

STATE OF WISCONSIN,

Plaintiff,

Case No.: 04-CV-1709

v.

AMGEN INC., et al.,

Defendants.

**AVENTIS PHARMACEUTICALS INC.'S SUPPLEMENTAL RESPONSES
TO PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 804.09 of the Wisconsin Rules of Civil Procedure, Defendant Aventis Pharmaceuticals Inc. ("Aventis"), by its undersigned counsel, provides the following supplemental responses to Plaintiff's Request for Production of Documents ("Requests"), dated January 27, 2005. Aventis incorporates as though fully set forth herein its Preliminary Statement and General Objections as stated in its initial responses to Plaintiff's Requests served on December 9, 2005. In addition, Aventis amends its General Objections as follows.

AMENDED GENERAL OBJECTIONS

1. Aventis objects to the definition of "Defined Period of Time" to the extent it calls for information or documents created either prior to June 3, 1998 or after June 3, 2004, on the ground that such information is 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 that they have chosen to plead, Aventis is not similarly obligated.

SUPPLEMENTAL RESPONSES TO REQUEST FOR PRODUCTION

REQUEST NO. 1: All National Sales Data for each Targeted Drug during the Defined Period of Time.

RESPONSE: Aventis objects to this Request because, since the service of these discovery requests, the parties have unsuccessfully discussed narrowing the scope of drugs in this case. Since this issue is unresolved and presently before the Court in Defendants' motion to dismiss, Aventis objects to the use of "Targeted Drug" in this Request because it is overly broad and vague at this time. Aventis further objects to the definition of "National Sales Data" because it incorporates the definition of the term "Incentive," which Aventis considers overbroad and argumentative because it characterizes essentially any activity between Aventis and its customers as an "incentive." Aventis also objects to "Defined Period of Time" to the extent it calls for documents created either prior to August 10, 1998 or after August 10, 2004.

Subject to and without waiving these objections, Aventis responds that it previously produced to plaintiff electronic data for five of its products -- Allegra®, Amaryl®, Azmacort®, DDAVP®, and Nasacort® -- on July 22, 2005. Data included in that production was gathered from several electronic databases and included sales data, chargeback and rebate data, and data pertaining to payment of administrative fees. The produced data also included each product's AWP (as reported by First DataBank), WAC, AMP, and Best Price from 1997-2003. When the scope of products at issue is defined, either by the parties or through Court order, Aventis will supplement this response.

SUPPLEMENTAL RESPONSE: Subject to and without waiving the objections set forth above, Aventis states that it will produce electronic data, including each

product's AWP, WAC, AMP, and Best Price from 1998 to 2004, for all of the drugs that, pursuant to stipulation, the parties have agreed are at issue in this case.

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 or 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.

RESPONSE: Aventis objects to this Request because, since the service of these discovery requests, the parties have unsuccessfully discussed narrowing the scope of drugs in this case. Since this issue is presently unresolved and before the Court in Defendants' motion to dismiss, Aventis objects to the use of "Targeted Drug" in this Request because it is overly broad and vague at this time. Aventis further objects to "Defined Period of Time" to the extent it calls for documents created either prior to August 10, 1998 or after August 10, 2004.

Subject to and without waiving these objections, Aventis responds that it previously produced to plaintiff the requested AMP data for five of its products -- Allegra®, Amaryl®, Azmacort®, DDAVP®, and Nasacort® -- on July 22, 2005. When the scope of products at issue is defined, either by the parties or through Court order, Aventis will supplement this response.

SUPPLEMENTAL RESPONSE: Subject to and without waiving the objections set forth above, Aventis states that it will produce AMP data for all of the drugs that, pursuant to stipulation, the parties have agreed are at issue in this case.

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.

RESPONSE: Aventis objects to this Request because the scope of products involved in this action is still not defined. This Request, therefore, seeks documents relating to drugs that may not be at issue in this case. When the scope of products at issue is defined, either by the parties or through Court order, Aventis will conduct reasonably diligent searches and will produce relevant, responsive, non-privileged documents on a rolling basis as agreed upon by counsel, subject to an appropriate protective order of confidentiality.

SUPPLEMENTAL RESPONSE: Subject to and without waiving the objections set forth above, Aventis states that it has identified a core set of documents that relate to its pricing, marketing, sales, and contracting practices, with specific reference to many of its products. Aventis will produce a copy of these documents, subject to the terms of the binding protective order of confidentiality previously entered in this case and to the terms of the parties' stipulation concerning the approved uses of these documents.

REQUEST NO. 4: All Documents containing an average sales price or composite price identified by you in response to Interrogatory No. 1 of Plaintiff's First Set of Interrogatories to All Defendants.

RESPONSE: Aventis objects to this Request on the ground that the terms "average sales price" and "other composite price" are vague, ambiguous and undefined. As set forth in its Answer to Plaintiff's Interrogatory No. 1, Aventis also objects to this Request because, since the service of these discovery requests, the parties have unsuccessfully discussed narrowing the scope of products in this case. Since this issue is presently unresolved and before the Court in Defendants' motion to dismiss, Aventis objects to the use of "Targeted Drug" in this Request because it is overly broad and vague at this time.

Subject to and without waiving these objections and, as set forth in its Answer to Plaintiff's Interrogatory No. 1, Aventis states that it did not have one internal definition of "average sales price." For many of its pharmaceutical products, Aventis computed gross-to-net

sales data that took into consideration any chargebacks, rebates, and administrative fees provided to customers. Notwithstanding that the scope of drugs in this matter has not yet been defined, Aventis produced to plaintiff sales data, and chargeback, rebate and administrative fees data for five of its products -- Allegra®, Amaryl®, Azmacort®, DDAVP®, and Nasacort® -- on July 22, 2005. When the scope of products at issue is defined, either by the parties or through Court order, Aventis will supplement this response.

SUPPLEMENTAL RESPONSE: Subject to and without waiving the objections set forth above, Aventis states that it will produce sales data, and chargeback, rebate and administrative fees data for all of the drugs that, pursuant to stipulation, the parties have agreed are at issue in this case.

REQUEST NO. 5: All documents sent to or received from First DataBank, Redbook and Medi-Span regarding the price of any Targeted Drug.

RESPONSE: Aventis objects to this Request because, since the service of these discovery requests, the parties have unsuccessfully discussed narrowing the scope of products in this case. Since this issue is presently unresolved and before the Court in Defendants' motion to dismiss, Aventis objects to the use of "Targeted Drug" in this Request because it is overly broad and vague at this time.

Subject to and without waiving these objections, Aventis states that when the scope of products at issue is defined, either by the parties or through Court order, it will supplement this response.

SUPPLEMENTAL RESPONSE: Subject to and without waiving the objections set forth above, Aventis states that it has identified a core set of documents that relate to its pricing, marketing, sales, and contracting practices, with specific reference to many of its products. Aventis will produce a copy of these documents, subject to the terms of the binding

protective order of confidentiality previously entered in this case and to the terms of the parties' stipulation concerning the approved uses of these documents.

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.

RESPONSE: Aventis objects to this Request because, since the service of these discovery requests, the parties have unsuccessfully discussed narrowing the scope of drugs in this case. Since this issue is presently unresolved and before the Court in Defendants' motion to dismiss, Aventis objects to the use of "Targeted Drug" in this Request because it is overly broad and vague at this time. Aventis also objects to this Request on the ground that the terms "IMS Health," "pricing," "sales," and "market share" are not defined. Aventis further objects to this request on the grounds that a request for all documents relating to "pricing, sales, or market share" is overly broad and unduly burdensome, and seeks information that is neither relevant to this litigation nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving these objections, Aventis states that when the scope of products at issue is defined, either by the parties or through Court order, it will supplement its response.

SUPPLEMENTAL RESPONSE: Subject to and without waiving the objections set forth above, Aventis further states that it is not permitted, pursuant to its license and purchase agreement with IMS, to disclose IMS data to third parties without express permission. Aventis states that it will communicate with IMS to attempt to obtain such permission to provide a copy of that IMS data that remains in Aventis's possession.

Dated: September 25th, 2007

By: /s/ Clifford Joe Cavitt
Stephen P. Hurley, Esq.
State Bar 1015654
Clifford Joe Cavitt, Esq.
State Bar 1038348
HURLEY, BURISH & STANTON, S.C.
33 E. Main Street, Suite 400
Madison, WI 53703
(608) 257-0945 (Office)
(608) 257-5764 (Fax)

Michael L. Koon, Esq.
Joseph G. Matye, Esq.
Tiffany W. Killoren, Esq.
SHOOK, HARDY & BACON, LLP
2555 Grand Boulevard
(816) 474-6550 (office)
(816) 421-5547 (fax)

ATTORNEYS FOR DEFENDANT
AVENTIS PHARMACEUTICALS INC.

CERTIFICATE OF SERVICE

I hereby certify that I have on this 25th day of September, 2007, electronically served a true and correct copy of Aventis Pharmaceuticals Inc.'s Supplemental Responses to Plaintiff's First Set of Request for Production of Documents on counsel of record by transmission to LNFS, pursuant to Case Management Order.

/s/ Clifford Joe Cavitt _____
Clifford Joe Cavitt