

any and all documents heretofore or hereafter produced by the parties in this action or in any other action, or produced by any third person. Identification or production of certain documents is done without prejudice to establish at a later date any additional facts that may be contained within or discovered as a result of any subsequent review of such documents or additional investigation and discovery.

GENERAL OBJECTIONS

1. Merck objects to the Requests to the extent that they are vague, ambiguous, argumentative, duplicative, overly broad, and unduly burdensome or oppressive; to the extent that they seek documents or information that are not relevant to the claims or defenses of any party or to the subject matter involved in this action; and to the extent they seek documents or information beyond that provided for by Wisconsin Statutes §§ 804.01 and 804.09 and other applicable state and federal laws.

2. Merck objects to the Requests to the extent that they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine, or any other privilege, or that are otherwise immune or protected from disclosure. Merck does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to the Requests. On the contrary, Merck specifically intends to preserve any and all applicable protections or privileges.

3. Inadvertent production of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other document, or with respect to the subject matter thereof or the information contained therein, nor shall such inadvertent production waive Merck's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

4. Merck objects to the Requests to the extent they seek information or documents generated or compiled in the course of the defense of this action or any other AWP litigation. Merck will not produce such information or documents.

5. Merck objects to the Requests as overly broad and unduly burdensome to the extent that they call for the production of “all” documents when all relevant facts can be obtained from fewer than “each,” “any,” or “all” documents or information. Merck objects to the Requests to the extent they seek documents other than those that can be located upon a search of files where one could reasonably expect to find such documents.

6. Merck objects to the Requests to the extent that they seek any other confidential or proprietary information or trade secrets. Merck will only produce such information subject to and in reliance on the Protective Order entered on November 29, 2005. The information and documents provided are for use in this litigation and for no other purpose.

7. Merck objects to the Requests to the extent that they call for information or documents relating to Merck’s business or practices that are inapplicable to the providers reimbursed by Plaintiff. Unless otherwise specified, Merck’s responses will be limited to information and documents about its business or practices in the United States generally or in Wisconsin in particular and with respect to the types of providers that are reimbursed by the State of Wisconsin under Medicaid.

8. Merck objects to the Requests to the extent that they purport to require Merck to provide a compilation, abstract, audit, and/or document summary that does not currently exist. Merck will make available for inspection copies of responsive, non-privileged documents at a mutually convenient date, time, and location.

9. Merck objects to the Requests to the extent that they are unreasonably cumulative or duplicative and to the extent that they call for documents that are publicly available or obtainable from some other source that is more convenient, less burdensome, or less expensive.

10. Merck objects to the Requests to the extent that they are unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation.

11. Merck is responding to the Requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object on any proper grounds to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of the Requests to which Merck has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the responses made herein.

12. Because of the over breadth of the Requests and the vague, non-specific nature of the allegations against Merck in the Second Amended Complaint, it is not possible for Merck to anticipate all possible grounds for objection at this stage in the litigation with respect to the particular Requests set forth herein. Merck reserves the right to supplement or correct these responses and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. Merck objects to Plaintiff's Definitions and Instructions to the extent they purport to expand upon or alter Merck's obligations under Wisconsin Statutes §§ 804.01 and 804.09.

2. Merck objects to Plaintiff's definition of "you," "your," or "your company" as vague, ambiguous, overbroad, and unduly burdensome to the extent it purports to refer to all defendants, rather than just Merck, and to the extent it purports to encompass Merck's "subsidiaries, divisions, predecessors, officers, [and] agents" other than those involved in the pricing and marketing of the Merck drugs referenced in the exhibits to the Second Amended Complaint as further limited by the parties' discussions (hereinafter "Merck drugs at issue"). Merck further objects to the foregoing and to the portion of the definition encompassing "all other persons acting or purporting to act on behalf of defendants" as vague, ambiguous, and overbroad, as requiring Merck to speculate, and as imposing obligations beyond those set forth in Wis. Stat. Chapter 804.

3. Merck objects to Plaintiff's definition of "document" or "documents" as vague, ambiguous, overbroad, and unduly burdensome, and incorporates its objections to the definition of "Document" set forth in Merck's Objections and Responses to Plaintiff's First Set of Requests for Production of Documents as if fully set forth herein.

4. Merck objects to the requests as overbroad, unduly burdensome, and not relevant with respect to time period. Merck will respond as to the time period November 1998 to November 2004.

RESPONSES AND OBJECTIONS TO INDIVIDUAL DOCUMENT REQUESTS

Merck incorporates its General Objections and Objections to Definitions and Instructions set forth into each of Merck's responses. The specific objections set forth in each response below are in addition to those objections and unless otherwise specified, Merck's responses are limited in accordance with each of its objections, including its objections to the time frame of the requests. To the extent that Merck provides or offers to produce confidential information, Merck

will do so only subject to and in reliance on the Protective Order entered by the Court on November 29, 2005.

REQUEST FOR PRODUCTION NO. 23: Attached hereto as Exh. 1 is a copy of a blank form entitled “HDMA Standard Product Information Pharmaceutical Products.” Please produce all such forms that you have completed (as to any or all of the information on such forms) for any of your drugs from January 1, 1991 to the present as well as all documents that identify each person or entity, if any (including but not limited to Cardinal Health, McKesson Corporation, or Amerisource Bergen Corporation, or any of their predecessor entities), to whom you sent or provided any such forms and the dates that you sent or provided such forms to any such person or entity.

RESPONSE

Merck further objects that Request for Production No. 23 is overly broad and unduly burdensome in seeking “all documents.” Merck objects that the Request is not reasonably calculated to lead to the discovery of admissible evidence. Merck also objects to this Request on the grounds that the phrase “any of their predecessor entities” is vague and ambiguous and would require Merck to speculate. Merck objects to this Request to the extent it seeks information relating to Merck products other than the Merck drugs at issue.

Subject to and without waiving its objections, Merck agrees to undertake a reasonable search for non-privileged documents responsive to this Request, if any.

REQUEST FOR PRODUCTION NO. 24: Any documents reflecting communications with drug wholesalers (including but not limited to Cardinal Health, McKesson Corporation, or Amerisource Bergen Corporation, or any of their predecessor entities) relating to: (a) AWP, SWP, WAC, MAC, FUL, or direct price; or (b) any pricing compendia including but not limited to First DataBank, Medispan, and Red Book.

RESPONSE

Merck further objects to Request for Production No. 24 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Merck objects to this Request on the grounds that the terms “AWP,” “SWP,” “WAC,” “MAC,” “FUL,” and “direct price” are undefined, vague, and ambiguous. Merck also objects to

this Request on the grounds that the phrase “any of their predecessor entities” is vague and ambiguous and would require Merck to speculate. Merck objects to this Request as irrelevant to the extent it seeks information regarding MAC or FUL and to the extent it seeks information regarding pricing compendia other than First DataBank.

Subject to and without waiving its objections, Merck agrees to undertake a reasonable search for non-privileged documents responsive to this Request, if any.

REQUEST FOR PRODUCTION NO. 25: Documents relating to any contract or agreement with any health-care provider (including but not limited to retail pharmacies (chain or independent), doctors, or long-term care facilities) to share in the profits earned by such provider in connection with the provider's sale or dispensing of any of your prescription drugs.

RESPONSE

Merck further objects to Request for Production No. 25 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Merck objects to this Request on the grounds that the phrase “share in the profits earned by such provider in connection with the provider’s sale or dispensing of any of your prescription drugs” is vague and ambiguous. Merck also object to this Request to the extent it seeks information relating to Merck products other than the Merck drugs at issue.

Subject to and without waiving its objections, Merck states that it has no responsive documents.

Dated: August 28, 2008

Respectfully submitted,

By: /s/ Robert B. Funkhouser

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th of August 2008, I caused a true and correct copy of the foregoing Responses and Objections of Defendant Merck & Co., Inc. to Plaintiff State of Wisconsin's Eighth Set of Requests for Production to All Defendants to be electronically served upon all counsel of record by transmission to LexisNexis File & Serve.

/s/Robert B. Funkhouser _____