



3. Sandoz objects to the First Consolidated Requests to the extent the requests are vague, ambiguous, cumulative, duplicative, overly broad, overly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the subject matter involved in this action or to the extent they seek documents or information beyond those permitted by the Wisconsin Rules of Civil Procedure and other applicable Wisconsin law.

4. By objecting to the First Consolidated Requests Sandoz does not in any way waive or intend to waive: (a) any objections as to the competency, relevancy, materiality, privilege or admissibility as evidence, for any purpose, of any information or documents that may be provided or produced in response to the First Consolidated Requests; (b) any objections as to the vagueness, ambiguity, or other infirmity in the form of any Interrogatory, Request for the Production of Documents, or Request for Admission; (c) any objections based on the undue burden imposed by any Interrogatory, Request for the Production of Documents, or Request for Admission; (d) any objections to the use of the documents or information that may be produced in response to the First Consolidated Requests at any hearings or at trial; (e) any objections to any further interrogatory, request for the production of documents, or request for admission involving or related to the subject matter of the First Consolidated Requests; and (f) any privileges, rights, or immunity under the Wisconsin Rules of Civil Procedure, Rules of Evidence, statutes, or common law.

5. By stating herein that Sandoz objects to a particular Interrogatory, Request for the Production of Documents, or Request for Admission, Sandoz does not assert that it has responsive documents or information or that such material exists, only that it agrees that, at the appropriate time, it will conduct a reasonable search of its files most likely to contain responsive

documents or information and produce responsive, non-objectionable, non-privileged documents revealed by such investigation. No objection made herein, or lack thereof, is an admission by Sandoz as to the existence or non-existence of any documents or information.

6. Sandoz' discovery and investigation in this matter are continuing and, therefore, Sandoz responds to these Requests based upon information that is in its possession currently. Pursuant to Section 804.01(5) of the Wisconsin Rules of Civil Procedure, Sandoz reserves its right to amend, supplement, and/or withdraw any objection set forth herein on the basis of documents or information found during its investigation or any discovery that might be taken in this action. Sandoz expressly reserves its right to rely, at any time including trial, upon subsequently discovered documents, information or information omitted from any response as a result of mistake, oversight or inadvertence.

7. Sandoz objects to each Definition, Instruction, Interrogatory, Request for the Production of Documents, and Request for Admission to the extent that it imposes discovery obligations greater than, or inconsistent with, Sandoz' obligations under the Wisconsin Rules of Civil Procedure, statutes, common law or local rules and to the extent that the State seeks discovery beyond that permitted by such Wisconsin law.

8. Sandoz objects to each Definition, Instruction, Interrogatory, Request for the Production of Documents, and Request for Admission to the extent it seeks information or documents protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity or protection against disclosure. Any inadvertent production of any privileged or protected information or document by Sandoz shall not constitute a specific or general waiver of any privilege or protection and shall not preclude Sandoz from objecting to disclosure on any other basis.

9. Sandoz objects to each Definition, Instruction, Interrogatory, Request for the Production of Documents, and Request for Admission to the extent it seeks the production of proprietary or commercially sensitive information, including, but not limited to, personal financial information, confidential or proprietary research, procedures and processes relating to the pricing of pharmaceuticals, current and past marketing plans and methods, and current and past business planning and financial information. Sandoz' production of any document or provision of information pursuant to these First Consolidated Requests shall not be construed as a waiver of confidentiality of any such document or information.

10. Sandoz objects to each Definition, Instruction, Interrogatory, Request for the Production of Documents, and Request for Admission to the extent it requires Sandoz to disclose information or produce documents outside of Sandoz' possession, custody, or control or no longer in existence, to seek information about or produce documents from persons not currently employed or associated with Sandoz, or to provide or search for information or documents in the possession, custody or control of non-parties. At the appropriate time, Sandoz will only disclose information and produce documents that are within its possession, custody or control.

11. Sandoz objects to each Definition, Instruction, Interrogatory, Request for the Production of Documents, and Request for Admission to the extent it seeks information or documents already in the State's possession, custody, or control or in the possession, custody, or control of any of the State's officers, employees, agents, agencies or departments. Sandoz further objects to each Definition, Instruction, Interrogatory, Request for the Production of Documents, and Request for Admission to the extent it requires Sandoz to search for information publicly available or to search for information or documents for which the burden of deriving or

ascertaining the information or documents is substantially the same or less for the State or any of its officers, employees, agents, agencies or departments as it is for Sandoz.

12. Sandoz objects to each Definition, Instruction, Interrogatory, Request for the Production of Documents, and Request for Admission to the extent it is duplicative or redundant of other Definitions, Instructions, Interrogatories, Requests for the Production of Documents, and Requests for Admission or other discovery requests propounded by the State. Each document that might, at the appropriate time, be produced in response to a specific Interrogatory, Request for the Production of Documents, and Request for Admission is deemed to be produced in response to every other Interrogatory, Request for the Production of Documents, and Request for Admission or discovery request of the State to which the written response, document or information is or may be responsive.

13. Sandoz objects to each Definition, Instruction, Interrogatory, Request for the Production of Documents, and Request for Admission as unduly burdensome to the extent the use of the terms “each,” “any” or “all” seeks the provision or production of all documents on a subject matter. Subject to and without waiver of this obligation, and subject to resolution of Sandoz’ other objections set forth herein, Sandoz agrees that at an appropriate time it will produce non-privileged documents that are located following a reasonable search of those Sandoz files that are most likely to contain documents or information responsive to these Document Requests.

14. Sandoz reserves the right to seek reimbursement from the State for the cost of producing electronic data and documents.

15. Sandoz objects to any implications and to any explicit or implicit characterization of facts, events, circumstances or issues in the First Consolidated Requests. Sandoz’ written

response or production of documents or information in connection with a particular Interrogatory, Request for the Production of Documents, and Request for Admission is not intended to indicate that Sandoz agrees with any implication or any explicit or implicit characterization of facts, events, circumstances or issues in the First Consolidated Requests, or that such implications or characterizations are relevant to this action.

16. Any documents and information produced in response to the First Consolidated Requests are for use in this litigation only and for no other purpose, and may not be shared with any non-party to this action absent express permission by and compliance with any protective or confidentiality order that may be entered by the Court in this action.

17. Sandoz objects to the First Consolidated Requests as overly broad, unduly burdensome, cumulative, duplicative, and harassing in light of the substantial discovery already provided by Sandoz in this case.

18. Sandoz objects to Plaintiff's "Definitions" to the extent that they purport to expand upon or alter Sandoz' obligations under the Wisconsin Rules of Civil Procedure and Court orders.

19. Sandoz objects to the Definition of "document" set forth in Definition Paragraph No. 1 to the extent that they seek to impose discovery obligations that are broader than, or inconsistent with, Sandoz' obligations under the Wisconsin Rules of Civil Procedure. Sandoz further objects to the extent these Definitions would require Sandoz to: (a) produce multiple copies of the same document; (b) conduct an unduly burdensome search for duplicative information including, among other things, electronic databases containing overlapping information; (c) produce documents or data in a particular format; (d) convert documents or data into a particular format; (e) search for and/or produce any documents or data on back-up tapes or

from locations not reasonably accessible; (f) produce any proprietary software, data, programs or databases; or (g) violate any licensing agreement, copyright laws, or proprietary rights of third parties.

20. Sandoz objects to the Definition of “Identify” as set forth in Definition Paragraph No. 2 on the grounds that, taken together with the requests for production, admission, and interrogatories using this defined term, it is overly broad and unduly burdensome.

21. Sandoz objects to the Definition of “Incentive” as set forth in Definition Paragraph No. 3 on the grounds that it is overly broad, unduly burdensome, ambiguous and vague, particularly with respect to the language “chargeback,” “pharmaceutical,” “anything of value,” “provided,” “customer,” “reward a customer or other party for purchasing, promoting, prescribing, dispensing or administering a pharmaceutical or course of treatment,” “lowering the cost of a pharmaceutical to the customer in any way, regardless of the time the ‘incentive’ was provided,” “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.” Sandoz further objects on the grounds that defining “payments or proposed payments in cash or in kind, chargebacks, credits, discounts such as return-to-practice discounts, prompt-pay discounts, volume discounts, on-invoice discounts, 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" as per se "incentives" is argumentative.

22. Sandoz objects to the Definitions of "you" and "your" set forth in Definitions Paragraph No. 3 as overbroad, unduly burdensome, and vague and ambiguous, and on the grounds that the Definitions as applied would impose discovery obligations beyond those set forth in the Wisconsin Rules of Civil Procedure. Sandoz further objects that these Definitions would require Sandoz to speculate as to "any other person or entity acting on behalf or purporting to act on your behalf." Sandoz also objects to these Definitions to the extent that they extend or purport to extend to any corporate entity other than Sandoz Inc., or to the extent they include or purport to include persons other than the present officers, directors, employees, agents, attorneys or representatives of Sandoz who have knowledge of the events relevant to the instant litigation. Sandoz will only disclose information and produce documents within the possession, custody or control of Sandoz Inc.

23. Sandoz objects to Plaintiff's "Instructions" to the extent that they purport to expand upon or alter Sandoz' obligations under the Wisconsin Rules of Civil Procedure and Court orders.

24. Sandoz objects to Instruction for Interrogatories Paragraphs 1-4 to the extent they seek to impose obligations beyond those required by the Wisconsin Rules of Civil Procedure and the Local Rules. Sandoz will provide the State answers or objections as required by the Wisconsin Rules of Civil Procedure.

25. Sandoz objects to the Instruction set forth in Instructions for Requests for Production of Documents Paragraph No. 2 to the extent that it imposes or purports to impose

discovery obligations greater than, or inconsistent with, Sandoz' obligations under the Wisconsin Rules of Civil Procedure, statutes and common law, and to the extent that the State seeks discovery beyond that permitted by Wisconsin law. If Sandoz asserts the attorney-client privilege, the work-product doctrine, or any other applicable privilege or protection against disclosure, Sandoz will provide the State with a privilege log at the completion of Sandoz' search and production in response to the First Consolidated Requests. Any inadvertent production of any privileged or protected information or document by Sandoz shall not constitute a specific or general waiver of any privilege or protection and shall not preclude Sandoz from objecting to disclosure on any other basis.

26. Sandoz objects to the Instruction set forth in Instructions for Requests for Production of Documents Paragraph No. 2 to the extent that it imposes or purports to impose discovery obligations greater than, or inconsistent with, Sandoz' obligations under the Wisconsin Rules of Civil Procedure, statutes and common law, and to the extent that the State seeks discovery beyond that permitted by Wisconsin law. If Sandoz asserts the attorney-client privilege, the work-product doctrine, or any other applicable privilege or protection against disclosure, Sandoz will provide the State with a privilege log at the completion of Sandoz' search and production in response to the First Consolidated Requests. Any inadvertent production of any privileged or protected information or document by Sandoz shall not constitute a specific or general waiver of any privilege or protection and shall not preclude Sandoz from objecting to disclosure on any other basis.

27. Sandoz objects to the Instructions set forth in Instructions for Requests for Admission Paragraphs No. 3-5 to the extent that they impose or purport to impose discovery obligations greater than, or inconsistent with, Sandoz' obligations under the Wisconsin Rules of

Civil Procedure, statutes and common law, and to the extent that the State seeks discovery beyond that permitted by Wisconsin law.

28. Sandoz objects to the Instruction set forth in Instructions for Request for Production of Documents Paragraph No. 4 to the extent that it imposes or purports to impose discovery obligations greater than, or inconsistent with, Sandoz' obligations under the Wisconsin Rules of Civil Procedure, statutes and common law, and to the extent that the State seeks discovery beyond that permitted by Wisconsin law.

29. Sandoz objects to the Instruction set forth in Instructions for All Discovery Requests Paragraph No. 1 to the extent it seeks to impose obligations beyond those required by the Wisconsin Rules of Civil Procedure and the Local Rules. Sandoz will provide the State answers or objections as required by the Wisconsin Rules of Civil Procedure.

### **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:** Sandoz objects to Request for Admission No. 1 on the grounds that it is overly broad and unduly burdensome to the extent it is not limited to the drugs at issue in this litigation. Sandoz further objects to the undefined phrases “employee,” “average wholesale prices,” “AWPs,” “true average prices,” and “customers” as vague and ambiguous. Such a complicated question and compound request is improper under Section 804.11(b) of the Wisconsin Rules of Civil Procedure, which requires a party to set forth facts singly in a simple and concise manner, so that they can be readily and coherently admitted or denied. Sandoz also objects to Request for Admission No. 1 on the grounds that it falsely implies that “the State of Wisconsin, its

Department of Health & Family Services, or any employee thereof” were supposed to “approve” the suggested AWP’s provided by Sandoz to FirstDataBank. Sandoz further objects to this Request to the extent that it falsely implies that AWP was intended to equal an average price charged by wholesalers to their customers and that Sandoz had access to such information. Additionally, Sandoz objects to this Request as premature, because the State has refused to produce discovery related to the substance of this Request. Subject to and without waiving the foregoing objections or the General Objections, Sandoz responds as follows:

Denied, except Sandoz states that it has been widely known for decades, including by state Medicaid agencies such as that in the State of Wisconsin, that published AWP’s were not mathematical averages of prices paid by pharmacies but rather benchmarks that exceeded average pharmacy acquisition costs. Sandoz further refers Plaintiff to Sandoz’ Response to the Amended Motion for Partial Summary Judgment on Liability Against Defendant Sandoz Inc. With Respect to Counts I and II of Wisconsin’s Second Amended Complaint, Filed by the State of Wisconsin, filed on January 15, 2008.

**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:** Sandoz incorporates its objections to Request for Admission No. 1 and objects to Interrogatory No. 1 on the grounds that it is overly broad, unduly burdensome, vague and ambiguous. Sandoz further objects to the phrases “practice,” “approval,” and “communication” as vague and ambiguous. Sandoz also objects to Interrogatory No. 1 to the extent it seeks information protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity, or protection against disclosure. Sandoz further objects to this Interrogatory to the extent that it explicitly or implicitly characterizes any facts, events, circumstances, or issues in question. Sandoz also objects to this Interrogatory to the extent it requires Sandoz to disclose information outside of Sandoz’ possession, custody, or control or no longer in existence, to seek information about persons not currently employed or associated with Sandoz, or to provide or search for information or documents in the possession, custody, or control of non-parties. Sandoz further objects to this Request to the extent it requires Sandoz to search for information publicly available or to search for information or documents for which the burden of deriving or ascertaining the information or documents is substantially the same or less for the State or any of its officers, employees, agents, agencies, or departments as it is for Sandoz. Furthermore, Sandoz objects to this Request as premature, because this Interrogatory seeks information largely in the hands of Plaintiff, and the State has refused to produce discovery related to the substance of this Request.

Subject to and without waiving the foregoing objections or the General Objections, Sandoz directs Plaintiff to Sandoz’ Response to the Amended Motion for Partial Summary Judgment on Liability Against Defendant Sandoz Inc. With Respect to Counts I and II of Wisconsin’s Second Amended Complaint, Filed by the State of Wisconsin, filed on January 15, 2008.

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

**RESPONSE:** See Sandoz' Responses to Request for Admission No. 1 and Interrogatory No. 1.

Sandoz further responds that this Request seeks documents or information equally available to Plaintiff or already in Plaintiff's custody or control.

### **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:** Sandoz objects to Request for Admission No. 2 on the grounds that it is overly broad and unduly burdensome to the extent it is not limited to the drugs at issue in this litigation. Sandoz further objects to the undefined phrases "employee," "suggested wholesale prices," "SWPs," "true average prices," and "customers" as vague and ambiguous. Such a complicated question and compound request is improper under Section 804.11(b) of the Wisconsin Rules of Civil Procedure, which requires a party to set forth facts singly in a simple and concise manner, so that they can be readily and coherently admitted or denied. Sandoz also objects to Request for Admission No. 2 on the grounds that SWPs are not relevant to Plaintiff's claims because the State of Wisconsin did not use SWPs as a basis for reimbursement in the Wisconsin Medicaid Program. Furthermore, Sandoz objects to this Request as premature, because the State has refused to produce discovery related to the substance of this Request. Subject to and without waiving the foregoing objections or the General Objections, Sandoz responds as follows:

Sandoz cannot admit or deny this Request because it does not address a "practice" of Sandoz.

**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:

- i. identify whether the approval was made verbally or in writing;
- ii. identify the person(s) who approved the practice;
- iii. identify the date(s) on which the approval was made;
- iv. state whether the approval was communicated to you;
- v. if the approval was communicated to you, state whether the communication was made verbally or in writing;
- vi. if the approval was communicated to you, identify the date of such communication(s);
- vii. if the approval was communicated to you, identify the person(s) who made the communication(s);
- viii. if the approval was communicated to you, identify the person(s) who received the communication(s);
- ix. identify all documents relating to the approval of the practice;
- x. identify all documents relating to the communication of the approval to you.

**RESPONSE:** See Sandoz’ Response to Request for Admission No. 2 and its Response to Interrogatory No. 1.

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

**RESPONSE:** See Sandoz’ Response to Request for Admission No. 2. Sandoz further responds that this Request seeks documents or information equally available to Plaintiff or already in Plaintiff’s custody or control.

### **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:** Sandoz objects to Request for Admission No. 3 on the grounds that it is overly broad and unduly burdensome to the extent it is not limited to the drugs at issue in this litigation. Sandoz further objects to the undefined phrases “employee,” “wholesale acquisition costs,” “WACs,” “true average prices,” “customers,” and “incentives” as vague and ambiguous. Furthermore, such a request is improper, confusing and misleading because it conflates two

transactions: sales from Sandoz to the wholesaler and sales between the wholesaler and its customer. Such a complicated question and compound request is improper under Section 804.11(b) of the Wisconsin Rules of Civil Procedure, which requires a party to set forth facts singly in a simple and concise manner, so that they can be readily and coherently admitted or denied. Sandoz also objects to this Request on the grounds that it falsely implies that “the State of Wisconsin, its Department of Health & Family Services, or any employee thereof” were supposed to “approve” Sandoz’ WACs. Additionally, Sandoz objects to this Request to the extent it falsely implies that WAC was intended to equal the net amount paid by wholesalers. Furthermore, Sandoz objects to this Request as premature, because the State has refused to produce discovery related to the substance of this Request. Subject to and without waiving the foregoing objections or the General Objections, Sandoz responds as follows:

Denied, except Sandoz states that it has been widely known, including by state Medicaid agencies such as that in the State of Wisconsin, that WAC is a list price for pharmaceutical products that does not include “discounts, rebates, chargebacks and incentives.” Sandoz further refers Plaintiff to Sandoz’ Response to the Amended Motion for Partial Summary Judgment on Liability Against Defendant Sandoz Inc. With Respect to Counts I and II of Wisconsin’s Second Amended Complaint, Filed by the State of Wisconsin, filed on January 15, 2008.

**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:

- i. identify whether the approval was made verbally or in writing;
- ii. identify the person(s) who approved the practice;
- iii. identify the date(s) on which the approval was made;
- iv. state whether the approval was communicated to you;
- v. if the approval was communicated to you, state whether the communication was made verbally or in writing;
- vi. if the approval was communicated to you, identify the date of such communication(s);
- vii. if the approval was communicated to you, identify the person(s) who made the communication(s);

- viii. if the approval was communicated to you, identify the person(s) who received the communication(s);
- ix. identify all documents relating to the approval of the practice;
- x. identify all documents relating to the communication of the approval to you.

**RESPONSE:** Sandoz incorporates its objections to Request for Admission No. 3, and objects to Interrogatory No. 3 on the grounds that it is overly broad, unduly burdensome, vague and ambiguous. Sandoz further objects to the phrases “practice,” “approval,” and “communication” as vague and ambiguous. Sandoz also objects to Interrogatory No. 3 to the extent it seeks information protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity, or protection against disclosure. Sandoz further objects to this Interrogatory to the extent that it explicitly or implicitly characterizes any facts, events, circumstances, or issues in question. Sandoz also objects to this Interrogatory to the extent it requires Sandoz to disclose information outside of Sandoz’ possession, custody, or control or no longer in existence, to seek information about persons not currently employed or associated with Sandoz, or to provide or search for information or documents in the possession, custody, or control of non-parties. Sandoz further objects to this Request to the extent it requires Sandoz to search for information publicly available or to search for information or documents for which the burden of deriving or ascertaining the information or documents is substantially the same or less for the State or any of its officers, employees, agents, agencies, or departments as it is for Sandoz. Furthermore, Sandoz objects to this Request as premature, because the State has refused to produce discovery related to the substance of this Request.

Subject to and without waiving the foregoing objections or the General Objections, Sandoz directs Plaintiff to Sandoz’ Response to the Amended Motion for Partial Summary Judgment on Liability Against Defendant Sandoz Inc. With Respect to Counts I and II of

Wisconsin's Second Amended Complaint, Filed by the State of Wisconsin, filed on January 15, 2008.

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

**RESPONSE:** See Sandoz' Response to Interrogatory No. 3. Sandoz further states that this Request seeks documents or information equally available to Plaintiff or already in Plaintiff's custody or control.

#### **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:** Sandoz objects to Request for Admission No. 4 on the grounds that it is overly broad and unduly burdensome to the extent it is not limited to the drugs at issue in this litigation. Sandoz further objects to the undefined phrases "employee," "average wholesale prices," "AWPs," "true average prices," and "customers" as vague and ambiguous. Such a complicated question and compound request is improper under Section 804.11(b) of the Wisconsin Rules of Civil Procedure, which requires a party to set forth facts singly in a simple and concise manner, so that they can be readily and coherently admitted or denied. Sandoz also objects to this Request to the extent that it falsely implies that AWP was intended to equal an actual price paid by customers of wholesalers. Subject to and without waiving the foregoing objections or the General Objections, Sandoz responds as follows:

After reasonable inquiry, the information known or readily available to Sandoz is insufficient to enable Sandoz to enable Sandoz to admit or deny this Request as it pertains to

purchases of Sandoz drugs from entities other than Sandoz, because Sandoz does not have access to information regarding prices charged by wholesalers to their customers.

**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:** See Sandoz' Response to Request for Admission No. 4.

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

**RESPONSE:** See Sandoz' Responses to Request for Admission No. 4 and Interrogatory No. 4.

#### **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:** Sandoz objects to Request for Admission No. 5 on the grounds that it is overly broad and unduly burdensome to the extent it is not limited to the drugs at issue in this litigation. Furthermore, such a request is improper, confusing and misleading because it conflates two transactions: sales from Sandoz to the wholesaler and sales between the wholesaler and its customer. Sandoz further objects to the undefined phrases "employee," "suggested wholesale prices," "SWPs," "true average prices," and "customers" as vague and ambiguous. Such a complicated question and compound request is improper under Section 804.11(b) of the Wisconsin Rules of Civil Procedure, which requires a party to set forth facts singly in a simple and concise manner, so that they can be readily and coherently admitted or denied. Subject to and without waiving the foregoing objections or the General Objections, Sandoz responds as follows:

Sandoz cannot admit or deny this Request because it does not address a practice of Sandoz.

**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:** See Sandoz' Response to Request for Admission No. 5.

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

**RESPONSE:** See Sandoz' Response to Request for Admission No. 5.

#### **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:** Sandoz objects to Request for Admission No. 6 on the grounds that it is overly broad and unduly burdensome to the extent it is not limited to the drugs at issue in this litigation. Sandoz further objects to the undefined phrases "wholesale acquisition costs," "WACs," "true average prices," "customers," and "incentives" as vague and ambiguous. Sandoz further objects to this Request as improper, confusing and misleading because it conflates two transactions: sales from Sandoz to the wholesaler and sales between the wholesaler and its customer. Such a complicated question and compound request is improper under Section 804.11(b) of the Wisconsin Rules of Civil Procedure, which requires a party to set forth facts singly in a simple and concise manner, so that they can be readily and coherently admitted or denied. Subject to

and without waiving the foregoing objections or the General Objections, Sandoz responds as follows:

Denied.

**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:** Sandoz incorporates its objections to Request for Admission No. 6, and objects to Interrogatory No. 6 on the grounds that it is overly broad, unduly burdensome, vague and ambiguous. Sandoz further objects to this Request as improper, confusing and misleading because it conflates two transactions: sales from Sandoz to the wholesaler and sales between the wholesaler and its customer.

Subject to and without waiving the foregoing objections or the General Objections, Sandoz responds that there is no factual support for the assumption that a WAC represents an average of prices. Sandoz further responds that it has produced transaction data for the drugs at issue. Sandoz also directs Plaintiff to the deposition testimony of Christopher Worrell, Armando Kellum, and Kevin Galownia regarding the WACs reported by Sandoz to First DataBank and the use of WAC by Sandoz. Sandoz further refers Plaintiff to Sandoz' Response to the Amended Motion for Partial Summary Judgment on Liability Against Defendant Sandoz Inc. With Respect to Counts I and II of Wisconsin's Second Amended Complaint, Filed by the State of Wisconsin, filed on January 15, 2008. Finally, Sandoz refers to numerous 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 regarding WAC.

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

**RESPONSE:** See Sandoz' Response to Interrogatory No. 6.

Dated this 16th day of June, 2008.

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CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2008, I caused a true and correct copy of DEFENDANT SANDOZ INC.'S RESPONSES AND OBJECTIONS TO PLAINTIFF STATE OF WISCONSIN'S FIRST SET OF CONSOLIDATED DISCOVERY REQUESTS TO ALL DEFENDANTS to be served on all counsel of record by electronic service, by sending a copy of LexisNexis File & Serve for posting and notification to all parties.

/s/ Lara A. Berwanger

Lara A. Berwanger