



b. that any statement or characterization in Plaintiff's Requests is accurate or complete.

3. Immunex's responses are made based upon reasonable and diligent investigation conducted to date. Discovery and investigation in this matter are ongoing and Immunex 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 and/or agreed upon.

4. Immunex's responses to Plaintiff's Requests contain information subject to the Protective Order in this matter and must be treated accordingly.

5. Immunex is responding on its own behalf, and not on behalf of Amgen Inc., the parent company of Immunex, which has been named as a separate defendant in these proceedings and is separately represented by counsel.

6. Immunex's responses to Plaintiff's Requests are submitted without prejudice to Immunex's right to produce evidence of any subsequently discovered fact. Immunex accordingly reserves its right to provide further responses and answers as additional facts are ascertained.

### **GENERAL OBJECTIONS**

Immunex objects generally to Plaintiff's Requests as follows:

1. On July 3, 2007, Immunex produced to Plaintiff all documents produced to plaintiffs in the AWP MDL. The MDL court has directed coordination with related state cases such as this one, and at the very least before pursuing further discovery from Immunex, Plaintiff should review the relevant documents produced in the MDL.

2. Immunex objects to Plaintiff's "Definitions" and "Instructions" to the extent Plaintiff seeks to expand upon or alter Immunex's obligations under the Wisconsin Rules of Civil Procedure, in responding to Plaintiff's Requests. Immunex will comply with the Wisconsin Rules of Civil Procedure in providing its responses to Plaintiff's Requests.

3. Immunex objects to the definition of the word "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. Immunex further objects to this definition to the extent that it purports to require Immunex 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 Immunex as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

4. Immunex objects to Plaintiff's Requests to the extent they call for the identification or production of documents or information not relevant to the issues in this action or not reasonably calculated to lead to the discovery of admissible evidence.

5. Immunex objects to Plaintiff's Requests to the extent they seek information that is protected from disclosure by the work product doctrine, the attorney-client, accountant-client, consulting expert, or investigative privileges, any common

interest or joint defense agreement, or any other applicable privilege or protection.

6. Immunex objects to Plaintiff's Requests to the extent they call for information not within Immunex's possession, custody or control. In responding to Plaintiff's Requests, Immunex has undertaken or will undertake a reasonably diligent and reasonable search of documents and information within Immunex's current possession, custody or control.

7. Immunex 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.

8. Immunex 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.

9. Immunex expressly incorporates the above General Objections into the specific response set forth below 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.

### **OBJECTIONS AND RESPONSES TO SPECIFIC REQUESTS**

**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, 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 American in connection with its "Analysource" product).

**RESPONSE:** Notwithstanding the foregoing General Objections, and without waiving them, Immunex responds that it has already produced voluminous documents regarding its communications and relationships with First DataBank, Red Book, and Medispan.

March 5, 2008



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David J. Burman  
Kathleen M. O'Sullivan  
Breena M. Roos  
PERKINS COIE LLP  
1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
(206) 359-8000 (phone)  
(206) 359-9000 (fax)

Michael R. Fitzpatrick  
BRENNAN, STEIL & BASTING, S.C.  
One E. Milwaukee Street  
Janesville, WI 53547-1148  
Telephone: (608) 743-2942  
Facsimile: (608) 756-9000

*Attorneys for Immunex Corporation*

**CERTIFICATE OF SERVICE**

I, Breena M. Roos, certify that on March 5, 2008, I caused a copy of IMMUNEX CORPORATION'S RESPONSES AND OBJECTIONS TO PLAINTIFF'S SEVENTH SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS to be served on all counsel of record by LexisNexis File & Serve.



Breena M. Roos  
PERKINS COIE LLP  
1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
(206) 359-8000 (phone)  
(206) 359-9000 (fax)