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STATE OF WISCONSIN,	)	
	)	
Plaintiff,	)	Case No.: 04-CV-1709
	)	
v.	)	
	)	
AMGEN INC., et. al.,	)	
	)	
Defendants.	)	
	)	

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**DEFENDANT AVENTIS PHARMACEUTICALS INC.’S RESPONSES  
AND OBJECTIONS TO PLAINTIFF’S SEVENTH SET OF REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

Pursuant to Wis. Stat. §§ 804.01 and 804.09, defendant Aventis Pharmaceuticals Inc. (“Aventis”), by its attorneys, objects and responds to Plaintiff’s Seventh Set of Requests for Production of Documents to All Defendants (Requests”) as follows:

**PRELIMINARY STATEMENT**

1. These responses and objections are made solely for the purposes of this action. By responding to these 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 this 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, and subject to a binding 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. Aventis's responses are made based upon a reasonable and diligent investigation conducted to date. Discovery in this matter is ongoing and Aventis reserves the right to amend its responses and to raise any additional objections it may have in the future. These 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.

4. Aventis's responses to the Requests contain information subject to the Protective Order entered on November 29, 2005 in this matter and must be treated accordingly.

### **GENERAL OBJECTIONS**

Aventis objects generally to Plaintiff's Requests as follows:

1. Aventis objects to Plaintiff's "Definitions" and "Instructions" to the extent Plaintiff intends to expand upon or alter Aventis's obligations under the Wisconsin Rules of Civil Procedure. Aventis will comply with the Wisconsin Rules of Civil Procedure in providing its responses to Plaintiff's Requests.

2. Aventis objects to the definition of "Document(s)" on the grounds that it is vague and ambiguous and to the extent that it seeks to impose obligations beyond those imposed by the applicable Wisconsin Rules of Civil Procedure. Aventis further objects to this definition to the extent that it purports to require Aventis to identify or produce documents or data in a particular form or format, to convert documents or data into a particular file format, to produce documents or data on any particular media, to search for and/or produce or identify documents or

data on back-up tapes, to produce any proprietary software, data, programs or databases, to violate any licensing agreement or copyright laws, or to produce data, fields, records, or reports about produced documents or data. The production of any documents or data or the provision of other information by Aventis as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

3. Aventis objects to the extent that any Request seeks information that is protected from disclosure by the work product doctrine, the attorney-client, accountant-client, consulting expert, or by any other applicable privilege or protection. To the extent that any such protected documents or information are inadvertently produced in response to these Requests, the production of such documents or information shall not constitute a waiver of Aventis's right to assert the applicability of any privilege or immunity to the documents or information, and Aventis demands that any such document or information be returned to Aventis's counsel immediately upon discovery therefore. Aventis agrees to prepare and provide Plaintiff with a listing or log of documents withheld on the grounds of privilege at the conclusion of its final production.

4. Aventis objects to Plaintiff's Requests to the extent it calls for production of documents or information not within its possession, custody, or control. In responding to these requests, Aventis has undertaken or will undertake a diligent and reasonable search of documents and information within Aventis's current possession, custody, or control.

5. Aventis objects to Plaintiff's Requests to the extent they call for information that is confidential, proprietary, and/or a trade secret of a third-party or is protected from disclosure by an agreement with a third-party.

6. Aventis objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in these Requests. Aventis's response that it will produce documents in connection with a particular Request is not intended to indicate that Aventis 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.

7. Aventis objects to Plaintiff's Requests to the extent 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.

8. Aventis objects to each Request to the extent that it calls for the identification or production of documents or information not relevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence, or are overly broad, unduly burdensome, ambiguous, or vague.

9. Aventis objects to the definition of time period covered by the Requests to the extent it encompasses any time period 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 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 period based on the allegations they have chosen to plead, Aventis is not similarly compelled.

10. Aventis expressly incorporates the above General Objections into each specific response to Plaintiff's Requests set forth as if set forth in full therein. A response to Plaintiff's Requests shall not operate as a waiver of any applicable specific or general objection.

### **RESPONSES TO REQUEST FOR DOCUMENTS**

**DOCUMENT REQUEST NO. 22:** All documents relating to your purchase, license, or receipt, of pricing information, including but not limited to average wholesale prices ("AWPs") or wholesale acquisition costs ("WACs") from First DataBank, Red Book, or MediSpan for your drugs or the drugs of your competitors, including but not limited to contracts or license agreements. This request includes, but is not limited to, your purchase, license, or receipt of First DataBank's National Drug Data File ("NDDF"). In addition, this request includes, but is not limited to, contracts or license agreements between you and First DataBank, Red Book, or Medispan, as well as contracts or license agreements between you and any other party that provides pricing information from First DataBank, Red Book, or Medispan (for example, agreements between you and DMD America in connection with its "Analysource" product).

**RESPONSE:** In addition to the General Objections set forth above, Aventis objects to this Request on the grounds that it is overly broad, unduly burdensome, and seeks documents that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence and that are outside the scope of permissible discovery. Particularly, Aventis objects to this Request to the extent that it seeks documents not relevant to the State's claims, which are limited to Wisconsin, and to the extent it seeks documents beyond the time period relevant to this lawsuit, or documents containing information about drugs not manufactured by Aventis or not named in the Complaint. Aventis also objects to the terms or phrases "purchase, license, or receipt," "competitors," "any other party that provides" and "pricing information" on the grounds that they are vague, ambiguous, and undefined. Finally, Aventis objects to this Request to the extent it seeks documents subject to contractual confidentiality provisions that prohibit disclosure without notification to the other

party. Aventis also incorporates herein its objections to the Plaintiff's definition of the term "documents."

Subject to and without waiving these objections, Aventis states that it will conduct reasonably diligent searches and will produce relevant, responsive, non-privileged agreements, to the extent such documents exist and are located.

Dated: March 5, 2008

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ATTORNEYS FOR DEFENDANT  
AVENTIS PHARMACEUTICALS INC.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of March, 2008, a true and correct copy of Aventis Pharmaceuticals Inc.'s Responses and Objections to Plaintiff's Seventh Set of Requests of Production of Documents to All Defendants was served on counsel of record by Lexis Nexis File & Serve.

AVENTIS PHARMACEUTICALS INC.

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