

II. PARTIES AND JURISDICTION.

2. Sandoz denies the allegations contained in paragraph 2 insofar as they pertain to Sandoz, except admits that the State purports to bring this action in its capacity as sovereign. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 2 and therefore denies them.

3. Sandoz denies the allegations contained in paragraph 3 insofar as they pertain to Sandoz, except admits that it sells generic pharmaceutical products in the United States. Sandoz states that it is without knowledge or information to form a belief as to the truth of the remaining allegations of paragraph 3 and therefore denies them.

4. Sandoz responds that the allegations contained in paragraph 4 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 and therefore denies them.

5. Sandoz responds that the allegations contained in paragraph 5 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 and therefore denies them.

6. Sandoz responds that the allegations contained in paragraph 6 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 and therefore denies them.

7. Sandoz responds that the allegations contained in paragraph 7 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be

required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 and therefore denies them.

8. Sandoz responds that the allegations contained in paragraph 8 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 and therefore denies them.

9. Sandoz responds that the allegations contained in paragraph 9 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer is required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 and therefore denies them.

10. Sandoz responds that the allegations contained in paragraph 10 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10 and therefore denies them.

11. Sandoz responds that the allegations contained in paragraph 11 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11 and therefore denies them.

12. Sandoz responds that the allegations contained in paragraph 12 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12 and therefore denies them.

13. Sandoz responds that the allegations contained in paragraph 13 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13 and therefore denies them.

14. Sandoz responds that the allegations contained in paragraph 14 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14 and therefore denies them.

15. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15(a), except admits that the principal place of business of Novartis Pharmaceuticals Corporation is East Hanover, New Jersey. Sandoz further admits that its principal place of business is 506 Carnegie Center, Suite 400, Princeton, NJ 08540-6243, that it is a wholly owned subsidiary of Novartis Pharmaceuticals Corporation and that it develops, manufactures, and sells generic pharmaceuticals. Sandoz also states that it is a Colorado corporation, and that the company, misidentified in the Complaint as “Sandoz, Inc.,” was formerly known as “Geneva Pharmaceuticals, Inc.” Sandoz denies the remaining allegations of paragraph 15.

16. Sandoz responds that the allegations contained in paragraph 16 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16 and therefore denies them.

17. Sandoz responds that the allegations contained in paragraph 17 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be

required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17 and therefore denies them.

18. Sandoz responds that the allegations contained in paragraph 18 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18 and therefore denies them.

19. Sandoz responds that the allegations contained in paragraph 19 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19 and therefore denies them.

20. Sandoz responds that the allegations contained in paragraph 20 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20 and therefore denies them.

21. Sandoz responds that the allegations contained in paragraph 21 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21 and therefore denies them.

22. Sandoz responds that the allegations contained in paragraph 22 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22 and therefore denies them.

23. Sandoz responds that the allegations contained in paragraph 23 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23 and therefore denies them.

24. Paragraph 24 contains legal conclusions as to which no answer is required. To the extent that an answer may be required, Sandoz denies the allegations of paragraph 24 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 24 and therefore denies them.

25. Paragraph 25 contains legal conclusions as to which no answer is required. To the extent that an answer may be required, Sandoz denies the allegations of paragraph 25 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 25 and therefore denies them.

III. FACTUAL BACKGROUND

A. The Market For Prescription Drugs.

26. Sandoz admits that it manufactures generic drugs and sells those drugs directly or indirectly to its customers, which include pharmacies and other entities. Sandoz denies the remaining allegations contained in paragraph 26 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 26 and therefore denies them.

27. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 27 and therefore denies them.

28. Sandoz denies the allegations contained in paragraph 28 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 28 and therefore denies them.

29. Sandoz denies the allegations contained in paragraph 29 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 29 and therefore denies them.

30. Sandoz denies the allegations contained in paragraph 30 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 30 and therefore denies them.

B. The Purpose of the Medicaid Program and How it Responds to the Complexity of the Drug Markets.

31. Paragraph 31 contains legal conclusions as to which no answer is required. To the extent that an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31 and therefore denies them.

32. Sandoz denies the allegations contained in paragraph 32 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 32 and therefore denies them.

33. Paragraph 33 contains legal conclusions as to which no answer is required. To the extent that an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 33 and refers to the cited relevant statutes and regulations.

34. Sandoz denies the allegations contained in paragraph 34 as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 34 and therefore denies them.

35. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 35 and therefore denies them.

36. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 36 and therefore denies them.

37. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 37 and therefore denies them.

38. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 38 and therefore denies them.

39. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 39 and therefore denies them.

C. Defendant's Corruption of the Government Medicaid Assistance Programs.

40. Sandoz denies the allegations contained in paragraph 40 as they pertain to Sandoz. Sandoz is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 40 and therefore denies them.

41. Sandoz denies the allegations contained in paragraph 41 as they pertain to Sandoz. Sandoz is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 41 and therefore denies them.

42. Sandoz denies the allegations contained in paragraph 42 as they pertain to Sandoz. Sandoz is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 42 and therefore denies them.

43. Sandoz denies the allegations contained in paragraph 43 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 43 and therefore denies them.

44. Sandoz responds that the allegations contained in paragraph 44 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 44 and therefore denies them.

45. Sandoz responds that the allegations contained in paragraph 45 are directed to another Defendant and do not require an answer from Sandoz. To the extent an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45 and therefore denies them.

46. Sandoz denies that Exhibit C lists any drugs manufactured by Sandoz and denies that Plaintiff has accurately summarized the cited report. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 46 and therefore denies them.

47. Sandoz responds that the allegations contained in paragraph 47 are directed to other Defendants and do not require an answer from Sandoz. To the extent that an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 47 and therefore denies them.

48. Sandoz denies the allegations contained in paragraph 48 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 48 and therefore denies them.

49. Sandoz denies the allegations contained in paragraph 49 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 49 and therefore denies them.

IV. DEFENDANTS' EXACERBATION OF THE COMPLEXITIES OF THE MARKET AND AFFIRMATIVE CONCEALMENT OF THEIR WRONGDOING.

50. Sandoz denies the allegations contained in paragraph 50 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 50 and therefore denies them.

51. Sandoz denies the allegations contained in paragraph 51 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 51 and therefore denies them.

52. Sandoz denies the allegations contained in paragraph 52 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 52 and therefore denies them.

53. Sandoz denies the allegations contained in paragraph 53 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 53 and therefore denies them.

54. Sandoz denies the allegations contained in paragraph 54 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 54 and therefore denies them.

55. Sandoz denies the allegations contained in paragraph 55 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 55 and therefore denies them.

56. Sandoz denies the allegations contained in paragraph 56 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 56 and therefore denies them.

57. Sandoz denies the allegations contained in paragraph 57 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 57 and therefore denies them.

58. Sandoz denies the allegations contained in paragraph 58 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 58 and therefore denies them.

59. Sandoz denies the allegations contained in paragraph 59 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 59 and therefore denies them.

60. Sandoz denies the allegations contained in paragraph 60 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 60 and therefore denies them.

V. THE INJURY TO GOVERNMENTAL HEALTH PLANS CAUSED BY DEFENDANTS' FALSE WHOLESALE PRICES.

A. The Wisconsin Medicaid Program.

61. Sandoz admits that Medicaid is a joint state and federal program which pays for medical care, including prescription drug benefits, for citizens of a participating state. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations continued in paragraph 61 and therefore denies them.

62. Paragraph 62 contains legal conclusions as to which no answer is required. To the extent that an answer may be required, Sandoz states that it is without knowledge or

information sufficient to form a belief as to the truth of the allegations of paragraph 62 and therefore denies them.

63. Paragraph 63 contains legal conclusions as to which no answer is required. To the extent that an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 63 and refers to the cited relevant statutes.

64. Sandoz denies the allegations contained in paragraph 64 to the extent they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 64 and therefore denies them.

65. Sandoz denies the allegations contained in paragraph 65 to the extent they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 65 and therefore denies them.

66. Sandoz denies the allegations contained in paragraph 66 to the extent they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 66 and therefore denies them.

B. Medicare.

67. Paragraph 67 contains legal conclusions as to which no answer is required. To the extent that an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 67 and refers to the cited statutes.

68. Paragraph 68 contains legal conclusions as to which no answer is required. To the extent that an answer may be required, Sandoz states that it is without knowledge or

information sufficient to form a belief as to the truth of the allegations of paragraph 68 and refers to the cited statutes.

69. Paragraph 69 contains legal conclusions as to which no answer is required. To the extent that an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 69 and therefore denies them.

70. Sandoz denies the allegation that the AWP is falsely reported, insofar as it pertains to Sandoz. The rest of paragraph 70 contains legal conclusions as to which no answer is required. To the extent that an answer may be required, Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 70 and refers to the relevant statutes.

71. Sandoz denies the allegations contained in paragraph 71 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 71 and therefore denies them.

VI. DEFENDANTS' CONDUCT WAS INTENTIONALLY IN DISREGARD OF ESTABLISHED LAW.

72. Sandoz denies the allegations contained in paragraph 72 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 72 and therefore denies them.

73. Sandoz denies the allegations contained in paragraph 73 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 73 and therefore denies them.

74. Paragraph 74 contains legal conclusions as to which no answer is required. To the extent that an answer may be required, Sandoz states that it is without knowledge or

information sufficient to form a belief as to the truth of the remaining allegations of paragraph 74 and refers to the cited statutes.

75. Sandoz denies the allegations contained in paragraph 75 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 75 and therefore denies them.

76. Sandoz denies the allegations contained in paragraph 76 to the extent they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 76 and therefore denies them.

77. Sandoz denies the allegations contained in paragraph 77 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 77 and therefore denies them.

VII. HARM TO WISCONSIN AND ITS CITIZENS.

78. Sandoz denies the allegations contained in paragraph 78 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 78 and therefore denies them.

COUNT I — Violation of Wis. Stat. § 100.18(1)

79. Sandoz incorporates by reference its answers to paragraphs 1 through 78 above.

80. Sandoz denies the allegations contained in paragraph 80 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 80 and therefore denies them.

81. Sandoz denies the allegations contained in paragraph 81 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 81 and therefore denies them.

82. Sandoz denies the allegations contained in paragraph 82 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 82 and therefore denies them.

COUNT II — Violation of Wis. Stat. § 100.18(10)(b)

83. Sandoz incorporates by reference its answers to paragraphs 1 through 82 above.

84. Sandoz denies the allegations contained in paragraph 84 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 84 and therefore denies them.

85. Sandoz denies the allegations contained in paragraph 85 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 85 and therefore denies them.

86. Sandoz denies the allegations contained in paragraph 86 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 86 and therefore denies them.

COUNT III — Violation Of the Wisconsin Trust And Monopolies Act

87. Sandoz incorporates by reference its answers to paragraphs 1 through 86.

88. Sandoz denies the allegations contained in paragraph 88 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 88 and therefore denies them.

89. Sandoz denies the allegations contained in paragraph 89 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 89 and therefore denies them.

90. Sandoz denies the allegations contained in paragraph 90 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 90 and therefore denies them.

91. Sandoz denies the allegations contained in paragraph 91 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 91 and therefore denies them.

**COUNT IV — VIOLATION OF WIS. STAT. § 49.49(4m)(a)(2)
MEDICAL ASSISTANCE FRAUD**

92. Sandoz incorporates by reference its answers to paragraphs 1 through 91 above.

93. Sandoz admits that it produces and sells generic pharmaceutical products for which the State makes a payment. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 93 and therefore denies them.

94. Sandoz denies the allegations contained in paragraph 94 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 94 and therefore denies them.

95. Sandoz denies the allegations contained in paragraph 95 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 95 and therefore denies them.

COUNT V — Unjust Enrichment

96. Sandoz incorporates by reference its answers to paragraphs 1 through 95 above.

97. Sandoz denies the allegations contained in paragraph 97 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 97 and therefore denies them.

98. Sandoz denies the allegations contained in paragraph 98 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 98 and therefore denies them.

99. Sandoz denies the allegations contained in paragraph 99 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 99 and therefore denies them.

100. Sandoz denies the allegations contained in paragraph 100 insofar as they pertain to Sandoz. Sandoz states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 100 and therefore denies them.

AFFIRMATIVE DEFENSES

By making the assertions set forth below, Sandoz does not allege or admit that it has the burden of proof and/or the burden of persuasion with respect to any of these assertions or that Plaintiff is relieved of its burdens to prove each and every element of its claims and the damages, if any, to which it is entitled. As and for its affirmative defenses, Sandoz states as follows:

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim against Sandoz upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

The State's unjust enrichment claims are barred, in whole or in part, because the State has no authority to bring such claims either on behalf of itself or on behalf of Medicare Part B participants.

THIRD AFFIRMATIVE DEFENSE

Plaintiff has no standing or capacity to bring some or all of the claims raised in this suit to recover Medicaid or Medicare expenditures or to seek injunctive relief related to either of these programs.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff has not suffered, and will not suffer, any injury to a legally protected or cognizable interest by reason of the conduct of Sandoz as alleged in the Complaint.

FIFTH AFFIRMATIVE DEFENSE

To the extent Plaintiff obtains recovery in any other case predicated on the same factual allegations, Plaintiff is barred from seeking recovery against Sandoz based on the Complaint pursuant to the doctrines of res judicata and collateral estoppel, and the prohibition on double recovery for the same injury.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the First Amendment to the United States Constitution and the analogous provisions of the Constitution of the State of Wisconsin.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the filed rate doctrine.

EIGHTH AFFIRMATIVE DEFENSE

Any and all actions taken by Sandoz with respect to any of the matters alleged in the Complaint were taken in good faith and in accordance with established industry practice

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims are preempted, in whole or in part, by federal law, including without limitation the Federal Employment Retirement Income and Security Act of 1974, the

Federal Medicare Act, and the Federal Medicaid Act, including all amendments to the same and all regulations promulgated there under.

TENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are preempted by the dormant Commerce Clause of the United States Constitution.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims against Sandoz are barred because Sandoz has complied with all applicable regulations of the federal government, the State of Wisconsin and other state governments.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff's claims against Sandoz are barred, in whole or in part, by the doctrines of laches, estoppel, and waiver.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because they violate Sandoz' rights under the Due Process and Ex Post Facto clauses of the United States Constitution, as well as the Constitution of the State of Wisconsin, insofar as Plaintiff seeks to impose liability retroactively for conduct that was not actionable at the time it occurred.

FOURTEENTH AFFIRMATIVE DEFENSE

Sandoz' statements or actions were not the proximate cause or cause in fact of any injury to or alleged loss by Plaintiff.

FIFTEENTH AFFIRMATIVE DEFENSE

To the extent that Plaintiff attempts to seek equitable relief against Sandoz, it is not entitled to such relief because it has an adequate remedy at law.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims against Sandoz for injunctive relief were mooted, at least in part, by the enactment of the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims for injunctive relief against Sandoz are barred by the doctrines of in pari delicto and/or unclean hands.

EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims against Sandoz are barred, in whole or in part, due to its failure to join indispensable parties.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims against Sandoz are barred, in whole or in part, because it has suffered no damages as a result of the matters alleged in the Complaint.

TWENTIETH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because any injuries sustained by Plaintiff were the result of its own conduct or the intervening or superseding conduct of non parties.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Plaintiff's claims against Sandoz for damages are barred, in whole or in part:

(1) because it failed to mitigate its damages, and its failure to mitigate damages should proportionately reduce the recovery of Plaintiff and the allocation of any fault, if any exists, attributable to Sandoz;

(2) because it would be unjustly enriched if allowed to recover any portion of the damages alleged in the Complaint;

(3) by the doctrine of consent and/or ratification to the extent that Plaintiff has paid for products manufactured, marketed and sold by Sandoz after the filing of Plaintiff's original Complaint; and

(4) because they are speculative and remote and because of the impossibility of ascertaining and allocating of those alleged damages.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Sandoz is entitled to a set-off, should any damages be awarded against it, for the entire amount of all damages or settlement amounts recovered by Plaintiff, with respect to the same alleged injuries.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Any damages recovered by Plaintiff from Sandoz must be limited by the applicable statutory ceilings on recoverable damages.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

Plaintiff fails to allege facts or a cause of action against Sandoz sufficient to support a claim for compensatory damages, attorneys' fees and/or legal fees, or any other relief.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

To the extent penalty assessments are sought, Plaintiff's penalty assessments claims against Sandoz:

(1) have no basis in law or fact;

(2) are not recoverable because the allegations of the Complaint are legally insufficient to support a claim for penalty assessments against Sandoz;

(3) cannot be sustained because the laws regarding the standards for determining liability for and the amount of penalty assessments fail to give Sandoz prior notice of the conduct for which penalty assessments may be imposed and the severity of the penalty that may be

imposed, and are void for vagueness in violation of Sandoz' Due Process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and the Constitution of the State of Wisconsin;

(4) cannot be sustained because any award of penalty assessments exceeding the limits authorized by the laws or other comparable laws would violate Sandoz' due process and equal protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and would be improper under the Constitution, common law and laws of the State of Wisconsin;

(5) cannot be sustained because an award of penalty assessments in this case, combined with any prior, contemporaneous, or subsequent judgments against Sandoz for penalty assessments arising from the design, development, manufacture, fabrication, distribution, supply, marketing, sale, or use of Sandoz' products would constitute impermissible multiple punishments for the same wrong, in violation of Sandoz' Due Process and Equal Protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and would constitute double jeopardy in violation of the Constitution, common law, and statutory laws of the State of Wisconsin;

(6) cannot be sustained because any award of penalty assessments without the apportionment of the award separately and severally between or among the alleged joint tortfeasors, as determined by the alleged percentage of the wrong committed by each alleged tortfeasor, would violate Sandoz' Due Process and Equal Protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and would be improper under the Constitution, common law, and public policies of the State of Wisconsin; and

(7) cannot be sustained because any award of penalty assessments, which are penal in nature, without according Sandoz the same protections that are accorded to all criminal defendants, including the protection against unreasonable searches and seizures, the privilege against self-incrimination, and the rights to confront adverse witnesses, a speedy trial, and the effective assistance of counsel, would violate Sandoz' rights guaranteed by the Fourth, Fifth, and Sixth Amendment as incorporated into the Fourteenth Amendment to the United States Constitution and would be improper under the Constitution, common law, and public policies of the State of Wisconsin.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

To the extent penalty assessments are sought, Plaintiff's claims for penalty assessments against Sandoz cannot be sustained because an award of penalty assessments by a jury that:

(1) is not provided constitutionally adequate standards of sufficient clarity for determining the appropriate imposition of, and the appropriate size of, a penalty assessments award;

(2) is not adequately instructed on the limits of penalty assessments imposed by the applicable principles of deterrence and punishment;

(3) is not expressly prohibited from awarding penalty assessments, or determining the amount of an award of penalty assessments, in whole or in part on the basis of invidiously discriminatory characteristics, including without limitation the residence, wealth, and corporate status of Sandoz;

(4) is permitted to award penalty assessments under a standard for determining liability for penalty assessments that is vague and arbitrary and does not define with sufficient clarity the conduct or mental state that makes penalty assessments permissible;

(5) is not properly instructed regarding Plaintiff's burden of proof with respect to each and every element of a claim for penalty assessments; and

(6) is not subject to trial court and appellate judicial review for reasonableness and furtherance of legitimate purposes on the basis of constitutionally adequate and objective standards, would violate Sandoz' Due Process and Equal Protection rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution, and would be improper under the Constitution, common law, and public policies of the State of Wisconsin.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

To the extent penalty assessments are sought, Plaintiff's claims for penalty assessments against Sandoz cannot be sustained because an award of penalty assessments that is subject to no predetermined limit, such as a maximum multiple of compensatory damages or a maximum amount of penalty assessments that may be imposed, would:

- (1) violate Sandoz' due process rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution;
- (2) violate Sandoz' right not to be subjected to an excessive award; and
- (3) be improper under the Constitution, common law, and public policies of the State of Wisconsin.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

Some or all of Plaintiff's claims against Sandoz arise from Plaintiff's failure to follow its federal and state statutory and regulatory obligation to properly establish appropriate reimbursement rates.

TWENTY-NINTH AFFIRMATIVE DEFENSE

Plaintiff's unjust enrichment claims are barred by contracts to which the State and Sandoz are parties.

THIRTIETH AFFIRMATIVE DEFENSE

Plaintiff's claims against Sandoz are misjoined with Plaintiff's claims against other Defendants and must be severed.

THIRTY-FIRST AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the Noerr Pennington doctrine to the extent such claims are premised, in whole or in part, on alleged statements or conduct by Sandoz in judicial, legislative or administrative proceedings of any kind or at any level of government.

THIRTY-SECOND AFFIRMATIVE DEFENSE

Plaintiff failed to state with particularity and failed to plead with particularity the fraud-based allegations in the Complaint as required by Wis. Stat. § 802.03(2).

THIRTY-THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims against Sandoz are barred, in whole or in part, because Sandoz did not make or cause to be made any false statements or representation of material fact to Plaintiff, as required under Wis. Stat. § 49.49(4m)(a)(2). As to any statement asserted against Sandoz that Plaintiff alleges to be false or misleading, Sandoz had no reasonable grounds to believe, and did not believe at the time such a statement was made, that the statement was false or misleading.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

The claims alleged herein, based on the facts alleged, are barred by Plaintiff's own negligence or gross negligence.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

Plaintiff fails to allege facts or a cause of action against Sandoz sufficient to support a claim for prejudgment interest or any other relief.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

The State has no authority to seek restitution for third parties based on any alleged violation of Wis. Stat. § 49.49(4m)(a)(2).

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

Sandoz hereby gives notice that it intends to rely upon any other and additional defense that is now or may become available or appear during, or as a result of the discovery proceedings in this action and hereby reserves its right to amend its answer to assert such defense.

WHEREFORE, Sandoz prays that this Court:

1. Dismiss the Second Amended Complaint with prejudice and enter judgment in favor of Sandoz and against Plaintiff;
2. Award Sandoz its costs and expenses; and
3. Grant such other and further relief for Sandoz as this Court deems just and proper.

Dated at Milwaukee, Wisconsin this 11th day of August, 2006.

s/Shannon A. Allen

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