

STATE OF WISCONSIN, )  
 )  
 Wisconsin, )  
 )  
 v. )  
 )  
 AMGEN INC., et al., )  
 )  
 Defendants. )

Case No. 04-CV-1709  
 Unclassified - Civil: 30703

**DEFENDANTS TEVA PHARMACEUTICALS USA, INC. AND SICOR INC.’S ANSWER  
 AND DEFENSES TO THE STATE OF WISCONSIN’S  
 SECOND AMENDED COMPLAINT**

Defendant Teva Pharmaceuticals USA, Inc. (“Teva”) and its subsidiary Defendant Sisor Inc. (“Sisor”) respond to Plaintiff’s, the State of Wisconsin’s (“Wisconsin” or “Plaintiff”), Second Amended Complaint (“SAC”) as follows:

**Preface**

With respect to the introductory paragraph preceding Paragraph 1 of the SAC, Teva and Sisor admit that Peggy A. Lautenschlager is the Attorney General of the State of Wisconsin. The SAC improperly and repetitively refers to Teva and Sisor and certain other defendants and third persons, entities, or parties on a collective basis, failing to plead with requisite particularity allegations against Teva and Sisor or other defendants or third parties. Intentionally ambiguous pleading is improper and insufficient to apprise Teva and Sisor in any meaningful sense of the allegations asserted against them. Teva and Sisor have nevertheless attempted to respond to Wisconsin’s allegations to the extent possible under the circumstances. To the extent allegations

refer to the knowledge, conduct or actions of other defendants or entities, Teva and Sicor are generally without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, Teva and Sicor deny those allegations. In answering the SAC, Teva and Sicor respond only for themselves, even when the Wisconsin's allegations refer to alleged conduct by Teva and Sicor and other persons or entities.

The SAC improperly mixes factual allegations with inflammatory rhetoric so as to make it virtually impossible to respond to it meaningfully. Many of the allegations of the SAC are vague or conclusory. The SAC also includes terms which are undefined and which are susceptible to different meanings.

Teva and Sicor explicitly deny the existence of, or its participation in, any fraud or fraudulent scheme. Teva and Sicor further deny each and every allegation contained in the SAC, except as specifically herein admitted, and any factual averment admitted herein is admitted only as to the specific facts and not as to any conclusions, characterizations, implications, innuendoes or speculations which are contained in any averment or in the SAC as a whole. Moreover, Teva and Sicor specifically deny any allegations contained in headings or exhibits in the SAC.

These comments and objections are incorporated, to the extent appropriate, into each numbered paragraph of this Answer.

## **I. NATURE OF THE ACTION**

1. Teva and Sicor admit that Wisconsin purports to bring this action against them and other defendants named herein. To the extent the allegations of Paragraph 1 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor admit that they have at times provided discounts, rebates and other legal inducements for certain of its drugs to their customers. Except as admitted, Teva and Sicor deny each and every allegation contained in Paragraph 1 that pertains to them, and specifically deny that they have engaged in any unlawful scheme and/or deceptive practices in the pricing and marketing of Teva and Sicor's prescription drug products.

## **II. PARTIES AND JURISDICTION**

2. To the extent an answer is required, Teva and Sicor admit that Wisconsin purports to bring this action in its sovereign capacity. To the extent the allegations of Paragraph 2 of the SAC refer to the responsibilities, knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation contained in Paragraph 2 that pertains to them and specifically deny that they have engaged in an "unlawful conduct."

3. To the extent the allegations of Paragraph 3 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva or Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor admit that they are pharmaceutical companies. Except as admitted, Teva and Sicor deny each and every allegation contained in Paragraph 3 that pertains to them, and specifically deny that they have engaged in a “deceptive scheme.”

4. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the SAC.

5. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 and its subparts (a) through (b) of the SAC.

6. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the SAC.

7. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the SAC.

8. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the SAC.

9. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 and its subparts (a) through (d) of the SAC.

10. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the SAC.

11. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the SAC.

12. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 and its subparts (a) through (e) of the SAC.

13. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the SAC.

14. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 and its subparts (a) through (b) of the SAC.

15. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 and its subparts (a) through (b) of the SAC.

16. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the SAC.

17. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the SAC.

18. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 and its subparts (a) through (b) of the SAC.

19. Teva and Sicor admit that Wisconsin refers to them as part of the “Teva Group” in the SAC.

- a. Teva and Sicor admit the allegations in Paragraph 19(a) of the SAC concerning Teva’s principal place of business. Teva and Sicor further admit that Teva is a subsidiary of Teva Pharmaceuticals Industries, Ltd. and is engaged in the business of manufacturing and selling pharmaceuticals.
- b. Teva and Sicor deny that Ivax Corp. is engaged in the business of manufacturing and selling pharmaceuticals. Teva and Sicor admit Ivax’s principal place of business and further admit that Ivax was acquired by Teva Pharmaceutical Industries, Ltd. on January 26, 2006.

- c. Teva and Sicor admit the allegations in Paragraph 19(c) of the SAC concerning Ivax Pharm's principal place of business. Teva and Sicor further admit that Ivax Pharm is a subsidiary of Ivax Corp. and is engaged in the business of manufacturing and selling pharmaceuticals.
- d. Teva and Sicor admit the allegations in Paragraph 19(d) of the SAC concerning Sicor, Inc.'s principal place of business. Teva and Sicor admit that Sicor, Inc. is owned by Teva.

20. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the SAC.

21. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the SAC.

22. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 and its subparts (a) through (b) of the SAC.

23. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of the SAC.

24. Teva and Sicor admit that this Court has jurisdiction over Wisconsin's claims.

25. To the extent the allegations of Paragraph 25 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than the Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor are without knowledge or information as to what is meant by “substantial amounts of business there” and, therefore, they are unable to form a belief as to the truth of the allegations contained therein. Teva and Sicor admit that they do business in the State of Wisconsin and that jurisdiction and venue are proper in Dane County, Wisconsin.

### **III. FACTUAL BACKGROUND**

#### **A. The Market For Prescription Drugs.**

26. To the extent the allegations of Paragraph 26 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor admit that they manufacture and sell pharmaceutical products. Except as admitted, Teva and Sicor deny each and every allegation contained in Paragraph 26 that pertains to them.

27. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of the SAC. To the extent the allegations pertain to Teva and Sicor, they deny each and every allegation contained in Paragraph 27.

28. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of the SAC. To the extent the allegations pertain to Teva and Sicor, they deny each and every allegation contained in Paragraph 28.

29. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 of the SAC. To the extent the allegations pertain to the Teva and Sicor, they deny each and every allegation contained in Paragraph 29.

30. To the extent the allegations of Paragraph 30 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 30 that pertains to them and specifically deny engaging in any “unlawful scheme.” Further, Teva and Sicor specifically deny knowingly and intentionally creating a “spread” or inducing providers based on any “spread.”

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

31. Teva and Sicor admit that Wisconsin’s Medicaid program provides certain health services for eligible individuals, but otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 31 of the SAC.

32. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 of the SAC. To the extent the allegations pertain to Teva and Sicor, they deny each and every allegation contained in Paragraph 32, but do admit that Teva and Sicor participate in Wisconsin's Medicaid program.

33. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of the SAC. Teva and Sicor admit the existence of 42 C.F.R. § 447.331 and 42 C.F.R. § 447.301 and state that they are the best evidence of their contents. To the extent the allegations pertain to the Teva and Sicor, they deny each and every allegation contained in Paragraph 33.

34. To the extent the allegations of Paragraph 34 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor specifically deny that they have engaged in any unlawful scheme or practices in the pricing and marketing of Teva and Sicor's prescription drug products. Teva and Sicor deny each and every allegation contained in Paragraph 34 that pertains to them.

35. To the extent the allegations of Paragraph 35 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations.

Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor deny each and every allegation contained in Paragraph 35 that pertains to them.

36. To the extent the allegations of Paragraph 36 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor deny each and every allegation contained in Paragraph 36 that pertains to them.

37. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37 of the SAC. To the extent the allegations pertain to Teva and Sicor, they deny each and every allegation contained in Paragraph 37.

38. To the extent the allegations of Paragraph 38 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor deny each and every allegation contained in Paragraph 38 that pertains to them.

39. To the extent the allegations of Paragraph 39 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor deny each and every allegation contained in Paragraph 39 that pertains to them.

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

40. To the extent the allegations of Paragraph 40 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 40 that pertains to them and specifically deny that Teva and Sicor have knowingly published any false or misleading pricing information. Further, Teva and Sicor specifically deny knowingly and intentionally participating in any scheme to create any “spread.”

41. To the extent the allegations of Paragraph 41 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations.

Teva and Sicor deny each and every allegation in Paragraph 41 that pertains to them and specifically deny marketing their products by pointing out any “spread” to providers.

42. To the extent the allegations of Paragraph 42 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 42 that pertains to them.

43. To the extent the allegations of Paragraph 43 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 43 that pertains them and specifically deny inflating any pricing information.

44. To the extent the allegations of Paragraph 44 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 44 that pertains to them and specifically deny inflating any pricing information.

45. To the extent the allegations of Paragraph 45 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations.

Teva and Sicor deny each and every allegation in Paragraph 45 that pertains to them and specifically deny inflating any pricing information.

46. To the extent the allegations of Paragraph 46 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than the Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent the allegations of Paragraph 46 of the SAC represents the opinion of Wisconsin and/or its counsel or a legal conclusion, no response is required. To the extent a response is required, Teva and Sicor deny each and every allegation in Paragraph 46 that pertains to them.

47. To the extent the allegations of Paragraph 47 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 47 that pertains to them.

48. To the extent the allegations of Paragraph 48 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent the allegations of Paragraph 48 of the SAC represents the opinion of Wisconsin and/or its counsel or a legal conclusion, no response is required. To the extent a response is required, Teva and Sicor deny each and every allegation in Paragraph 48 that pertains to them.

49. To the extent the allegations of Paragraph 49 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sisor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sisor admit that they have at times provided discounts, rebates and other legal inducements for certain drugs to their customers, but specifically deny that they secretly discounted any of their prices or that they knowingly misrepresented or falsified pricing information. Except as admitted, Teva and Sisor deny each and every allegation in Paragraph 49 that pertains to them.

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

50. To the extent the allegations of Paragraph 50 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sisor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sisor deny each and every allegation in Paragraph 50 that pertains to them, and specifically deny engaging in, or concealing any “scheme.”

51. Teva and Sisor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 51 of the SAC. To the extent the allegations of Paragraph 51 of the SAC refer to Teva and Sisor, they deny each and every allegation.

52. To the extent the allegations of Paragraph 52 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sisor,

they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 52 that pertains to them, and specifically deny that they have concealed the price of their drugs.

53. To the extent the allegations of Paragraph 53 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor admit that they have at times provided discounts, rebates and other legal inducements for certain drugs to their customers, but specifically deny that they secretly discounted any of their prices or that they knowingly misrepresented or falsified pricing information. Except as admitted, Teva and Sicor deny each and every allegation in Paragraph 53 that pertains to them.

54. To the extent the allegations of Paragraph 54 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor admit that their pricing information is proprietary, but deny that they inhibit Wisconsin and other purchasers from learning the costs of drugs. Except as admitted, Teva and Sicor deny each and every allegation in Paragraph 54 that pertains to them.

55. To the extent the allegations of Paragraph 55 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than the Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations.

Teva and Sicor deny each and every allegation in Paragraph 55 that pertains to them and specifically deny that Teva and Sicor in any way obscure the price of their drugs.

56. The allegations of Paragraph 56 refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 56 that pertains to them, and specifically deny that they have engaged in any illegal practices in the marketing of their products.

57. To the extent the allegations of Paragraph 57 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 57 that pertains to them and specifically deny intentionally manipulating any reimbursement systems or competing for market share based on “spread.”

58. To the extent the allegations of Paragraph 58 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 58 that pertains to them and specifically deny engaging in any scheme, or inflating any “spread.”

59. To the extent the allegations of Paragraph 59 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are

without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 59 that pertains to them and specifically deny concealing or obscuring the price of their drugs.

60. To the extent the allegations of Paragraph 60 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 60 that pertains to them and specifically deny engaging in any scheme in the marketing of Teva and Sicor's products. Further, Teva and Sicor specifically deny participating in any unlawful scheme, or knowingly engaging in conduct that created incentives for providers based on any "spread."

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

**A. The Wisconsin Medicaid Program.**

61. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 61 of the SAC.

62. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 62 of the SAC.

63. To the extent the allegations of Paragraph 63 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor admit the existence of 42 C.F.R. § 447.332 and state that it is the best evidence of its contents. Teva and Sicor deny each and every allegation contained in Paragraph 63 that pertains to them.

64. To the extent the allegations of Paragraph 64 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor deny each and every allegation contained in Paragraph 64 that pertains to them.

65. To the extent the allegations of Paragraph 65 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor deny each and every allegation contained in Paragraph 65 that pertains to them.

66. To the extent the allegations of Paragraph 66 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are

without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor deny each and every allegation contained in Paragraph 66 that pertains to them.

**B. Medicare.**

67. Teva and Sicor admit that the federal Medicare program is a health insurance program created by the federal government, but otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 67.

68. Teva and Sicor admit that the federal Medicare Part B program provides certain health services for eligible individuals, but otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 68 of the SAC.

69. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 69 of the SAC. To the extent the allegations of Paragraph 69 of the SAC refer to Teva and Sicor, they deny each and every allegation.

70. Teva and Sicor admit the existence of 42 C.F.R. 405.517 and state that it is the best evidence of its content. Teva and Sicor deny knowledge or are without information sufficient to form a belief as to the truth of the allegations of Paragraph 70 of the SAC. Teva and Sicor deny each and every allegation contained in Paragraph 70 that pertains to them.

71. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 71 of the SAC. To the extent the allegations of Paragraph 71 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation contained in Paragraph 71 that pertains to them, and specifically deny that they published false or inflated pricing information.

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

72. To the extent the allegations of Paragraph 72 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation contained in Paragraph 72 that pertains to them. At all times alleged herein, Teva and Sicor acted in accordance with any contractual, statutory, or common law duties with respect to the State of Wisconsin.

73. To the extent the allegations of Paragraph 73 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor admit the existence of *FTC v. Colgate-Palmolive Co.*, 380 U.S. 372 (1965) and *FTC v. The Crescent Publishing Group, Inc.*, 129 F. Supp. 2d. 311 (S.D.N.Y. 2001) and state

that they are the best evidence of their contents. Teva and Sicor deny each and every allegation contained in Paragraph 73 that pertains to them.

74. To the extent the allegations of Paragraph 74 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor admit the existence of Wis. Stat. §100.18(10)(b) and state that it is the best evidence of its contents. Teva and Sicor deny each and every allegation contained in Paragraph 74 that pertains to them.

75. To the extent the allegations of Paragraph 75 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent the allegations of Paragraph 75 of the SAC represents the opinion of Wisconsin and/or its counsel or a legal conclusion, no response is required. To the extent a response is required, Teva and Sicor deny each and every allegation in Paragraph 75 that pertains to them.

76. To the extent the allegations of Paragraph 76 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent the allegations of Paragraph 76 of the SAC represents the opinion of Wisconsin and/or its counsel or a legal conclusion, no response is required. To the extent a response is required, Teva and Sicor deny each and every allegation in Paragraph 76 that pertains to them.

Teva and Sicor specifically deny that they have engaged in any unlawful scheme or practices in the pricing and marketing of their prescription drug products.

77. To the extent the allegations of Paragraph 77 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. To the extent the allegations of Paragraph 77 of the SAC represents the opinion of Wisconsin and/or its counsel or a legal conclusion, no response is required. To the extent a response is required, Teva and Sicor deny each and every allegation in Paragraph 77 that pertains to them.

#### **VII. HARM TO WISCONSIN AND ITS CITIZENS.**

78. Teva and Sicor are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 78 of the SAC concerning the Wisconsin Medicaid program. To the extent the allegations of Paragraph 78 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation contained in Paragraph 78 that pertains to them, and specifically deny that they have knowingly reported any false or inflated pricing information.

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

79. In response to the allegations in Paragraph 79 of the SAC, Teva and Sicor incorporate by reference their responses to the preceding allegations of the SAC.

80. To the extent the allegations of Paragraph 80 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny violating Wis. Stat. §100.18(1), or engaging in any unlawful scheme or practices in the pricing and marketing of their prescription drug products. Teva and Sicor deny each and every allegation contained in Paragraph 80 that pertains to them.

81. To the extent the allegations of Paragraph 81 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny violating Wis. Stat. §100.18(1) and Wis. Stat. §100.264(2) or engaging in any unlawful scheme or practices in the pricing and marketing of their prescription drug products. Teva and Sicor deny each and every allegation contained in Paragraph 81 that pertains to them.

82. To the extent the allegations of Paragraph 82 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 82 that pertains to them and specifically deny that they have knowingly reported any false or inflated pricing information.

With respect to the allegations of the unnumbered paragraph and its subparts (A) through (F) following Paragraph 82 of the SAC that begin with the word “WHEREFORE,” constitute legal conclusions to which no response is required. To the extent that a response is required, Teva and Sicor deny that Wisconsin is entitled to judgment or to any relief sought therein, but they admit the existence of Wis. Stat. §100.26(4), Wis. Stat. §100.264(2), and Wis. Stat. §100.18(11)(d) and state that they are the best evidence of their contents.

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

83. In response to the allegations in Paragraph 83 of the SAC, Teva and Sicor incorporate by reference their responses to the preceding allegations of the SAC.

84. To the extent the allegations of Paragraph 84 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny violating Wis. Stat. §100.18(10) and Wis. Stat. §100.18(10)(b) or engaging in any unlawful scheme or practices in the pricing and marketing of their prescription drug products. Teva and Sicor deny each and every allegation contained in Paragraph 84 that pertains to them.

85. To the extent the allegations of Paragraph 85 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny violating Wis. Stat. §100.18(10)(b) and Wis. Stat.

§100.264(2) or engaging in any unlawful scheme or practices in the pricing and marketing of their prescription drug products. Teva and Sicor deny each and every allegation contained in Paragraph 85 that pertains to them.

86. To the extent the allegations of Paragraph 86 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 86 that pertains to them and specifically deny that they have knowingly reported any false or inflated pricing information. With respect to the allegations of the unnumbered paragraph and its subparts (A) through (F) following Paragraph 86 of the SAC that begin with the word “WHEREFORE,” constitute legal conclusions to which no response is required. To the extent that a response is required, Teva and Sicor deny that Wisconsin is entitled to judgment or to any relief sought therein, but Teva and Sicor admit the existence of Wis. Stat. §100.26(4), Wis. Stat. §100.264(2), and Wis. Stat. §100.18(11)(d) and state that they are the best evidence of their contents.

### **COUNT III — Violation Of the Wisconsin Trust And Monopolies Act**

87. In response to the allegations in Paragraph 87 of the SAC, Teva and Sicor incorporate by reference their responses to the preceding allegations of the SAC.

88. To the extent the allegations of Paragraph 88 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor admit that they have at times provided discounts, rebates and other legal inducements for certain of their drugs to their customers. Teva and Sicor specifically deny that they have engaged in any unlawful scheme or practices in the pricing and marketing of their prescription drug products. Teva and Sicor deny each and every allegation contained in Paragraph 88 that pertains to them.

89. To the extent the allegations of Paragraph 89 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor deny each and every allegation in Paragraph 89 that pertains to them and specifically deny engaging in, or concealing any “unlawful activities.”

90. To the extent the allegations of Paragraph 90 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny violating Wis. Stat. §133.05 or engaging in any unlawful scheme or practices in the pricing and marketing of their prescription drug products. Teva and Sicor deny each and every allegation contained in Paragraph 90 that pertains to them.

91. To the extent the allegations of Paragraph 91 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sisor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sisor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sisor admit that they have at times provided discounts, rebates and other legal inducements for certain of their drugs to their customers. Teva and Sisor specifically deny that they have engaged in any unlawful scheme or practices in the pricing and marketing of their prescription drug products. Teva and Sisor deny each and every allegation contained in Paragraph 91 that pertains to them. With respect to the allegations of the unnumbered paragraph and its subparts (A) through (F) following Paragraph 91 of the SAC that begin with the word “WHEREFORE,” constitute legal conclusions to which no response is required. To the extent that a response is required, Teva and Sisor deny that Wisconsin is entitled to judgment or to any relief sought therein, but they admit the existence of Wis. Stat. §135.04(4) and state that it is the best evidence of its contents.

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

92. In response to the allegations in Paragraph 92 of the SAC, Teva and Sisor incorporate by reference their responses to the preceding allegations of the SAC.

93. To the extent the allegations of Paragraph 93 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sisor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations.

Teva and Sicor admit that they produce, market, and sell prescription drug products for which Wisconsin makes payment. Teva and Sicor deny each and every allegation contained in Paragraph 93 that pertains to them.

94. To the extent the allegations of Paragraph 94 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny violating Wis. Stat. §49.49(4m)(a)(2) or knowingly reporting any false or inflated pricing information. Teva and Sicor deny each and every allegation contained in Paragraph 94 that pertains to them.

95. To the extent the allegations of Paragraph 95 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor admit that they have at times provided discounts, rebates and other legal inducements for certain of their drugs to their customers. Teva and Sicor specifically deny that they have engaged in any unlawful scheme or practices in the pricing and marketing of its prescription drug products. Teva and Sicor deny each and every allegation contained in Paragraph 95 that pertains to them. With respect to the allegations of the unnumbered paragraph and its subparts (A) through (C) following Paragraph 95 of the SAC that begin with the word “WHEREFORE,” constitute legal conclusions to which no response is

required. To the extent that a response is required, Teva and Sisor deny that Wisconsin is entitled to judgment or to any relief sought therein, but they admit the existence of Wis. Stat. §893.87 and state that it is the best evidence of its contents.

### **COUNT V — Unjust Enrichment**

96. In response to the allegations in Paragraph 96 of the SAC, Teva and Sisor incorporates by reference their responses to the preceding allegations of the SAC.

97. To the extent the allegations of Paragraph 97 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sisor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sisor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sisor specifically deny that they have engaged in any unlawful scheme or practices in the pricing and marketing of their prescription drug products. Teva and Sisor deny each and every allegation contained in Paragraph 97 that pertains to them.

98. To the extent the allegations of Paragraph 98 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sisor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sisor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sisor specifically deny that they have engaged in any unlawful scheme or practices in the pricing and marketing of their prescription drug products. Teva and Sisor deny each and every allegation contained in Paragraph 98 that pertains to them.

99. To the extent the allegations of Paragraph 99 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor specifically deny that they have engaged in any unlawful scheme or practices in the pricing and marketing of their prescription drug products. Teva and Sicor deny each and every allegation contained in Paragraph 99 that pertains to them.

100. To the extent the allegations of Paragraph 100 of the SAC refer to the knowledge, conduct or actions of persons, entities or defendants other than Teva and Sicor, they are without knowledge or information sufficient to form a belief as to the truth of the allegations. Teva and Sicor specifically deny that they have knowingly reported any false or inflated pricing information. Teva and Sicor specifically deny that they have engaged in any unlawful scheme or practices in the pricing and marketing of their prescription drug products. Teva and Sicor deny each and every allegation contained in Paragraph 100 that pertains to them. With respect to the allegations of the unnumbered paragraph and its subparts (A) through (E) following Paragraph 100 of the SAC that begin with the word “WHEREFORE,” constitute legal conclusions to which no response is required. To the extent that a response is required, Teva and Sicor deny that Wisconsin is entitled to judgment or to any relief sought therein.

**TEVA AND SICOR'S AFFIRMATIVE DEFENSES**

**FIRST DEFENSE**

The SAC fails to state facts sufficient to state a claim upon which relief can be granted.

**SECOND DEFENSE**

Wisconsin has not suffered a legally cognizable injury as a result of the conduct of Teva and Sicor.

**THIRD DEFENSE**

Wisconsin's claims against Teva and Sicor are barred, in whole or in part, because Wisconsin has suffered no damages as a result of the matters alleged in the SAC.

**FOURTH DEFENSE**

Teva and Sicor's statements or actions were not the proximate cause or cause in fact of any injury to or alleged loss by Wisconsin.

**FIFTH DEFENSE**

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

**SIXTH DEFENSE**

Wisconsin's claims against Teva and Sicor are barred in whole or in part because the claims in the SAC did not accrue within the applicable statute of limitations periods prescribed by state, federal, and common law.

### **SEVENTH DEFENSE**

Wisconsin's claims against Teva and Sicor are barred in whole or in part by the doctrine of ratification.

### **EIGHTH DEFENSE**

Wisconsin's claims against Teva and Sicor are barred in whole or in part by the doctrine of estoppel.

### **NINTH DEFENSE**

Wisconsin's claims against Teva and Sicor are barred in whole or in part by the doctrine of waiver.

### **TENTH DEFENSE**

Wisconsin's claims against Teva and Sicor are barred in whole or in part by its failure to mitigate damages.

### **ELEVENTH DEFENSE**

Wisconsin's claims against Teva and Sicor are barred in whole or in part by the doctrine of unclean hands with regard to the matters alleged in the SAC.

### **TWELFTH DEFENSE**

Wisconsin's claims against Teva and Sicor are barred in whole or in part by the doctrine of laches.

### **THIRTEENTH DEFENSE**

Wisconsin's claims against Teva and Sicor are barred, in whole or in part, due to its failure to join indispensable parties.

#### **FOURTEENTH DEFENSE**

Teva and Sicor acted at all times in accordance with standard industry practice and in the good faith belief that their actions were lawful. Teva and Sicor also acted in reasonable reliance on statements by government officials that the industry practices complained of herein were lawful.

#### **FIFTEENTH DEFENSE**

Teva's, Ivax's, Ivax Pharm's, and Sicor's actions violated no law, and were permitted by applicable federal law.

#### **SIXTEENTH DEFENSE**

Federal law preempts Wisconsin's state law claims.

#### **SEVENTEENTH DEFENSE**

Wisconsin is neither a party to, nor a third-party beneficiary of the Rebate Agreement entered into between Teva and Sicor and the federal government and therefore lacks standing to pursue the claims asserted herein.

#### **EIGHTEENTH DEFENSE**

Wisconsin's claims for injunctive relief are moot as a result of the passage of the 2003 Medicare Modernization Act.

#### **NINETEENTH DEFENSE**

Some or all of Wisconsin's claims against Teva and Sicor arise from Wisconsin's failure to follow its federal and state statutory and regulatory obligation to set reimbursement rates at Estimated Acquisition Cost.

**TWENTIETH DEFENSE**

Wisconsin's claims are barred by the political question and separation of powers doctrines.

**TWENTY-FIRST DEFENSE**

Wisconsin's allegations as to multi-source drugs are not pled with the specificity required by Rule 9(b).

**TWENTY-SECOND DEFENSE**

Wisconsin has failed to state with particularity facts to support the fraud allegations against Teva and Sicor contained in the SAC.

**TWENTY-THIRD DEFENSE**

Wisconsin has failed to state with particularity facts to support the fraudulent misrepresentation allegations against Teva and Sicor contained in the SAC.

**TWENTY-FOURTH DEFENSE**

Wisconsin has failed to state with particularity the fraudulent suppression allegations against Teva and Sicor in the SAC.

**TWENTY-FIFTH DEFENSE**

Wisconsin's claims against Teva and Sicor for damages are barred, in whole or in part, because it would be unjustly enriched if allowed to recover any portion of the damages alleged in the SAC.

**TWENTY-SIXTH DEFENSE**

Any damages recovered from Teva and Sicor must be limited by the applicable statutory ceilings on recoverable damages.

**TWENTY-SEVENTH DEFENSE**

Wisconsin has failed to allege facts or a cause of action against Teva and Sicor sufficient to support a claim for attorneys' fees, damages and/or legal fees.

**TWENTY-EIGHT DEFENSE**

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

**TWENTY-NINTH DEFENSE**

Wisconsin's claims are barred, in whole or in part, to the extent that Wisconsin has released, settled, entered into an accord and satisfaction or otherwise compromised its claims.

**THIRTIETH DEFENSE**

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

**THIRTY-FIRST DEFENSE**

Teva and Sicor are entitled to a set-off, should any damages be awarded against it, for the entire amount of all damages or settlement amounts recovered by Wisconsin, with respect to the same alleged injuries.

**THIRTY-SECOND DEFENSE**

To the extent punitive damages are sought, Teva and Sicor are not guilty of any act or omission such as would allow punitive damages to be awarded against it.

**THIRTY-THIRD DEFENSE**

The claims of Wisconsin are barred, in whole or in part, by the *Noerr-Pennington* doctrine to the extent that such claims are premised, in whole or in part, on alleged statements or conduct by Teva and Sicor in judicial, legislative or administrative proceedings of any kind or at any level of government.

**THIRTY-FOURTH DEFENSE**

Teva and Sicor assert all applicable defenses under Wisconsin law and the Wisconsin Constitution.

**THIRTY-FIFTH DEFENSE**

Teva and Sicor adopt by reference any additional applicable defense pled by any other defendant not otherwise pled herein.

**THIRTY-SIXTH DEFENSE**

Teva and Sicor hereby give notice that they intend 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 reserve their right to amend its answer to assert such defense.

**THIRTY-SEVENTH DEFENSE**

The injuries complained of in this action were caused by the sole or concurrent negligence of persons, firms, or corporations other than Teva and Sidor, and the negligence of Teva and Sidor, if any, was not a substantial factor in causing said injuries.

**THIRTY-EIGHTH DEFENSE**

Any liability assessed against Teva and Sidor should be apportioned according to their relative degree of fault, if any.

**PRAYER FOR RELIEF**

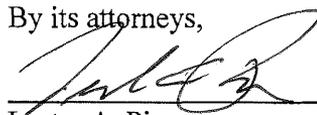
WHEREFORE, Defendants Teva and Sidor request:

- A. That Wisconsin's SAC be dismissed with prejudice, and
- B. For such further relief as the Court may deem just and proper.

Dated: August 11, 2006

DEFENDANTS TEVA PHARMACEUTICALS  
USA, INC. AND SICOR INC.

By its attorneys,



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**CERTIFICATE OF SERVICE**

I hereby certify that I, Philip F. Ackerman, an attorney, caused a true and correct copy of the foregoing Defendants Teva Pharmaceuticals USA, Inc.'s and Sicor Inc.'s Answer and Defenses to the State of Wisconsin's Second Amended Complaint to be served on all counsel of record electronically via LexisNexis File & Serve system on August 11, 2006.

/s/ Philip F. Ackerman  
Philip F. Ackerman