



illegal tactic with other deceptive practices, including the use of secret discounts and rebates to providers and the use of various devices to keep secret the prices of their drugs currently available in the market place to other purchasers. By willfully engaging in this scheme, defendants have succeeded in having Wisconsin and its citizens and third-party payers finance windfall profits to these providers in violation of Wisconsin statutes. Defendants profit from their scheme by using the lure of these windfall profits competitively to encourage providers to buy more of their drugs instead of competing in the market place solely on the basis of legitimate factors such as price and the medicinal value of their drugs.

Currently pending before this Court is Defendants' Joint Motion To Dismiss The Amended Complaint, Plaintiff State of Wisconsin's Motion For An Order Entering Qualified Protective Order, and Plaintiff State Of Wisconsin's Motion To Appoint Referee. This case has been twice removed to federal court by defendants and twice sent back with an award of attorneys' fees and costs to the State.

### **The Discovery Requests at Issue**

On January 27, 2005, the State served Sandoz with its First Set of Interrogatories to All Defendants and Plaintiff's First Set of Requests for Production of Documents to All Defendants. Sandoz's responses to these requests are attached hereto as Exhibits 1 and 2. The State's discovery requests are narrowly tailored and highly relevant to the matters at issue in this case, focusing on two main aspects of the State's claim: the *actual* prices of defendants' drugs and whether defendants use the "spread" between the actual prices and their fraudulently inflated prices to market their drugs. Although the State contends that defendants falsely inflate the prices of and create spreads for all of their drugs, the discovery requests are restricted to "Targeted Drugs" which have substantial utilization by the State in recent years.

The interrogatories which Sandoz has refused to answer consist of only five questions, generally characterized to identify and describe: (1) any “average sales price” or similar price they may have calculated for any of the Targeted Drugs; (2) any electronic database that contains pricing data; (3) any type of rebate, chargeback, discount, etc. offered with the purchase of a Targeted Drug; (4) how each price of a Targeted Drug is determined; and (5) any Targeted Drug for which defendants have included a reference to the “spread.”

Similarly, the request for production of documents is limited to only six requests, generally: (1) all national sales data for each Targeted Drug; (2) all documents containing AMPs (Average Manufacturer Price used in federal reimbursements to Medicaid programs) for any Targeted Drug; (3) all documents referring to the spread for any drug; (4) all documents containing an average sales price or similar price for any Targeted Drug; (5) all documents sent to or received from any of the three national publishers of pharmaceutical drug prices for any Targeted Drug; and (6) all documents prepared by IMS Health regarding a Targeted Drug or competitor drug regarding pricing, sales, or market share.

These requests are narrowly tailored and request information highly relevant to the State’s claims.

#### **Sandoz’s Response to the Discovery Requests**

As a result of a series of “meet and confer” discussions between counsel for the parties, the State agreed to narrow further the definition of “Targeted Drug” in the discovery requests for the first round of discovery. On May 20, 2005, the State’s counsel wrote Sandoz enclosing a list of “Targeted Drugs.” Ex. 3 (Pltf. May 20, 2005 letter with attached list).

On June 9 and June 30, 2005, respective counsel for the State and Sandoz engaged in “meet and confer” conversations by telephone regarding the State’s discovery requests. Counsel

for Sandoz was unable to provide the State with Sandoz's position as to whether it would answer the interrogatories or produce the requested documents. Rather, counsel for Sandoz stated that Sandoz's position would be set forth in its discovery responses, which Sandoz intended to file on July 15, 2005.

Those responses make clear that Sandoz does not intend to answer the interrogatories or produce the requested documents without an order of the Court. First, Sandoz states that it will not produce any documents in advance of any case management order or discovery schedule entered by this Court. Sandoz provides no basis for this position, which is contrary to the applicable rules of civil procedure.

Second, as to four of Plaintiff's five interrogatories, and one of Plaintiff's requests for production of documents, Sandoz asserts numerous boilerplate objections and provides no substantive response. As to the other interrogatory (number 2), Sandoz states that "at an appropriate time it will respond to a properly narrowed Interrogatory." Similarly, as to the remaining document requests, Sandoz states that "at an appropriate time it will produce non-privileged documents responsive to a properly narrowed request for any Sandoz drug determined to be at issue in this action."

In light of these responses, the State wrote to Sandoz advising it of the State's intention to file a motion to compel. Ex. 4 (October 3, 2005 letter to Olszowka). Additional letters of October 4 and 5 between counsel failed to solicit any commitment from Sandoz to answer the outstanding interrogatories or produce the requested documents. Exs. 5 and 6.

### **Argument**

Sandoz has refused to respond to the State's legitimate discovery requests. The State has provided Sandoz reasonable notice of its intent to compel responses. See e.g., Ex. 4. This Court,

pursuant to Wis. Stat. § 804.12 (1), has the power to compel Sandoz to respond to the State's discovery requests. It should do so forthwith.

Sandoz takes the position that it, rather than this Court, is the arbiter of which drugs are "at issue in this action" and whether a discovery request is "appropriate" or sufficiently "narrow." Sandoz offers no authority for its position. To the extent that Sandoz intends to argue that Plaintiff is only entitled to discovery as to those drugs that are specifically identified by name in the Complaint, this position has already been rejected by the Court.

In effect, Sandoz is re-arguing the defendants' March 23, 2005 motion for a stay of discovery pending resolution of the defendants' motion to dismiss, which argues, among other things, that the State must identify with specificity each drug at issue. The State opposed that motion. In response to defendants' motion, the Court ordered that discovery was stayed "until May 11, 2005, or until further order of the Court." See April 12, 2005 Order. The Court also urged the parties jointly to draft a proposed protective order to be reviewed by the Court on May 11, 2005, and urged the State to narrow further the list of drugs for the first round of discovery. The parties subsequently agreed on a Temporary Qualified Protective Order, which was entered by the Court on May 11, 2005. At the hearing, the defendants informed the Court and the State that discovery responses would begin to flow. The Court was not asked by defendants then, or at any subsequent time, to enter any further order staying discovery.

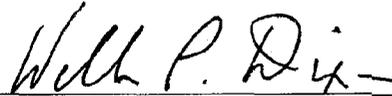
The State has done precisely what the Court encouraged it to do. Sandoz, by contrast, is stonewalling and recalcitrant. Sandoz should be ordered to respond to the State's carefully crafted discovery requests with regard to all drugs identified in the State's narrowed list of Targeted Drugs.

If the State is successful in this Motion, it requests that this Court award it the reasonable expenses incurred in bringing this Motion, including attorneys' fees. Wis. Stat. § 804.12 (1)(c) (“[i]f the motion is granted, the court shall, after opportunity for hearing, require the party ... whose conduct necessitated the motion ... to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.”).

**Conclusion**

For the foregoing reasons, the State respectfully asks this Court to compel full responses to their discovery requests and to award the State the costs and fees associated with bringing this motion.

Dated this 5<sup>th</sup> day of October, 2005.



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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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STATE OF WISCONSIN, :

Plaintiff, :

v. : Case No.: 05 C 408 C

ABBOTT LABORATORIES, et al., :

Defendants. :

-----X

**DEFENDANT SANDOZ INC.'S RESPONSES AND OBJECTIONS  
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure ("FRCP"), defendant Sandoz Inc., by its attorneys, hereby asserts its Responses and Objections to Plaintiff State of Wisconsin's ("the State") First Set of Interrogatories ("First Interrogatories"), that were served prior to the removal of this action to this Court, as follows:

In making these objections and responses, Sandoz deems the States' First Interrogatories as having been propounded under the FRCP and responds pursuant to the FRCP. The objections and written responses set forth herein are being offered pursuant to a prior agreement with counsel for the State to provide written responses to the First Document Requests on or before July 15, 2005. However, Sandoz reserves its right to seek a stay of discovery before this Court or before the court to which the multi-district litigation, In re Pharmaceutical Industry Average Wholesale Price Litigation, MDL No. 1446, has been assigned; Defendants will seek to have this action transferred to that multi-district litigation. Moreover, by

providing these responses, Sandoz does not agree to produce documents in advance of any case management order or discovery schedule entered by this Court or by the court presiding in In re Pharmaceutical Industry Average Wholesale Price Litigation.

### GENERAL OBJECTIONS

The following General Objections apply to each Definition and Interrogatory and shall have the same force and effect as if fully set forth as a Specific Objection to each Definition and Interrogatory:

1. By objecting and responding to these First Interrogatories, Sandoz does not in any way waive or intend to waive (a) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, of any information or documents that may be provided or produced in response to the First Interrogatories; (b) any objections as to the vagueness, ambiguity, or other infirmity in the form of any Interrogatory; (c) any objections based on the undue burden imposed by any Interrogatory; (d) any objections to the use of the documents or information that may be produced in response to the First Interrogatories at any hearings or at trial; (e) any objections to any further interrogatories involving or relating to the subject matter of the First Interrogatories; (f) any privileges, rights, or immunity under the applicable FRCP, Federal Rules of Evidence, statutes, or common law.

2. By stating herein that it agrees at an appropriate time to produce documents or information in response to a particular Interrogatory, Sandoz does not assert that it has responsive documents or information or that such materials exist, only that it agrees that, at the appropriate time, it will conduct a reasonable search of its files most likely to contain responsive documents or information and produce responsive, non-objectionable, non-privileged documents

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

3. To the extent that Sandoz agrees to produce at an appropriate time documents in response to an Interrogatory from which an answer to the Interrogatory may be derived or ascertained, Sandoz incorporates by reference all objections set forth in its written response to the State's First Requests for the Production of Documents.

4. Sandoz objects to the First Interrogatories as they were not upon Sandoz pursuant to the requirements of WIS. STAT. § 804.08 and in violation of the stay entered by the State of Wisconsin Circuit Court ("Wisconsin Circuit Court") in its Order dated April 8, 2005. Notwithstanding this objection, Sandoz has accepted service of the First Interrogatories. Sandoz further objects to the First Interrogatories to the extent that the State purports to amend them by the letter from its counsel, Miner, Barnhill & Galland, P.C. to counsel for Sandoz, dated May 20, 2005 in a manner unauthorized by the Wisconsin Rules of Civil Procedures or the FRCP. In making the objections and responses set forth herein, Sandoz understands the State to have merely offered, as a possible compromise, to narrow its definition of "Targeted Drugs" to the over 300 formulations of 52 drugs marketed by Sandoz that are identified in Exhibit A to that letter.

5. Sandoz objects to the First Interrogatories to the extent that they are premature and were propounded by the State in violation of the Wisconsin Circuit Court's stay entered on April 8, 2005. Sandoz further objects to the extent that the First Interrogatories are premature in that they seek a response while Defendants' motion to dismiss this action is *sub judice*. Sandoz further objects that it has had inadequate time to complete its investigation and discovery relating

to this action and any Objections set forth below are based upon, and necessarily limited to, information that has been ascertained thus far.

Pursuant to FRCP 26(e) Sandoz accordingly reserves its right to amend, supplement, and/or to withdraw any General or Specific Objection set forth herein on the basis of documents or information found during its investigation or any discovery that might be taken in this action.

6. Sandoz objects to each Definition and Interrogatory to the extent it imposes discovery obligations greater than, or inconsistent with, Sandoz's obligations under the Federal Rules of Civil Procedure and to the extent that the State seeks discovery beyond that permitted by such Rules.

7. Sandoz objects to each Definition and Interrogatory to the extent it seeks information or documents protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity, or protection against disclosure.

8. Sandoz objects to each Definition and Interrogatory to the extent it seeks the production of proprietary or commercially sensitive information, including but not limited to, personal financial information, confidential and/or proprietary research, procedures and processes relating to the pricing of pharmaceuticals, current and past marketing plans and methods, and current and past business planning and financial information. Sandoz' production of any document or provision of information pursuant to these Interrogatories shall not be constructed as a waiver of the confidentiality of any such information or document. Sandoz reserves its right to withhold production prior to the entry of a protective order by this Court or the court presiding in the MDL.

9. Sandoz objects to each Definition and Interrogatory to the extent it requires Sandoz to disclose information or produce documents outside of Sandoz' possession, custody, or

control and/or no longer in existence, to seek information about or produce documents from persons not currently employed or associated with Sandoz, or to provide or search for information or documents in the possession, custody or control of non parties. At the appropriate time, Sandoz will only disclose information and produce documents that are within its possession, custody, or control.

10. Sandoz objects to each Definition and Interrogatory to the extent it seeks information or documents already in the State's possession, custody, or control or in the possession, custody, or control of any of the State's officers, employees, agents, agencies, or departments. Sandoz further objects to each Definition and Interrogatory to the extent it requires Sandoz to search for information publicly available or to search for information or documents for which the burden of deriving or ascertaining the information or documents is substantially the same for or less the State or any of its officers, employees, agents, agencies, or departments as it is for Sandoz.

11. Sandoz objects to each Definition and Interrogatory to the extent it is duplicative or redundant of other Definitions or Interrogatories or other discovery requests propounded by the State. Each written response and/or document that may be produced in response to a specific Interrogatory is deemed to be produced in response to every other Interrogatory or discovery request of the State to which the written response, document, or information is or may be responsive.

12. Sandoz objects to each Definition and Interrogatory as unduly burdensome to the extent it seeks the provision or production of "any" or "all" documents on a subject matter. Subject to and without waiver of this objection, and subject to resolution of Sandoz' other objections set forth herein, Sandoz agrees that at an appropriate time it will produce non-

privileged documents that are located following a reasonable search of those Sandoz' files that are most likely to contain documents or information responsive to these Interrogatories.

13. Sandoz objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in the First Interrogatories. Sandoz' written response or production of documents or information in connection with a particular Interrogatory is not intended to indicate that Sandoz agrees with any implication or any explicit or implicit characterization of facts, events, circumstances, or issues in the First Interrogatories, or that such implications or characterizations are relevant to this action.

14. Sandoz objects to the definition of "Average Manufacturer Price" and "AMP" as set forth in Definition No. 1 on the grounds that it is vague and ambiguous, including the terms "the price you report or otherwise disseminate as the average manufacturer price for any Pharmaceutical that you report." Sandoz further objects to this definition to the extent that it purports to set an accurate or legally significant definition of the terms Average Manufacturer Price or AMP and refers to the statutes and regulation for the definition of this term.

15. Sandoz objects to the definition of "Chargeback" as set forth in Definition No. 2 on the grounds that it is vague and ambiguous, including the terms "payment, credit or other adjustment," "purchaser of a drug," "difference between the purchaser's acquisition cost and the price at which the Pharmaceutical was sold to another purchaser at a contract price." Sandoz further objects to this definition to the extent that it purports to set an accurate or legally significant definition of the term Chargeback and to the extent it differs from the common usage and understanding of the term in the industry.

16. Sandoz objects to the definition of "Defined Period of Time" as set forth in Definition No. 3 on the grounds that it is overly broad and unduly burdensome. Sandoz further

objects to this definition to the extent that it seeks information of documents from outside the statute of limitations applicable to the State's claims, beyond the time period relevant to this action, and beyond the time period reasonably anticipated to encompass probative information that is relevant to the claims in this action.

17. Sandoz objects to the definition of "Document" in Definition No. 4 to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, Sandoz' obligations under the FRCP. Sandoz further objects to this definition to the extent it would require Sandoz to produce multiple copies of the same document or to conduct an unduly burdensome search for duplicative information including, among other things, electronic databases containing overlapping information.

18. Sandoz objects to the definition of "Incentive" as set forth in Definition No. 5 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. Sandoz further objects to this definition to the extent that it seeks information or documents from outside the statute of limitations applicable to the State's claims, beyond the time period relevant to this action, and beyond the time period reasonably anticipated to encompass probative information that is relevant to the claims in this action.

19. Sandoz objects to the definition of "National Sales Data" as set forth in Definition No. 6 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. Sandoz objects to this definition to the extent that it seeks information or documents on "National Sales" that are not relevant to the State's claims, which are limited to reimbursements made in the State of Wisconsin. Sandoz further objects to the definition of National Sales Data to the extent it incorporates other objectionable definitions, including "Incentive" and "Targeted Drugs."

20. Sandoz objects to the definition of "Pharmaceutical" as set forth in Definition No. 7 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. Sandoz further objects to this definition to the extent that it seeks to impose on Sandoz the burden to ascertain or obtain information in the exclusive possession of its customers or other non parties to this action.

21. Sandoz objects to the definition of "Spread" as set forth in Definition No. 8 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. Sandoz further objects to this definition to the extent that it seeks to impose on Sandoz the burden to ascertain or obtain information in the possession of its customers or other non parties to this action.

22. Sandoz objects to the definition of "Targeted Drugs" as set forth in Definition No. 9 to the extent that it is vague and ambiguous and inconsistent with the drugs identified in Exhibit A to the State's letter of May 20, 2005. Sandoz further objects to this definition to the extent it seeks information from beyond the time period relevant in this litigation or information about drugs not named in the Amended Complaint on the grounds that such information is not relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

In addition, as set forth above in General Objection No. 10, Sandoz objects that this Definition requires Sandoz to undertake the burden of identifying drugs relevant to the State's claims when such information is already in the State's possession, custody, or control or in the possession, custody, or control of any of the State's officers, employees, agents, agencies, or departments, and/or the burden on the State or its officers, employees, agents, agencies or departments to identify the drugs relevant to its claims is substantially the same or less than the burden on Sandoz.

**SPECIFIC OBJECTIONS**

**Interrogatory No. 1:**

**Have you ever determined an average sales price or other composite price net of any or all Incentives for a Targeted Drug during the Defined Period of Time? If so, for each Targeted Drug for which you have made such a determination, identify:**

- (a) the beginning and ending dates of each period applicable to each such determination;
- (b) the applicable class(es) of trade for which each determination was made;
- (c) each average sales price or composite price determined;
- (d) the person(s) most knowledgeable regarding the determinations;
- (e) the methodology used to determine such prices;
- (f) your purpose(s) in making such determinations;
- (g) whether you disclosed any average sales price or composite price so determined to any publisher, customer, or governmental entity. If so, identify each publisher, customer or governmental entity to whom each such price was disclosed and the corresponding date of the disclosure; and
- (h) whether any such average sales price or composite price was treated as confidential or commercially sensitive financial information.

**Objection to Interrogatory No. 1:**

In addition to the foregoing General Objections, Sandoz objects to Interrogatory No. 1 on the grounds that it is overly broad, vague, ambiguous, and unduly burdensome, particularly with regard to the phrases "average sales price," "composite net price," "class(es)" of trade," "purpose(s) in making such determinations," and "composite price." Sandoz also objects to this Interrogatory to the extent that it seeks information or documents neither relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

For example, on its face, this Interrogatory may be reasonably construed to require Sandoz to first perform numerous calculations to identify the drugs subject to the State's request, then search its files covering the period from 1993 to the present for data referring to those drugs, and then to ascertain whether the undefined terms "average sales price" and "composite net price" are revealed by such data.

**Interrogatory No. 2:**

**Identify each electronic database, data table or data file that you now maintain or have maintained during the Defined Period of Time in the ordinary course of business which contains a price for a Targeted Drug. For each such electronic data entity, identify, describe or produce the following:**

- (a) the name or title of each such database, data table, or data file;
- (b) the software necessary to access and utilize such data entities;
- (c) describe the structure of each database, data table or data file identified in response to Interrogatory No. 2(a) above and identify all files or tables in each such database, data table or data file. For each such file or table, identify all fields and for each field describe its contents, format and location within each file or table record or row;
- (d) the current or former employee(s) with the most knowledge of the operation or use of each data entity identified above; and
- (e) the custodian(s) of such data entity.

**Objection to Interrogatory No. 2:**

In addition to the foregoing General Objections, Sandoz objects to Interrogatory No. 2 on the grounds that it is overly broad, vague, ambiguous, and unduly burdensome, particularly with regard to the phrases "price," "electronic data entity," "structure," "data table," "data file," "knowledge of the operation," and "custodian." Sandoz also objects to this Interrogatory to the extent that it seeks information or documents neither relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

For example, this Interrogatory may be reasonably construed to require Sandoz first to first perform numerous calculations to identify the drugs subject to the State's request, then to deduce what information or data the State seeks by its reference to "price," and then to search its files covering the period from 1993 to the present for all databases, data tables, or data files referring to those drugs to ascertain whether they reveal information about the undefined "price" of the drugs identified by Sandoz.

Subject to and without waiving the foregoing objections, Sandoz agrees that at an appropriate time it will respond to a properly narrowed Interrogatory.

**Interrogatory No. 3:**

**Describe each type of Incentive you have offered in conjunction with the purchase of any Targeted Drug. For each such Incentive, identify:**

- (a) the type(s) of Incentive(s) offered for each Targeted Drug;
- (b) the class(es) of trade eligible for each Incentive;
- (c) the general terms and conditions of each Incentive; and
- (d) the beginning and ending dates of each period during which the Incentive was offered.

**Objection to Interrogatory No. 3:**

In addition to the foregoing General Objections, Sandoz objects to Interrogatory No. 3 on the grounds that it is overly broad, vague, ambiguous, and unduly burdensome particularly with regard to the phrases "class(es) of trade," "eligible," "conjunction with" and "offered." Sandoz also objects to this Interrogatory to the extent that it seeks information or documents relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

For example, this Interrogatory may be reasonably construed to require Sandoz to search its files for any documents relating to all of Sandoz' customers, which currently total over

30,000, over the last twelve years, to determine whether, if any, of what the State considers an "Incentive" has been offered to such customers in connection with the sale of a "Targeted Drug."

**Interrogatory No. 4:**

**Describe in detail how you determined each price you used in the ordinary course of business of each Targeted Drug for each year during the Defined Period of Time and identify the person(s) most knowledgeable in making such determinations for each Targeted Drug for each year.**

**Objection to Interrogatory No. 4:**

In addition to the foregoing General Objections, Sandoz objects to Interrogatory No. 4 on the grounds that it is overly broad, vague, ambiguous, and unduly burdensome, particularly with regard to the terms "price," "determinations," and "ordinary course of business." Sandoz further objects to the extent that this Interrogatory is cumulative and duplicative of Interrogatory No. 1. Sandoz also objects to the extent that this Interrogatory seeks information or documents neither relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

For example, this Interrogatory can be reasonably construed to require Sandoz first to first perform numerous calculations to identify the drugs subject to the State's request, next to deduce what information or data the State seeks by its references to "price," and then to search its files covering the period from 1993 to the present for any documents which include a "determination" of "price," and then to conduct an investigation to determine how the "price" was determined and the person most knowledgeable about such determination.

**Interrogatory No. 5:**

Have you ever included in your marketing of a Targeted Drug to any customer reference to the difference (or spread) between an AWP or WAC published by First DataBank, Redbook or Medi-span and the list or actual price (to any customer) of any Targeted Drug? If so, provide the following information for each Targeted Drug:

- (a) the drug name and NDC;
- (b) the beginning and ending dates during which such marketing occurred;
- (c) the name, address and telephone number of each customer to whom you marketed a Targeted Drug in whole or in part by making a reference to such difference(s) or spread(s); and
- (d) identify any document published or provided to a customer which referred to such difference(s) or spread(s).

**Objection to Interrogatory No. 5:**

In addition to the foregoing General Objections, Sandoz objects to Interrogatory No. 5 on the grounds that it is overly broad, vague, ambiguous, and unduly burdensome, particularly with regard to the phrases "marketing," "customer reference," "list or actual price," "marketed a Target Drug in whole or in part."

For example, this Interrogatory may be reasonably construed to require Sandoz to first perform numerous calculations to identify the drugs subject to the State's request, then to search its files for any documents relating to all of Sandoz' customers, which currently total over 30,000, over the last twelve years, for any reference to a "Spread," a search which is particularly burdensome and overbroad in light of the fact not all of Sandoz' current 30,000 customers market drugs in the State of Wisconsin.



UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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STATE OF WISCONSIN, :

Plaintiff, :

v. : Case No.: 05 C 408 C

ABBOTT LABORATORIES, et al., :

Defendants. :

-----x

**DEFENDANT SANDOZ INC.'S RESPONSES AND OBJECTIONS TO  
PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure ("FRCP"), defendant Sandoz Inc. ("Sandoz"), by its attorneys, hereby asserts its Responses and Objections to Plaintiff State of Wisconsin's ("the State") First Set of Requests for Production of Documents (the "First Document Requests"), that were served prior to the removal of this action to this Court, as follows:

In making these objections and responses, Sandoz deems the States' First Document Requests as having been propounded under the FRCP and responds pursuant to the FRCP. The objections and written responses set forth herein are being offered pursuant to a prior agreement with counsel for the State to provide written responses to the First Document Requests on or before July 15, 2005. However, Sandoz reserves its right to seek a stay of discovery before this Court or before the court to which the multi-district litigation, In re Pharmaceutical Industry Average Wholesale Price Litigation, MDL No. 1446, has been assigned; Defendants will seek to have this action transferred to that multi-district litigation. Moreover, by

Ex. 2

providing these responses, Sandoz does not agree to produce documents in advance of any case management order or discovery schedule entered by this Court or by the court presiding in In re Pharmaceutical Industry Average Wholesale Price Litigation.

#### GENERAL OBJECTIONS

The following General Objections apply to each Definition and Request and shall have the same force and effect as if fully set forth as a Specific Objection to each Definition and Request:

1. By objecting and responding to these First Document Requests, Sandoz does not in any way waive or intend to waive (a) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, of any information or documents that may be produced in response to the First Document Requests; (b) any objections as to the vagueness, ambiguity, or other infirmity in the form of any Request; (c) any objections based on the undue burden imposed by any Request; (d) any objections to the use of the documents or information that may be produced in response to the First Document Requests at any hearings or at trial; (e) any objections to any further Requests involving or relating to the subject matter of the First Document Requests; (f) any privileges, rights, or immunity under the applicable FRCP, Federal Rules of Evidence, statutes, or common law.

2. By stating herein that it agrees at an appropriate time to produce documents or information in response to a particular Request, Sandoz does not assert that it has responsive documents or information or that such materials exist, only that it agrees that, at the appropriate time, it will conduct a reasonable search of its files most likely to contain responsive documents or information and produce responsive, non-objectionable, non-privileged documents revealed

by such investigation. No objection made herein, or lack thereof, is an admission by Sandoz as to the existence or non-existence of any information.

3. Sandoz objects to the First Document Requests as they were not served upon Sandoz pursuant to the requirements of WIS. STAT. § 804.09 and in violation of the stay entered by the State of Wisconsin Circuit Court ("Wisconsin Circuit Court") in its Order dated April 8, 2005. Notwithstanding this objection, Sandoz has accepted service of the First Document Requests. Sandoz further objects to the First Document Requests to the extent that the State purports to amend them by the letter from its counsel, Miner, Barnhill & Galland, P.C. to counsel for Sandoz, dated May 20, 2005 in a manner unauthorized by the Wisconsin Rules of Civil Procedures or FRCP. In making the objections and responses set forth herein, Sandoz understands the State to have merely offered, as a possible compromise, to narrow its definition of "Targeted Drugs" to the over 300 formulations of 52 drugs marketed by Sandoz, that are identified in Exhibit A to that letter.

4. Sandoz objects to the First Document Requests to the extent that they are premature and were propounded by the State in violation of the Wisconsin Circuit Court's stay entered on April 8, 2005. Sandoz further objects to the extent that the First Document Requests are premature in that they seek a response while the Defendants' motion to dismiss this action is *sub judice*. Sandoz further objects that it has had inadequate time to complete its investigation and discovery relating to this action and any Objections set forth below are based upon, and necessarily limited to, information that has been ascertained thus far.

Pursuant to FRCP 26(c), Sandoz reserves its right to amend, supplement, and/or to withdraw any General or Specific Objection set forth herein on the basis of documents or information found during its investigation or any discovery that might be taken in this action.

5. Sandoz objects to each Definition and Request to the extent it imposes or purports to impose discovery obligations greater than, or inconsistent with, Sandoz's obligations under the FRCP and to the extent that the State seeks discovery beyond that permitted by such Rules.

6. Sandoz objects to each Definition and Request to the extent it seeks information or documents protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity, or protection against disclosure.

7. Sandoz objects to each Definition and Request to the extent it seeks the production of proprietary or commercially sensitive information, including but not limited to, personal financial information, confidential and/or proprietary research, procedures and processes relating to the pricing of pharmaceuticals, current and past marketing plans and methods, and current and past business planning and financial information. Sandoz' production of any document or provision of information pursuant to these Requests shall not be constructed as a waiver of the confidentiality of any such document or information. Sandoz reserves its right to withhold production prior to the entry of a protective order by this Court or the court presiding in the MDL.

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

9. Sandoz objects to each Definition and Request to the extent it seeks information or documents already in the State's possession, custody, or control or in the possession, custody, or control of any of the State's officers, employees, agents, agencies, or departments. Sandoz further objects to each Definition and Request to the extent it requires Sandoz to search for information publicly available or to search for information or documents for which the burden of deriving or ascertaining the information or documents is substantially the same or less for the State or any of its officers, employees, agents, agencies, or departments as it is for Sandoz.

10. Sandoz objects to each Definition and Request to the extent it is duplicative or redundant of other Definitions or Requests or other discovery requests propounded by the State. Each written response and/or document that may be produced in response to a specific Request is deemed to be produced in response to every other Request or discovery request of the State to which the written response, document, or information is or may be responsive.

11. Sandoz objects to each Definition and Request as unduly burdensome to the extent it seeks the provision or production of "any" or "all" documents on a subject matter. Subject to and without waiver of this objection, and subject to resolution of Sandoz' other objections set forth herein, Sandoz agrees that at an appropriate time it will produce non-privileged documents that are located following a reasonable search of those Sandoz' files that are most likely to contain documents or information responsive to these Requests.

12. Sandoz objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in the First Document Requests. Sandoz' written response or production of documents or information in connection with a particular Request is not intended to indicate that Sandoz agrees with any implication or any explicit or implicit

characterization of facts, events, circumstances, or issues in the First Document Requests, or that such implications or characterizations are relevant to this action.

13. Sandoz objects to the definition of "Average Manufacturer Price" and "AMP" as set forth in Definition No. 1 on the grounds that it is vague and ambiguous, including the terms "the price you report or otherwise disseminate as the average manufacturer price for any Pharmaceutical that you report." Sandoz further objects to this definition to the extent that it purports to set an accurate or legally significant definition of the terms Average Manufacture Price or AMP and Sandoz refers to the statutes and regulation for the definition of this term.

14. Sandoz objects to the definition of "Chargeback" as set forth in Definition No. 2 on the grounds that it is vague and ambiguous, including the terms "payment, credit or other adjustment," "purchaser of a drug," "difference between the purchaser's acquisition cost and the price at which the Pharmaceutical was sold to another purchaser at a contract price." Sandoz further objects to this definition to the extent that it purports to set an accurate or legally significant definition of the term Chargeback and to the extent it differs from the common usage and understanding of the term in the industry.

15. Sandoz objects to the definition of "Defined Period of Time" as set forth in Definition No. 3 on the grounds that it is overly broad and unduly burdensome. Sandoz further objects to this definition to the extent that it seeks information of documents from outside the statute of limitations applicable to the State's claims, beyond the time period relevant to this action, and beyond the time period reasonably anticipated to encompass probative information that is relevant to the claims in this action.

16. Sandoz objects to the definition of "Document" in Definition No. 4 to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, Sandoz'

obligations under the FRCP. Sandoz further objects to this definition to the extent it would require Sandoz to produce multiple copies of the same document or to conduct an unduly burdensome search for duplicative information including, among other things, electronic databases containing overlapping information.

17. Sandoz objects to the definition of "Incentive" as set forth in Definition No. 5 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. Sandoz further objects to this definition to the extent that it seeks information or documents from outside the statute of limitations applicable to the State's claims, beyond the time period relevant to this action, and beyond the time period reasonably anticipated to encompass probative information that is relevant to the claims in this action.

18. Sandoz objects to the definition of "National Sales Data" as set forth in Definition No. 6 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. Sandoz objects to this definition to the extent that it seeks information or documents on "National Sales" that are not relevant to the State's claims, which are limited to reimbursements made in the State of Wisconsin. Sandoz further objects to the definition of National Sales Data to the extent it incorporates other objectionable definitions, including "Incentive" and "Targeted Drugs."

19. Sandoz objects to the definition of "Pharmaceutical" as set forth in Definition No. 7 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. Sandoz further objects to this definition to the extent that it seeks to impose on Sandoz the burden to ascertain or obtain information in the exclusive possession of its customers or other non parties to this action.

20. Sandoz objects to the definition of "Spread" as set forth in Definition No. 8 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. Sandoz further

objects to this definition to the extent that it seeks to impose on Sandoz the burden to ascertain or obtain information in the possession of its customers or other non parties to this action.

21. Sandoz objects to the definition of "Targeted Drugs" as set forth in Definition No. 9 to the extent that it is vague and ambiguous and inconsistent with the drugs identified in Exhibit A in the State's letter of May 20, 2005. Sandoz further objects to this definition to the extent it seeks information from beyond the time period relevant in this litigation or information about drugs not named in the Amended Complaint on the grounds that such information is not relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

In addition, as set forth above in General Objection No. 9, Sandoz objects that this Definition requires Sandoz to undertake the burden of identifying drugs relevant to the State's claims when such information is already in the State's possession, custody, or control or in the possession, custody, or control of any of the State's officers, employees, agents, agencies, or departments, and/or the burden on the State or its officers, employees, agents, agencies or departments to identify the drugs relevant to its claims is substantially the same or less than the burden on Sandoz.

### **SPECIFIC OBJECTIONS**

#### **Request No. 1:**

**All National Sales Data for each Targeted Drug during the Defined Period of Time.**

#### **Objection to Request No. 1:**

In addition to the foregoing General Objections, Sandoz objects to Request No. 1 on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and designed to harass and annoy Sandoz. For example, on its face, this Request may be reasonably construed

to require Sandoz to first perform numerous calculations to identify the drugs subject to the State's request, then search its files covering the period from 1993 to the present for all documents containing data related to Sandoz' sales of those identified drugs, and then organize that data from the manner in which it is maintained to the manner called for by the State's request.

Sandoz also objects to Request No. 1 on the grounds that calls for the production of information or documents not relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence. Sandoz further objects to Request No. 1 to the extent that it purports to require Sandoz to disclose information or produce documents for which the burden of deriving or ascertaining the information or documents is substantially the same or less for the State or its officers, employees, agents, agencies or departments as it is for Sandoz, or for which responsive information or documents are available in the public domain.

Subject to and without waiving the foregoing objections, Sandoz agrees that at an appropriate time it will conduct a reasonable search for and produce non-privileged documents responsive to a properly narrowed request.

**Request No. 2:**

**All Documents containing AMPs as reported or calculated by you for the Targeted Drugs OR a spread sheet or database showing all reported and calculated AMPs for each Targeted Drug over the Defined Period of Time which lists when such AMPs were reported or calculated, and the quarter to which each AMP applies.**

**Objection to Request No. 2:**

In addition to the foregoing General Objections, Sandoz objects to Request No. 2 on the grounds that it is overly broad, unduly burdensome, and seeks documents neither relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably

calculated to lead to the discovery of admissible evidence. Sandoz incorporates by reference its objection to the Definition "Targeted Drugs" and objects to Request No. 2 on the grounds that the phrases "reported or calculated" is overly broad, vague, and ambiguous. Sandoz further objects to Request No. 2 on the grounds that it purports to require Sandoz to disclose information or produce documents for which the burden of deriving or ascertaining the information or documents is substantially the same or less for the State or its officers, employees, agents, agencies or departments as it is for Sandoz, or for which responsive information or documents are available in the public domain. Sandoz also objects to Request No. 2 to the extent it seeks information protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity, or protection against disclosure.

Subject to and without waiving the foregoing objections, Sandoz agrees that it will at an appropriate time produce non-privileged documents sufficient to show the AMP reported by Sandoz to the Centers for Medicare and Medicaid Services for any Sandoz drug determined to be at issue in this action for the time period determined to be relevant to this action.

**Request No. 3:**

All Documents created by you, or in your possession, that discuss or comment on the difference (or Spread) between any Average Wholesale Price or Wholesale Acquisition Cost and the list or actual sales price (to any purchaser) of any of defendants' Pharmaceuticals or any Pharmaceuticals sold by other manufacturers. Documents which merely list the AWP or WAC price and the list or actual sales price without further calculation of the difference, or without other comment or discussion of or about the spread between such prices are not sought by this request.

**Objection to Request No. 3:**

In addition to the foregoing General Objections, Sandoz objects to Request No. 3 on the grounds that it is overly broad, vague, and ambiguous, particularly the phrases "discuss or

comment," "other manufacturers," "difference (or Spread)," "Average Wholesale Price," "Wholesale Acquisition Cost," "list or actual sales price," and "purchaser" are overly broad, vague, and ambiguous. For example, this Request may be reasonably construed to require Sandoz to search its files covering the period from 1993 to the present for any document mentioning the term "Spread," with reference to any "Pharmaceutical" manufactured by any defendant in this action, literally thousands of drugs. The State's attempt to narrow this Request by omitting documents lacking any "comment or discussion . . . about the spread" does not resolve the ambiguity of this Request and imposes on Sandoz the burden of deducing what type of references to the "Spread" are sought by this request.

Sandoz also objects to this Request to the extent it seeks documents neither relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence. Sandoz also objects to Request No. 3 on the grounds that it requires Sandoz to disclose information and produce documents outside of Sandoz' possession, custody, or control; to seek information and produce documents about persons not currently employed or associated with Sandoz; or to provide or seek information and produce documents regarding non parties. Sandoz further objects to Request No. 3 on the grounds that it purports to require Sandoz to disclose information or produce documents for which the burden of deriving or ascertaining the information or documents is substantially the same or less for the State or its officers, employees, agents, agencies or departments as it is for Sandoz, or for which responsive information or documents are available in the public domain. Sandoz further objects to Request No. 3 to the extent it seeks information protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity, or protection against disclosure.

Subject to and without waiving the foregoing objections, Sandoz agrees that at an appropriate time it will produce non-privileged documents responsive to a properly narrowed request.

**Request No. 4:**

**All Documents containing an average sales price or composite price identified by you in response to Interrogatory No. 1 of the State's First Set of Requests to All Defendants.**

**Objection to Request No. 4:**

In addition to the foregoing General Objections, Sandoz objects to Request No. 4 on the grounds that the phrase "average sales price" and "composite price" are overly broad, vague, and ambiguous and Sandoz hereby incorporates by reference its objections and response to Interrogatory No. 1.

Sandoz also objects to this Request to the extent it seeks documents neither relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence. Sandoz further objects to Request No. 4 on the grounds that it purports to require Sandoz to disclose information or produce documents for which the burden of deriving or ascertaining the information or documents is substantially the same or less for the State as or its officers, employees, agents, agencies or departments as it is for Sandoz, or for which responsive information or documents are available in the public domain. Sandoz further objects to Request No. 4 to the extent it seeks information protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable privilege, immunity, or protection against disclosure.

**Request No. 5:**

**All Documents sent to or received from First DataBank, Redbook and Medi-span regarding the price of any Targeted Drug.**

**Objection to Request No. 5:**

In addition to the foregoing General Objections, Sandoz objects to Request No. 5 on the grounds that it is overly broad, vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Sandoz also objects to the extent that the Request seeks documents not relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably calculated to lead to admissible evidence, nor relevant to the time period relevant to this action. Sandoz also objects to Request No. 5 on the grounds that it requires Sandoz to disclose information and produce documents outside of Sandoz' possession, custody, or control; to seek information and produce documents about persons not currently employed or associated with Sandoz; or to provide or seek information and produce documents regarding non parties. Sandoz further objects to Request No. 5 to the extent it seeks reported prices on the grounds that the Request purports to require Sandoz to disclose information or produce documents which are available in the public domain, or for which the burden of deriving or ascertaining the information or documents is substantially the same or less for the State as or its officers, employees, agents, agencies or departments as it is for Sandoz.

Subject to and without waiving the foregoing objections, Sandoz will produce at an appropriate time non-privileged documents sent to or received from First DataBank, Redbook and Medi-span to the extent such documents include a price for any Sandoz drug determined to be at issue in this action.

**Request No. 6:**

**All Documents in your possession prepared by IMS health regarding a Targeted Drug or the competitor of a Targeted Drug regarding pricing, sales or market share.**

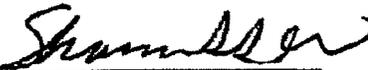
**Objection to Request No. 6:**

In addition to the foregoing General Objections, Sandoz objects to Request No. 6 on the grounds that the phrases "regarding," "the competitor," and "pricing, sales or market share" are overly broad, vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Sandoz also objects to the extent that the Request seeks documents not relevant to the subject matter of this action, relevant to a claim or defense of any party, nor reasonably calculated to lead to admissible evidence, nor relevant to the time period relevant to this action. For example, this Request requires Sandoz to search for IMS Health documents that refer to, not only Sandoz' drugs, but also to the unidentified drugs that the State considers "competitor[s]" of Sandoz' drugs.

Subject to and without waiving the foregoing objections, Sandoz agrees that at an appropriate time it will conduct a reasonable search for and produce responsive, non-privileged documents that were prepared by IMS Health to the extent such documents include information about the price, sales, or market share of any Sandoz drug determined to be at issue in this action.

Dated at Milwaukee, Wisconsin, on July 15, 2005.

FRIEBERT, FINERTY & ST. JOHN, S.C.

By:   
Shannon A. Allen

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AND CALIFORNIA

May 20, 2005

Of Counsel:  
BRADLEY SCOTT WEISS

BY TELEFAX TO (212) 354-8113

Paul T. Olszowka, Esq.  
White & Case, LLP  
1155 Ave. of the Americas  
New York, NY 10036-2787

Re: State of Wisconsin v. Amgen Inc., et al.  
Dane County Case No. 04-CV-1709

Dear Mr. Olszowka:

I will be handling all discovery matters on behalf of Wisconsin relating to your client, Sandoz, Inc. ("Sandoz"). I understand that you will be doing the same on behalf of Sandoz. I understand from your May 6, 2005 letter to Bill Dixon that Sandoz was not served with plaintiff's first set of interrogatories to all defendants and plaintiff's first set of requests for production of documents to all defendants until you received them as enclosures to Mr. Dixon's April 29, 2005 letter and that you consider that receipt as service for purposes of computing Sandoz's time to respond.

I am also familiar with your recent correspondence with Bill Dixon regarding Sandoz's position on discovery before the May 11, 2005 hearing. As a result of the Court's May 11, 2005 entry of the temporary protective order requested by defendants, I understand that Sandoz will now respond to plaintiff's first set of interrogatories and first set of requests for production of documents (calculating the time for response in light of the service date discussed above).

In response to a recent series of "meet and confer" discussions with various counsel for the majority of defendants, it was almost universally requested by defendants that plaintiff narrow the definition of "targeted drug" currently found in the document requests and interrogatories. While plaintiff does not alter the positions expressed in the first amended complaint, and intends to prove at trial that the average wholesale prices submitted by defendants on all pharmaceuticals were inflated,

Ex. 3

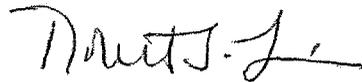
plaintiff agrees to narrow the definition of "targeted drug" in this first round of discovery to drugs which had significant utilization in Wisconsin in recent years.

This narrowing of the "targeted drug" definition at defendants' request does not affect request no. 3 which requests marketing-related documents relating to any of a defendant's pharmaceuticals or pharmaceuticals sold by other manufacturers, and is not limited to pharmaceuticals defined as targeted drugs. Such documents are relevant to plaintiff's allegations that each defendant published inflated average wholesale prices and such publication was related to marketing the spread of defendants' pharmaceuticals.

Consequently, for your assistance in responding to the outstanding interrogatories and discovery requests, plaintiff amends its definition of "targeted drugs" in the first interrogatories and request for documents to those pharmaceuticals listed in Exh. A to this letter.

If this raises any questions, or if you wish to further discuss your response to the outstanding discovery, please contact me at (312) 751-1170.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert S. Libman".

Robert S. Libman

lmd

Enclosure

EXHIBIT A

<u>Drug</u>	<u>NDC</u>
ALPRAZOLAM	00781-1061-01
ALPRAZOLAM	00781-1061-05
ALPRAZOLAM	00781-1061-10
ALPRAZOLAM	00781-1077-01
ALPRAZOLAM	00781-1077-05
ALPRAZOLAM	00781-1077-10
ALPRAZOLAM	00781-1079-01
ALPRAZOLAM	00781-1079-05
ALPRAZOLAM	00781-1079-10
ALPRAZOLAM	00781-1089-01
ALPRAZOLAM	00781-1326-01
ALPRAZOLAM	00781-1326-05
ALPRAZOLAM	00781-1326-10
ALPRAZOLAM	00781-1326-13
ALPRAZOLAM	00781-1327-01
ALPRAZOLAM	00781-1327-05
ALPRAZOLAM	00781-1327-10
ALPRAZOLAM	00781-1327-13
ALPRAZOLAM	00781-1328-01
ALPRAZOLAM	00781-1328-05
ALPRAZOLAM	00781-1328-10
ALPRAZOLAM	00781-1329-01
AMIODARONE	00781-1203-05
AMIODARONE	00781-1203-60
AMITRIPTYL	00781-1486-01
AMITRIPTYL	00781-1486-10
AMITRIPTYL	00781-1487-01
AMITRIPTYL	00781-1487-10
AMITRIPTYL	00781-1488-01
AMITRIPTYL	00781-1488-10
AMITRIPTYL	00781-1489-01
AMITRIPTYL	00781-1490-01
AMITRIPTYL	00781-1491-01
AMOX	00781-1643-66
AMOX	00781-1831-20
AMOX	00781-1852-20
AMOX	00781-6102-46
AMOX	00781-6104-46
ATENOLOL	00781-1078-01
ATENOLOL	00781-1078-10
ATENOLOL	00781-1506-01

Drug

NDC

ATENOLOL	00781-1506-10
ATENOLOL	00781-1506-13
ATENOLOL	00781-1507-01
ATENOLOL	00781-1507-10
AZATHIOPRI	00781-1059-01
AZATHIOPRI	00781-5075-01
BROMOCRIPT	00781-1817-01
BROMOCRIPT	00781-1817-31
BROMOCRIPT	00781-2819-01
BROMOCRIPT	00781-2819-31
CHLORPROMA	00781-1715-01
CHLORPROMA	00781-1716-01
CHLORPROMA	00781-1716-13
CHLORPROMA	00781-1717-01
CHLORPROMA	00781-1717-10
CHLORPROMA	00781-1717-13
CHLORPROMA	00781-1718-01
CHLORPROMA	00781-1718-10
CHLORPROMA	00781-1718-13
CHLORPROMA	00781-1719-01
CHLORPROMA	00781-1719-10
CHLORPROMA	00781-1719-13
CHLORPROMA	00781-1444-01
CIMETIDINE	00781-1448-01
CIMETIDINE	00781-1449-01
CIMETIDINE	00781-1449-05
CIMETIDINE	00781-2027-01
CLOMIPRAMI	00781-2037-01
CLOMIPRAMI	00781-2047-01
DESIPRAMIN	00781-1971-01
DESIPRAMIN	00781-1972-01
DESIPRAMIN	00781-1973-01
DESIPRAMIN	00781-1975-01
DESIPRAMIN	00781-1976-50
DICLOFENAC	00781-1287-01
DICLOFENAC	00781-1287-10
DICLOFENAC	00781-1287-60
DICLOFENAC	00781-1289-01
DICLOFENAC	00781-1289-10
DICLOFENAC	00781-1289-60
DICLOFENAC	00781-1297-01
DICLOFENAC	00781-1381-01
DICLOFENAC	00781-1787-01
DICLOFENAC	00781-1787-10
DICLOFENAC	00781-1789-01

<u>Drug</u>	<u>NDC</u>
DICLOFENAC	00781-1789-10
DICLOFENAC	00781-1789-13
ENALAPRIL	00781-1229-01
ENALAPRIL	00781-1231-01
ENALAPRIL	00781-1231-10
ENALAPRIL	00781-1232-01
ENALAPRIL	00781-1232-10
ENALAPRIL	00781-1233-01
FLUOXETINE	00781-2822-01
FLUOXETINE	00781-2823-01
FLUOXETINE	00781-2824-01
FLUPHENAZI	00781-1436-01
FLUPHENAZI	00781-1436-13
FLUPHENAZI	00781-1437-01
FLUPHENAZI	00781-1438-01
FLUPHENAZI	00781-1438-05
FLUPHENAZI	00781-1438-13
FLUPHENAZI	00781-1438-50
FLUPHENAZI	00781-1439-01
FLUPHENAZI	00781-1439-05
FLUPHENAZI	00781-1439-13
FLUPHENAZI	00781-1439-50
FLUVOXAMIN	00781-5040-01
FLUVOXAMIN	00781-5041-01
FLUVOXAMIN	00781-5042-01
FOSINOPRIL	00781-5083-92
FOSINOPRIL	00781-5084-92
FOSINOPRIL	00781-5085-92
FUROSEMIDE	00781-1446-01
FUROSEMIDE	00781-1446-05
FUROSEMIDE	00781-1446-13
FUROSEMIDE	00781-1818-01
FUROSEMIDE	00781-1818-10
FUROSEMIDE	00781-1818-13
FUROSEMIDE	00781-1966-01
FUROSEMIDE	00781-1966-10
FUROSEMIDE	00781-1966-13
GLIPIZIDE	00781-1452-01
GLIPIZIDE	00781-1452-10
GLIPIZIDE	00781-1453-01
GLIPIZIDE	00781-1453-10
GLYBURIDE	00781-1191-10
GLYBURIDE	00781-1455-01
GLYBURIDE	00781-1456-01
GLYBURIDE	00781-1456-13

<u>Drug</u>	<u>NDC</u>
GLYBURIDE	00781-1457-01
GLYBURIDE	00781-1457-05
GLYBURIDE	00781-1457-10
GLYBURIDE	00781-1457-13
HALOPERIDO	00781-1391-01
HALOPERIDO	00781-1391-10
HALOPERIDO	00781-1391-13
HALOPERIDO	00781-1392-01
HALOPERIDO	00781-1392-13
HALOPERIDO	00781-1393-01
HALOPERIDO	00781-1393-10
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Drug

NDC

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PROMETHAZI	00781-1830-01
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TRIFLUOPER	00781-1036-01
TRIFLUOPER	00781-1036-10
TRIFLUOPER	00781-1036-13

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October 3, 2005

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BY TELEFAX TO (212) 354-8113

Paul T. Olszowka, Esq.  
White & Case, LLP  
1155 Ave. of the Americas  
New York, NY 10036-2787

Re: State of Wisconsin v. Amgen Inc., et al.  
Dane County Case No. 04-CV-1709

Dear Mr. Olszowka:

Now that the above-captioned case has been remanded back to state court, I am writing to you regarding Sandoz's responses to plaintiff's first set of interrogatories to and requests for production of documents. As you know, we spoke by telephone on June 9 and June 30, 2005 in an effort to "meet and confer" on these discovery requests but you were unable to provide me with Sandoz's position as to whether it would answer the interrogatories or produce the requested documents. Rather, you stated that Sandoz's position would be set forth in its responses, which you intended to file on July 15, 2005.

It is clear from Sandoz's responses to plaintiff's discovery requests that Sandoz does not intend to answer any interrogatories or produce any documents without an order of the court.

First, Sandoz states that it will not produce any documents in advance of any case management order or discovery schedule entered by this Court. Sandoz provides no basis for this position, which is contrary to the applicable rules of civil procedure.

Second, as to four of plaintiff's five interrogatories, and one of plaintiff's requests for production of documents, Sandoz asserts numerous boilerplate objections and refuses to provide any substantive response. As to the other interrogatory (no. 2), Sandoz states that "at an appropriate time it will

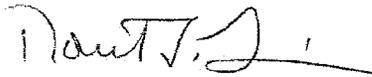
Ex. 4

Paul T. Olszowka, Esq.  
Page Two  
October 3, 2005

respond to a properly narrowed interrogatory." Similarly, as to the remaining document requests, Sandoz states that "at an appropriate time it will produce non-privileged documents responsive to a properly narrowed request for any Sandoz drug determined to be at issue in this action." Sandoz fails to offer any authority for its apparent belief that it may determine for itself what time is "appropriate," what constitutes an interrogatory that is "properly narrowed," and which drugs are "at issue in this action."

Given Sandoz's refusal to provide any substantive response to these discovery requests, we intend promptly to file a motion to compel.

Sincerely,



Robert S. Libman

lmd

cc: Charles Barnhill, Jr., Esq.  
Cynthia Hirsch, Esq.

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October 4, 2005

VIA FACSIMILE AND FIRST CLASS MAIL

Robert S. Libman, Esq.  
 Miner, Barnhill & Galland, P.C.  
 14 West Erie Street  
 Chicago, Illinois 60610

Re: State of Wisconsin v. Amgen Inc., et al.  
Dane County Case No. 04-CV-1709

Dear Bob:

Yesterday, I received your fax regarding Sandoz Inc.'s written responses and objections to Plaintiff's first document requests and interrogatories in the above matter.

As you know, when we last spoke in June, while we had agreed to provide you Sandoz' written responses by July 15, 2005, you and I also agreed to continue thereafter to discuss Sandoz' objections and concerns, and to try to find ways to work out any differences between the parties.

As your fax is the first we have heard from Plaintiff in the nearly three months since we served the responses, setting aside our disagreement with your inaccurate characterization of the responses and the record generally, we are disappointed by your statements that Sandoz is refusing to provide Plaintiff any discovery and that you intend to file a motion to compel.

As it has been, the door remains wide open. We see no reason why your expressed concerns cannot be resolved by further discussion. At a minimum, it would serve to identify and narrow any real issues in dispute, thereby avoiding needless motion practice.

Ex. 5

ALMATY ANKARA BANGKOK BEIJING BERLIN BRATISLAVA BRUSSELS BUDAPEST DRESDEN DUSSELDORF FRANKFURT HAMBURG HELSINKI  
 HO CHI MINH CITY HONG KONG ISTANBUL JOHANNESBURG LONDON LOS ANGELES MEXICO CITY MIAMI MILAN MOSCOW MUMBAI NEW YORK PALO ALTO  
 PARIS PRAGUE RIYADH ROME SAN FRANCISCO SAO PAULO SHANGHAI SINGAPORE STOCKHOLM TOKYO WARSAW WASHINGTON, DC

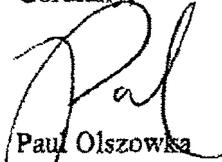
Robert S. Libman, Esq.

WHITE & CASE

October 4, 2005

I am available most of the day this Friday, October 7, 2005. Please let me know what time is convenient for you, or what other day next week you would like to arrange a call.

Cordially,



Paul Olszowka

PO:ss

cc (by email): Defense Counsel (w/fax from Robert S. Libman to Paul Olszowka,  
dated October 3, 2005)

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‡ONLY ADMITTED IN WISCONSIN  
AND CALIFORNIA

October 5, 2005

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BY TELEFAX TO (212) 354-8113

Paul T. Olszowka, Esq.  
White & Case, LLP  
1155 Ave. of the Americas  
New York, NY 10036-2787

Re: State of Wisconsin v. Amgen Inc., et al.  
Dane County Case No. 04-CV-1709

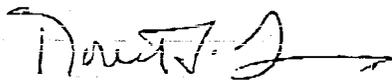
Dear Mr. Olszowka:

I am writing in response to your letter of yesterday, October 4, 2005.

Although you express disappointment at our assertion that Sandoz is refusing to provide the state with any discovery, the record speaks for itself. Sandoz has failed to produce a single document to the state. Moreover, as you know, it was the action of the defendants, including Sandoz, in frivolously removing this case to federal court, that has wasted everyone's time. While this removal prevented the state from taking any action vis-a-vis discovery that would have constituted consent to federal jurisdiction, nothing prevented Sandoz from producing documents to the state during this time period.

Although we, too, would prefer to avoid motion practice, we cannot sit on our hands in the face of Sandoz's non-production. We intend to file our motion to compel today. Should Sandoz change its position, we are happy to discuss with you the effect that this might have on our motion to compel.

Sincerely,



Robert S. Libman

lmd

cc: Charles Barnhill, Jr., Esq.  
Cynthia Hirsch, Esq.

Ex. 6

