



3. BMS's responses are made based upon reasonable and diligent investigation conducted to date. Discovery and investigation in this matter are ongoing and BMS 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 Plaintiff's Requests, unless a specific definition or instruction has been provided.

4. BMS's responses to the Request are contingent upon, and are made subject and pursuant to, the protective order entered in this action and must be treated accordingly.

5. BMS's responses to the Request are submitted without prejudice to BMS's right to produce evidence of any subsequently discovered facts and to present in any proceeding and at trial any further information and documents obtained during discovery and preparation for trial. BMS reserves its right to provide further responses as additional facts are ascertained.

6. Any statement by BMS contained in these responses that non-privileged documents or information will be produced in response to a specific request does not mean that any such documents or information actually exist, but only that they will be produced to the extent that they exist.

### **GENERAL OBJECTIONS**

1. BMS objects to Plaintiff's "Definitions" and "Instructions" to the extent Plaintiff intends to expand upon or alter BMS's obligations under the Wisconsin Rules of Civil Procedure. BMS will comply with applicable rules of civil procedure in providing its responses and objections to the Request.

2. BMS objects to the Request to the extent that it seeks information or documents from outside the statute of limitations applicable to the claims in this action or beyond the time period relevant to this action.

3. BMS objects to the Request to the extent that it seeks documents and information that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence, or are overly broad, unduly burdensome, ambiguous and vague. In response to the Request, BMS will produce information concerning only those drugs that the parties have agreed are at issue in this action.

4. BMS objects to the Request to the extent that it calls for the production of documents or information that are privileged or otherwise protected against discovery pursuant to the attorney-client privilege, joint defense/prosecution privilege, the work product doctrine, the consulting expert rule, the common interest doctrine or other applicable statutory or common law. To the extent that any such protected documents or information are inadvertently produced in response to the Request, the production of such documents or information shall not constitute a waiver of BMS's right to assert the applicability of any privilege or immunity to the documents or information, and any such documents or information shall be returned to BMS's counsel immediately upon discovery thereof.

5. BMS objects to the Request to the extent that it seeks documents and information not within BMS's possession, custody, or control or are more appropriately sought from third parties to whom requests have been or may be directed.

6. BMS objects to the Request to the extent that it seeks production of publicly available documents or information, or information which Plaintiff has in its possession or can obtain from other sources.

7. BMS objects to the Request to the extent that it purports to impose obligations beyond, or inconsistent, with those imposed by applicable law. BMS will respond to the Request, subject to other objections, as required by the Wisconsin Rules of Civil Procedure.

8. BMS objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in the Request. BMS's response that it will produce documents in connection with the Request, or that it has no responsive documents, is not intended to indicate that BMS agrees with any implication or any explicit or implicit characterization of facts, events, circumstances, or issues in the Request or that such implications or characterizations are relevant to this action.

9. BMS objects to the Request to the extent they that it calls for the production of trade secret, proprietary, commercially sensitive, or other confidential information.

10. BMS incorporates the above Preliminary Statement and General Objections and the below Objections to Definitions into its specific response set forth below as if set forth fully therein. The specific response to the Request shall not operate as a waiver of any applicable general objection.

#### **OBJECTIONS TO DEFINITIONS**

(1) The words "document" and "documents" are used in the broadest possible sense and refer, without limitation, to all written, printed, typed, photostatic, photographed, recorded or otherwise reproduced communications or representations of every kind and description, whether comprised of letters, words, numbers, pictures, sounds, or symbols, or any combination thereof, whether prepared by hand or by mechanical, electronic, magnetic, photographic, or other means, as well as audio or video recordings of communications, oral statement, conversations or events. This definition includes, but is not limited to, any and all of the following: day-timers, journals, logs, calendars, handwritten notes, correspondence, minutes, records, messages, memoranda, telephone memoranda, diaries, contracts, agreements, invoices, orders, acknowledgements, receipts, bills, statements, appraisals, reports, forecasts, compilations, schedules, studies,

summaries, analyses, pamphlets, brochures, advertisements, newspaper clippings, tables, tabulations, financial statements, working papers, tallies, maps, drawings, diagrams, sketches, x-rays, charts, labels, packaging, plans, photographs, pictures, film, microfilm, microfiche, computer-stored or computer-readable data, computer programs, computer printouts, telegrams, telexes, telefacsimiles, tapes, transcripts, recordings, and all other sources or formats from which data, information or communications can be obtained. Any preliminary versions, drafts, or revisions of any of the foregoing, any document which has or contains any attachment, enclosure, comment, notation, addition, insertion, or marking of any kind which is not part of another document, or any document which does not contain a comment, notation, addition, insertion or marking of any kind which is part of another document, is to be considered a separate document.

**OBJECTION:** BMS objects to the definition of "Document" as set forth in the Definitions on the grounds that it is vague and ambiguous. BMS also objects to this definition to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, BMS's obligations under the Wisconsin Rules of Civil Procedure. BMS further objects to this definition to the extent it requires or seeks to require BMS to: (i) produce documents or data in a particular form or format; (ii) convert documents or data into a particular or different file format from that which the documents are now stored; (iii) produce metadata constituting attorney work product, including without limitation, fields, records, or reports about produced documents or data; (iv) produce documents or data on any particular media; (v) search for and/or produce any documents or data on back-up tapes and/or such other storage media that may be inaccessible in the normal course of business; (vi) produce any proprietary software, data, programs, or databases; or (vii) violate any licensing agreements or copyright laws.

### **SPECIFIC RESPONSE TO DOCUMENT REQUEST**

**DOCUMENT REQUEST NO. 1:** A copy of all documents produced within the last two months to the State of Alabama in the *State of Alabama v. Bristol-Myers Squibb Company*, Civil Action No. CV-05-219.

**RESPONSE:** In addition to the Preliminary Statement, General Objections and Objections to Definitions set forth above, BMS objects to Document Request No. 1 on the grounds that it is overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing Preliminary Statement, General Objections, Objections to Definitions and specific

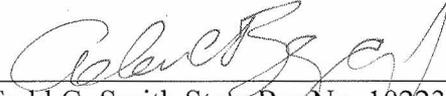
objections, BMS states that it will produce to Plaintiff the documents requested, except that BMS will not produce those documents that are specific to the Alabama litigation referenced in Document Request No 1.

Dated: August 6, 2008

Respectfully Submitted,

GODFREY & KAHN, S.C.

BY:

  
Todd G. Smith State Bar No. 1022380  
Adam C. Briggs State Bar No. 1061346

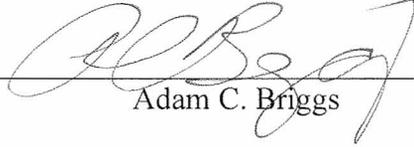
One East Main Street, Suite 500  
Post Office Box 2719  
Madison, Wisconsin 53701-2719  
Phone: 608-257-3911  
Fax: 608-257-0609

Steven M. Edwards  
Lyndon M. Tretter  
Thomas J. Sweeney, III  
HOGAN & HARTSON, LLP  
875 Third Ave.  
New York, NY 10022  
212-918-3000 (phone)  
212-918-3100 (fax)

*Attorneys for Defendant  
Bristol-Myers Squibb Co.*

**Certificate of Service**

I, Adam C. Briggs, hereby certify that on August 6, 2008 a true and correct copy of the foregoing was served on all counsel of record by Lexis Nexis® File & Serve®.



Adam C. Briggs