

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 04-CV-1709

AMGEN, INC., et al.,

Defendants.

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ASTRAZENECA PHARMACEUTICALS LP'S AND ASTRAZENECA LP'S RESPONSES  
TO PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO  
DEFENDANTS ASTRAZENECA PHARMACEUTICALS LP AND ASTRAZENECA LP

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Pursuant to Wis. Stat. §§ 804.01 and 804.09, defendants AstraZeneca Pharmaceuticals LP and AstraZeneca LP (“AstraZeneca”), by their attorneys, hereby assert the following responses and objections to Plaintiff’s First Set of Requests for Production of Documents to AstraZeneca (“Requests”) as follows:

*PRELIMINARY STATEMENT*

1. The responses and objections supplied herein are for use in this litigation and for no other purpose and are supplied subject to that limitation.

2. AstraZeneca’s responses are made without in any way waiving or intending to waive: (i) any objections as to the competency, relevancy, materiality, propriety, privilege, or admissibility as evidence, for any purpose, of any information or documents produced in response to the Requests; (ii) the right to object on any ground to the use of the documents or information produced in response to the Requests at any hearings or at

trial; (iii) the right to object on any ground at any time to a demand for further responses to the Requests; or (iv) the right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein.

3. AstraZeneca's responses and objections shall not be deemed to constitute admissions:

- a. that any particular document or thing exists, is relevant, non-privileged, or admissible in evidence; or
- b. that any statement or characterization in the Requests is accurate or complete.

4. AstraZeneca's responses are made based upon a reasonable and diligent investigation. Discovery and investigation in this matter are ongoing. AstraZeneca reserves the right to amend its responses and to raise any additional objections it may have in the future.

5. AstraZeneca's responses are made based upon the typical or usual interpretation of words contained in the Requests, unless a specific definition or instruction has been provided and/or agreed upon.

6. AstraZeneca's responses to the Requests contain information subject to the Protective Order in this litigation and must be treated accordingly.

#### *GENERAL OBJECTIONS*

AstraZeneca objects generally to the Requests as follows:

1. AstraZeneca objects to the Requests to the extent that they seek to impose discovery obligations that are broader than, or inconsistent with, AstraZeneca's obligations under Wisconsin statutes, rules or other applicable law.

2. AstraZeneca objects to the Requests to the extent that they call for the identification or production of documents or information that are not relevant to the subject matter involved in the pending action.

3. AstraZeneca objects to the Requests to the extent that they call for the identification or production of documents or information that are not reasonably calculated to lead to the discovery of admissible evidence.

4. AstraZeneca objects to the Requests to the extent that they are overly broad, unduly burdensome, ambiguous, or vague.

5. AstraZeneca objects to the Requests to the extent that they call for the production of documents or information that are protected from disclosure by the work product doctrine, the attorney-client, accountant-client, consulting expert, or investigative privileges, by any common interest or joint defense agreement, or by any other applicable privilege or protection. To the extent that any such protected documents or information are inadvertently produced in response to the Requests, the production of such documents or information shall not constitute a waiver of AstraZeneca's right to assert the applicability of any privilege or immunity to the documents or information, and AstraZeneca demands that any such document or information be returned to AstraZeneca's counsel immediately upon discovery thereof.

6. AstraZeneca objects to the Requests to the extent that they call for production of documents or information not within its possession, custody, or control or are more appropriately sought from third parties to whom requests have been or may be directed.

7. AstraZeneca objects to the Requests to the extent that they call for information that is confidential, proprietary, and/or a trade secret. Any such materials produced will be subject to the Protective Order in this action.

8. AstraZeneca objects to the Requests to the extent that they seek disclosure of information that is a matter of public record, is equally available to the Plaintiff, or is already in the possession of the Plaintiff.

9. AstraZeneca objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in the Requests. AstraZeneca's response that it will produce documents in connection with a particular Request is not intended to indicate that AstraZeneca agrees with any implication or any explicit or implicit characterization of facts, events, circumstances, or issues in the Requests or that such implications or characterizations are relevant to this action.

10. AstraZeneca objects to the Requests to the extent that responding to them would involve unreasonable expense.

11. AstraZeneca objects to the definition of "document," as set forth in Definition No. 1, on the grounds that this definition is overly broad, unduly burdensome, vague, and ambiguous. AstraZeneca further objects to this definition to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, AstraZeneca's obligations under Wisconsin statutes or other applicable law. AstraZeneca also objects to this definition to the extent that it requires or seeks to require AstraZeneca: (i) to produce documents or data in a particular form or format; (ii) to convert documents or data into a particular or different file format; (iii) to produce data fields, records, or

reports about produced documents or data; (iv) to produce documents or data on any particular media; (v) to search for and/or produce any documents or data on back-up tapes; (vi) to produce any proprietary software, data, programs, or databases; or (vii) to violate any licensing agreement or copyright laws.

12. AstraZeneca expressly incorporates the above General Objections into each specific response to the Requests set forth below as if set forth in full therein. The response to a Request shall not operate as a waiver of any applicable specific or general objection to the Request.

#### *SPECIFIC RESPONSES AND OBJECTIONS*

**DOCUMENT REQUEST NO. 1: All trial exhibits offered into evidence: (a) by AstraZeneca; or (b) by plaintiffs against AstraZeneca (regardless of whether such exhibits were admitted into evidence), in the trial in *In re Pharmaceutical Industry Average Wholesale Price Litigation*, Civil Action No. 01-12257-PBS (D. Mass.) (MDL No. 1456), conducted in November and December, 2006 (involving classes 2 and 3).**

**RESPONSE TO REQUEST NO. 1:** In addition to its general objections, which are incorporated herein by reference, AstraZeneca objects to Request No. 1 on the grounds that it is overly broad and unduly burdensome, not relevant to the subject matter involved in the pending action, and not reasonably calculated to lead to the discovery of admissible evidence. AstraZeneca further objects to the production of trial exhibits marked confidential by the plaintiffs or third parties. Subject to, and without waiving its general and specific objections, AstraZeneca will produce trial exhibits included on the exhibit lists filed by AstraZeneca and by plaintiffs against AstraZeneca in the trial in *In re Pharmaceutical Industry Average Wholesale Price Litigation*, Civil Action No. 01-

12257-PBS (D. Mass.) (MDL. No. 1456), conducted in November and December, 2006 (involving classes 2 and 3).

**DOCUMENT REQUEST NO. 2: All communications between AstraZeneca and TAP relating to the sales and marketing practices of Zoladex or Lupron. Documents sought by this request include, but are not limited to, correspondence between any attorney of AstraZeneca (including current or former attorneys) and any attorney of TAP (including current or former attorneys).**

**RESPONSE TO REQUEST NO. 2:** In addition to its general objections, which are incorporated herein by reference, AstraZeneca objects to Request No. 2 on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. AstraZeneca further objects to this Request to the extent that it is not relevant to the subject matter involved in the pending action or reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its general and specific objections, AstraZeneca will produce the production made in *In re Pharmaceutical Industry Average Wholesale Price Litigation*, Civil Action No. 01-12257-PBS (D. Mass.) (MDL. No. 1456), which contains documents that are responsive to this Request.

**DOCUMENT REQUEST NO. 3: All documents relating to the sales and marketing practices of TAP with regard to Lupron.**

**RESPONSE REQUEST NO. 3:** In addition to its general objections, which are incorporated herein by reference, AstraZeneca objects to Request No. 3 on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. AstraZeneca further objects to this Request to the extent that it is not relevant to the subject matter involved in the pending action or reasonably calculated to lead to the discovery of admissible

evidence. AstraZeneca also objects to this Request on the grounds that it seeks documents more appropriately sought from third parties.

**DOCUMENT REQUEST NO. 4: All communications between AstraZeneca and its competitors regarding the sales and marketing practices relating to either: (a) any AstraZeneca drug; or (b) any drug of the competitor.**

**RESPONSE REQUEST NO. 4:** In addition to its general objections, which are incorporated herein by reference, AstraZeneca objects to Request No. 4 on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. AstraZeneca further objects to this Request to the extent that it is not relevant to the subject matter involved in the pending action or reasonably calculated to lead to the discovery of admissible evidence.

**DOCUMENT REQUEST NO. 5: All communications to AstraZeneca employees containing or establishing policies or practices regarding the sales and marketing practices relating to Zoladex. Documents sought by this request include, but are not limited to communications relating to any change in AstraZeneca-approved sales and marketing practices relating to Zoladex about which AstraZeneca's corporate designee Alan Milbauer testified at deposition on October 1, 2007.**

**RESPONSE REQUEST NO. 5:** In addition to its general objections, which are incorporated herein by reference, AstraZeneca objects to Request No. 5 on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. AstraZeneca further objects to this Request to the extent that it is not relevant to the subject matter involved in the pending action or reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its general and specific objections, AstraZeneca will produce the production made in *In re Pharmaceutical Industry Average*

*Wholesale Price Litigation*, Civil Action No. 01-12257-PBS (D. Mass.) (MDL. No. 1456), which contains documents that are responsive to this Request.

**DOCUMENT REQUEST NO. 6: All communications between AstraZeneca and any of the following entities regarding AstraZeneca's sales and marketing practices regarding Zoladex or any other AstraZeneca drug: (a) the United States Department of Health and Human Services Office of Inspector General; (b) the United States Department of Justice (including the office of any United States Attorney); (c) any committee or member of the United States Congress.**

**RESPONSE REQUEST NO. 6:** In addition to its general objections, which are incorporated herein by reference, AstraZeneca objects to Request No. 6 on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. AstraZeneca further objects to this Request to the extent that it is not relevant to the subject matter involved in the pending action or reasonably calculated to lead to the discovery of admissible evidence.

Dated this 5<sup>th</sup> day of November, 2007.

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By 

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CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2007, a true and correct copy of the foregoing was served upon all counsel of record via Lexis-Nexis File and Serve.

  
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Barbara A. Neider