

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 04-CV-1709

ABBOTT LABORATORIES, et al.,

Defendants.

**DEFENDANT AVENTIS PHARMACEUTICALS INC.'S
OBJECTIONS AND RESPONSES TO PLAINTIFF STATE OF
WISCONSIN'S WRITTEN DISCOVERY REQUEST NO. 3**

Pursuant to Rule 804.08 of the Wisconsin Rules of Civil Procedure, Defendant Aventis Pharmaceuticals Inc. ("Aventis"), by its undersigned counsel, hereby responds to Plaintiff State of Wisconsin's Written Discovery Requests No. 3 ("Requests"), dated November 8, 2005.

PRELIMINARY STATEMENT

1. By responding to the Requests, Aventis does not waive or intend to waive: (a) any objections as to the competency, relevancy, materiality, privilege, status, or admissibility as evidence, for any purpose, of any documents or information produced in response to these Requests; (b) the right to object on any ground to the use of the documents or information produced in response to these Requests at any deposition, hearing, trial, or other proceeding, or to their use in any pleading or submission; or (c) the right to object on any ground at any time to a demand for further responses to these Requests.

2. By responding that it will produce documents responsive to a particular request, Aventis does not assert that it has responsive documents or that such documents exist, only that it will conduct a reasonable search and produce relevant, responsive, non-privileged documents on

a rolling basis as agreed upon with Plaintiff's counsel, and subject to a binding protective order of confidentiality. No objection made herein, or lack thereof, is an admission by Aventis as to the existence or non-existence of any documents.

3. The objections and responses made herein are based on Aventis's investigation to date of those sources within its control where it reasonably believes responsive documents or information may exist. Aventis reserves the right to amend or supplement these responses in accordance with the applicable rules and court orders and based on results of its continuing investigation.

4. The information and documents supplied herein are for use in this litigation and for no other purposes.

OBJECTIONS TO PLAINTIFF'S DEFINITIONS

1. Aventis incorporates by reference its objections and responses to Plaintiff's First Set of Requests for Production of Documents and First Set of Interrogatories.

2. Aventis objects to the extent that any of the Requests seek documents created either prior to August 10, 1998 or after August 10, 2004 on the ground such documents are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Aventis believes that the longest statute of limitations period applicable to Plaintiff's claims began to run six years prior to the date of filing of the Complaint. While Plaintiff may be required to produce documents from an earlier time based on the allegations they have chosen to plead, Aventis is not similarly constrained.

3. Aventis objects to the extent that any of the Requests seek documents not limited to Aventis's practices in Wisconsin on the grounds that such Requests are overly broad, unduly burdensome, and do not seek the discovery of admissible evidence

4. Insofar as any request seeks information to which the foregoing Objections to Plaintiff's Definitions apply, Aventis's specification or failure to note particular Objections to Plaintiff's Definitions shall not constitute a waiver or limitation of those Objections to Plaintiff's Definitions with respect to any individual request.

5. Unless otherwise stated, Aventis responds to the Requests according to its interpretation and definition of the terms and phrases addressed above.

RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS

Subject to the Objections to Definitions stated above, and without waiving or limiting and expressly preserving all such objections, Aventis responds to Plaintiff's individually numbered Requests as follows:

REQUEST NO. 7: All documents listed in Appendix A attached hereto in unredacted form. Each of these documents is identified in the Third Amended Master Consolidated Class Action Complaint Amended to Comply With the Court's Class Certification Order on the page listed in Appendix A and with the bates number identified in Appendix A. (Those without bates numbers are otherwise identified, e.g., paragraph 290).

RESPONSE: Aventis objects to this request to the extent it seeks documents not in Aventis's possession, custody, or control. Many of the documents identified in Request No. 7 were produced in the AWP MDL proceeding by parties other than Aventis. Aventis further objects to the extent that this request seeks documents not reasonably calculated to lead to the discovery of admissible evidence. Aventis further objects to the extent that this request seeks production of documents created either prior to August 10, 1998, or after August 10, 2004. Aventis further objects because the scope of products at issue in this case is undefined.

Subject to and without waiving these objections, Aventis will produce those documents identified on Plaintiff's Appendix A to this request that were previously produced by Aventis in the AWP MDL, subject to an appropriate protective order of confidentiality.

REQUEST NO. 8: Documents discussing or concerning the policy and practice of each defendant concerning the disclosures providers and pharmacy benefit managers may make of the drug price information they receive from the defendant or drug wholesalers from 1993 to the present.

RESPONSE: Aventis objects to this request because the phrase “disclosures” is undefined, vague, and ambiguous. Aventis further objects because this request is not reasonably calculated to lead to the discovery of admissible evidence as it seeks documents created before August 10, 1998, and documents created after August 10, 2004. Aventis further objects because this request seeks documents relating to all of Aventis’s products even though the question of what products are at issue in this case is not yet defined. Aventis further objects to this request to the extent it seeks the production of documents protected by the attorney-client privilege and/or attorney work product doctrine, or any other applicable privilege against disclosure.

Subject to and without waiving these objections, and when the scope of products at issue is defined by either the parties or the Court, Aventis will conduct reasonably diligent searches and will produce relevant, responsive, non-privileged documents, to the extent such documents exist, on a rolling basis as agreed upon by counsel, subject to an appropriate protective order of confidentiality.

REQUEST NO. 9: Exemplar agreements between each defendant and providers and pharmacy benefit managers applying defendants’ policies and practices relating to the disclosures such entities may make of the drug price information they receive from defendant or wholesalers.

RESPONSE: Aventis objects to this request because the phrase “disclosures” is undefined, vague, and ambiguous. Aventis further objects to the extent this request seeks production of documents not in Aventis’s possession, custody or control. Aventis further objects because this request is not reasonably calculated to lead to the discovery of admissible evidence as it seeks documents created before August 10, 1998, and documents created after August 10,

2004. Aventis further objects because this request seeks documents relating to all of Aventis's products even though the question of what products are at issue in this case is not yet defined.

Subject to and without waiving these objections, and when the scope of products at issue is defined by either the parties or the Court, and to the extent such agreements exist, Aventis will produce exemplar agreements responsive to this request, subject to an appropriate order of confidentiality.

REQUEST NO. 10: Any sworn statement or deposition of any current or former employee or agent relating to any claim or investigation about or connected with: a) whether the defendant's published Average Wholesale Price (AWP) was or is inaccurate, or b) whether the defendant's published Wholesale Acquisition Cost (WAC) was or is inaccurate, or c) whether the defendant misrepresented its Average Wholesale Price or Wholesale Acquisition Cost to any publication, person, entity, or official, or d) whether the defendant violated a federal "best price" law or regulation, or e) whether the defendant's agents furnished free samples to providers for improper reasons.

RESPONSE: Aventis objects to this request as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Aventis further objects to this request as vague and ambiguous. Aventis further objects to this request to the extent it seeks information protected by the attorney-client privilege or the work product doctrine. Aventis further objects to Plaintiff's use of the terms "inaccurate," "misrepresented," and "improper" as vague, ambiguous, and argumentative. Aventis further objects to this request to the extent it seeks documents subject to protective orders of confidentiality. Aventis further objects to the extent this request seeks information related to non-Aventis employees. Aventis further objects because this request is not limited in time.

AVENTIS PHARMACEUTICALS INC.



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