



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.

(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.

(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.

(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.

#### Instructions for Interrogatories

(1) In answering these interrogatories, you are required to furnish all information that is available to you or subject to reasonable inquiry by you, including information in your possession, or the possession of your attorneys, and anyone else subject to your, or your attorneys’ control.

(2) These interrogatories should always be interpreted to be inclusive rather than exclusive, including interpreting the following as appropriate: the singular form of a word as plural, and vice versa; “and” to include “or,” and vice versa; the past tense to include the present tense, and vice versa.

(3) In responding to these interrogatories, preface each answer by restating the interrogatory to which it is addressed. If an interrogatory has subparts, answer each subpart separately and in full and do not limit your answer to the interrogatory as a whole. If you are unable to answer an interrogatory fully, submit as much information as is available, explain why your answer is incomplete, and state the source or sources from which a complete or more complete answer may be obtained.

(4) You have a duty to seasonably supplement or amend any answer or response whenever new or additional information subsequently becomes known to you.

#### Instructions for Requests for Admissions

(1) Each matter of which admission is requested is admitted unless, within 30 days after service of the request, you serve upon plaintiff a written answer or objection addressed to the matter, signed by you or your attorney.

(2) If objection is made, the reasons therefore shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why you cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that you qualify an answer or deny only a part of the matter of which an admission is requested, you shall specify so much of it as is true and qualify or deny the remainder.

(3) You may not give lack of information or knowledge as a reason for failure to admit or deny unless you state that you have made reasonable inquiry and that the information known or readily obtainable by you is insufficient to enable you to admit or deny.

(4) If you consider that a matter of which an admission has been requested presents a genuine issue for trial, you may not, on that ground alone, object to the request.

(5) If you fail or refuse to admit the truth of any request of fact hereinafter set forth, and the Plaintiff hereafter proves its truth, you may be required to pay the reasonable expenses incurred by the Plaintiff in making such proof, including attorneys' fees.

#### Instructions for Request for Production of Documents

(1) You have a duty to seasonably supplement any response to the extent of documents which subsequently come into your possession or control or become known to you.

#### Instructions for All Discovery Requests

(1) If you object, in whole or in part, to any request for admission, interrogatory, or request for production of documents, state with specificity the full objection(s) and the particularized basis for each objection. To the extent that you object to any portion of an interrogatory, you must respond to the remaining portion of the interrogatory to which you do not object.

(2) If you object to any request for admission, interrogatory, or request for production of documents in whole or in part on the basis of any claimed privilege, provide the following information for each communication or information for which you claim a privilege:

- (a) the type of communication or information (e.g., meeting, phone call, letter, data);
- (b) the date of the communication or information;

- (c) the identity of the author of any written communication, the speaker of any oral communication or the source of any information;
- (d) the identity of all persons who received or had access to any written communication or information and all persons present during any oral communication;
- (e) the subject matter of the communication or information;
- (f) the location of any information, written communication and recordings of any oral communication; and
- (g) the factual and legal basis on which you claim privilege.

**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:

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:

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

RESPONSE:

**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:

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:

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

RESPONSE:

**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:

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:

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

RESPONSE:

**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:

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:

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

RESPONSE:

**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:

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:

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

RESPONSE:

**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:

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:

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

RESPONSE:

Dated this 15th day of May, 2008.

s/ Charles Barnhill  
One of Plaintiff's Attorneys

J.B. VAN HOLLEN  
Attorney General  
FRANK D. REMINGTON  
Assistant Attorney General  
State Bar #1001131  
Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 266-3542 (FDR)

CHARLES BARNHILL  
State Bar #1015932  
ELIZABETH J. EBERLE  
State Bar #1037016  
ROBERT S. LIBMAN  
Admitted Pro Hac Vice

BENJAMIN J. BLUSTEIN  
Admitted Pro Hac Vice  
Miner, Barnhill & Galland, P.C.  
44 East Mifflin Street, Suite 803  
Madison, WI 53703  
(608) 255-5200

P. Jeffrey Archibald  
State Bar # 1006299  
Archibald Consumer Law Office  
1914 Monroe St.  
Madison, Wisconsin 53711  
(608) 661-8855

Attorneys for Plaintiff,  
State of Wisconsin

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15th of May, 2008, I caused a true and correct copy of the foregoing pleadings Plaintiff State of Wisconsin's First Set of Consolidated Discovery Requests to All Defendants to be electronically served upon all counsel of record by transmission to LexisNexis File & Serve.

s/ Charles Barnhill \_\_\_\_\_

MINER, BARNHILL & GALLAND, P.C.  
44 East Mifflin Street, Suite 803  
Madison, WI 53703  
(608) 255-5200