objections set forth below into the specific objections to each of the Requests. Any specific objections provided below are made in addition to these General Objections and failure to reiterate a General Objection below does not constitute a waiver of that or any other objection.

8. The J&J Defendants object to the Requests to the extent they seek information outside the knowledge, possession, custody, or control of the J&J Defendants or their agents or employees, or that are more appropriately sought from third parties to whom requests have been or may be directed.

9. The J&J Defendants object to the Requests to the extent they seek information relating to the J&J Defendants' activities other than those which concern Wisconsin, on the ground that such information is not relevant to the subject matter of the pending action.

10. The J&J Defendants object 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. By way of illustration, the J&J Defendants object to the Requests to the extent that they relate to drugs that are not at issue in this action and/or to entities that are not party to it.

11. The J&J Defendants object to these Requests to the extent they are overly broad, unduly burdensome, ambiguous and vague.

12. The J&J Defendants object to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in these Requests.

SPECIFIC RESPONSES TO REQUESTS

Subject to the General Objections, and without waiving and expressly preserving all such objections, which are hereby incorporated into the response to each of the Requests, the J&J Defendants respond to the Plaintiff's individually numbered Requests as follows:

1. *Exhibits 1-5 are true and correct copies of documents which were reviewed, signed and sent to The Redbook by Suzann Lowery acting on behalf of Johnson & Johnson/Merck Consumer Pharmaceuticals Co. on or about the dates shown thereon.*

Response: The J&J Defendants object to this Request on the ground that it seeks 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, as it relates to an entity that is not party to this action.

2. *Exhibits 6, 7 and 8 are true and correct copies of documents received from Red Book by Melanie Berstler and/or David Mitchell, employees of Ortho-McNeil Pharmaceuticals, or another Johnson & Johnson subsidiary, on or about the dates they bear.*

Response: To date, the J&J Defendants have been unable to determine whether these documents were received from Red Book by Melanie Berstler and/or David Mitchell, on or about the dates they bear. The J&J Defendants' investigation will continue.

3. *Exhibit 9 is a true and correct copy of a document which was reviewed, signed and sent to Redbook by Ron Krawczyk acting on behalf of Centocor, Inc., a Johnson & Johnson subsidiary, on or about the dates it bears.*

Response: The J&J Defendants object to this Request on the ground that it seeks 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, as it relates to an entity that is not party to this action.

4. *Exhibit 10 is a true and correct copy of a multi-page document that was sent to and received by Donna at Centocor, Inc., from Red Book, to be delivered to Ron Krawczyk of Centocor.*

Response: The J&J Defendants object to this Request on the ground that it seeks 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, as it relates to an entity that is not party to this action.

5. *As exhibit 11 shows, as of 9/24/1999-9/23/2003 it was the policy of Janssen Pharmaceutica Products, L.P., (hereinafter Janssen Pharmaceutica or Janssen) to communicate an AWP to Red Book which was calculated by adding 20% to any direct, wholesale and list price.*

Response: The J&J Defendants object to this Requests on the ground that the words "policy" and "as of 9/24/1999-9/23/2003" are ambiguous and vague. Notwithstanding and without waiving the foregoing objection and the general objections, the J&J Defendants state that in general Janssen derived a suggested AWP to transmit to Red Book by multiplying the WAC by 120% and that Janssen has since ceased transmitting suggested AWP's to Red Book.

6. *As exhibit 11 shows, as of 9/23/2003 Janssen Pharmaceutica replaced the policy of supplying AWP's to Red Book and began supplying a direct price and a "suggested AWP."*

Response: Denied.

7. *As exhibit 11 shows, as of June 1, 2005 Janssen Pharmaceutica told Red Book that it will no longer supply an AWP. In response Red Book informed Janssen that it would publish an AWP for Janssen calculated by adding 20% to the WAC or direct price furnished it by Janssen.*

Response: The J&J Defendants object to this Requests on the ground that the phrases "as of June 1, 2005 Janssen Pharmaceutica told" and "will no longer supply" are ambiguous and vague. Notwithstanding and without waiving the foregoing objection and the general objections, the J&J Defendants state that after Janssen ceased transmitting suggested AWP's to Red Book, Red Book, upon information and belief, continued to publish AWP's which Red Book derived by multiplying the WAC or direct price by 120%.

8. *Exhibit 12 is a true and correct copy of a letter sent to Ronnie Lane of Red Book, by Flora Bryant, Business Coordinator, Johnson & Johnson on or about April 18, 2003.*

Response: Admitted.

9. *Exhibit 13 is a true and correct copy of a letter announcing a price change sent to Ronnie Lane of Red Book by Flora Bryant, Business Coordinator, Johnson & Johnson, on or about the date it bears.*

Response: Denied.

10. *Exhibit 14 is a true and correct copy of a Red Book Product Listing Verification sent to Red Book by Daniel Watts of Janssen Pharmaceutica on or about the date it bears.*

Response: To date, the J&J Defendants have been unable to determine whether Exhibit 14 is a true and correct copy of a Red Book Product Listing Verification sent to Red Book by Daniel Watts of Janssen Pharmaceutica on or about the date it bears. The J&J Defendants' investigation will continue.

11. *Exhibit 15 is a true correct copy of materials Daniel Watts reviewed and sent to Red Book on behalf of Janssen Pharmaceutica in or about the date they bear.*

Response: To date, the J&J Defendants have been unable to determine whether Exhibit 15 is a true correct copy of materials Daniel Watts reviewed and sent to Red Book on behalf of Janssen Pharmaceutica in or about the date they bear. The J&J Defendants' investigation will continue.

12. *Exhibit 16 is a true and correct copy of an email received by Bill Parks, Director of Trade Relations of Janssen, from Kristen Camus of Red Book and a subsequent e-mail he sent back to her on or about the date they bear.*

Response: Admitted except as to notations apparently added by the custodian of the document.

13. *Exhibit 17 is a true and correct copy of a price change notification sent to Red Book by Bill Parks, Director, Trade Relations of Janssen on or about the date it bears.*

Response: Admitted except as to notations apparently added by the custodian of the document.

14. *Exhibit 18 is a true and correct copy of document sent to, and received by, Suzann Lowery, Reimbursement Administrator, McNeil Consumer and Specialty Pharmaceuticals, by Traci Kellam of Red Book on or about the date it bears.*

Response: To date, the J&J Defendants have been unable to determine whether Exhibit 18 is a true and correct copy of document sent to, and received by, Suzann Lowery, Reimbursement Administrator, McNeil Consumer and Specialty Pharmaceuticals, by Traci Kellam of Red Book on or about the date it bears. The J&J Defendants' investigation will continue.

15. *Exhibits 19 and 20 are true and correct copies of letters sent to Carol Flanagan of Red Book by Suzann Lowery, Reimbursement Administrator, on behalf of McNeil Consumer Healthcare on or about the date they bear.*

Response: To date, the J&J Defendants have been unable to determine whether Exhibits 19 and 20 are true and correct copies of letters sent to Carol Flanagan of Red Book by Suzann Lowery on or about the date they bear. The J&J Defendants' investigation will continue.

16. *Exhibit 21 is a true and correct copy of a letter and attachments (Red Book 09455-09468) sent to Carol Flanagan of Red Book by Suzann Lowery, Product Reimbursement Administrator, on behalf of McNeil Consumer Healthcare on or about the date it bears.*

Response: To date, the J&J Defendants have been unable to determine whether Exhibit 21 is a true and correct copy of a letter and attachments sent to Carol Flanagan of Red Book by Suzann Lowery on or about the date it bears. The J&J Defendants' investigation will continue.

17. *Exhibit 22 is a true and correct copy of a multi-page document sent to Johnson & Johnson/Merck Consumer Pharmaceuticals Co., by Red Book which was reviewed, initialed and signed by Suzann Lowery and sent back to Red Book on behalf of Johnson & Johnson/Merck Consumer Pharmaceuticals on or about the date it bears.*

Response: The J&J Defendants object to this Request on the ground that it seeks 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, as it relates to an entity that is not party to this action.

18. *Exhibit 23 is a true and correct copy of a multi-page document sent to Johnson & Johnson/Merck Consumer Pharmaceutical Co. by Red Book which was reviewed, initialed and signed by Suzann Lowery and sent back to Red Book on behalf of Johnson & Johnson/Merck on or about the date it bears.*

Response: The J&J Defendants object to this Request on the ground that it seeks 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, as it relates to an entity that is not party to this action.

19. *Exhibit 24 is a true and correct copy of a multi-page document sent to Ortho-McNeil Pharmaceutical Corporation (Ortho-McNeil) by Red Book which was reviewed, initialed and signed by Joan Handel on behalf of Ortho-McNeill on or about the date it bears.*

Response: Admitted except as to select notations apparently added by the custodian of the document.

20. *Exhibit 25 is a true and correct copy of a multi-page document sent to Ortho McNeil Pharmaceutical Corporation (Ortho-McNeil) by Red Book which was reviewed, initialed and signed by Joan Handel on behalf of Ortho-McNeil on or about the date it bears.*

Response: Denied.

21. *Exhibit 26 is a true and correct copy of a multi-page document sent to Ortho-McNeil Pharmaceutical Corporation (Ortho-McNeil) by Red Book which was reviewed, initialed and signed by Joan Handel on behalf of Ortho-McNeil on or about the date it bears.*

Response: The J&J Defendants object to this Request on the ground that the phrase “on or about the date it bears” is ambiguous and vague in the context of this document.

22. *Exhibit 27 is a true and correct copy of a multi-page document sent to direct purchasing accounts of Ortho-McNeil Pharmaceutical Corporation (Ortho-McNeil) and to Red Book by Luis Valcarcel, Director Trade Development, and Tim Gribben, Director Retail Trade Development on behalf of Ortho-McNeil on or about the date it bears.*

Response: Denied.

23. *Exhibit 28 is a true and correct copy of a document sent to, and received by, Fran Kleinbard of Ortho-Clinical Diagnostics, Inc. from Red Book on or about the date it bears.*

Response: The J&J Defendants object to this Request on the ground that it seeks 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, as it relates to an entity that is not party to this action.

24. *Exhibit 29 correctly notes that the markup history for Ortho-Clinical Diagnostics, Inc., (Diagnostics) was that on May 29, 2001 and in prior years, Diagnostics provided Red Book with an AWP list of their products, and on August 25, 2005 Fran Kleinbard notified Red Book that Diagnostics would not supply an AWP and received, in turn, a letter from Red Book that it will print an AWP for Diagnostics' products using the formula WAC + 20%.*

Response: The J&J Defendants object to this Request on the ground that it seeks 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, as it relates to an entity that is not party to this action.

January 4, 2008

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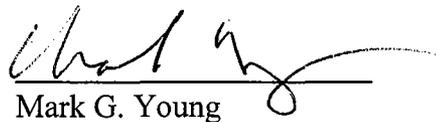


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Certificate of Service

I, Mark G. Young, hereby certify that on this 4th day of January 2008, a true and correct copy of the previously served THE JOHNSON & JOHNSON DEFENDANTS' RESPONSES AND OBJECTIONS TO PLAINTIFF'S REQUESTS FOR ADMISSION TO JOHNSON & JOHNSON AND ITS SUBSIDIARY DEFENDANTS was served on all counsel of record by Lexis Nexis File & Serve®.



Mark G. Young