



Aug 21 2008  
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STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

Branch 7

STATE OF WISCONSIN,

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Plaintiff,

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Case No.: 04 CV 1709

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v.

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AMGEN, INC., ET AL.,

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Defendants.

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**RESPONSES AND OBJECTIONS OF PHARMACIA CORPORATION TO  
PLAINTIFF'S EIGHTH SET OF REQUESTS FOR  
THE PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

Pursuant to Wis. Stat. §§ 804.01 and 804.09, defendant Pharmacia Corporation (“Pharmacia”), by its attorneys, objects and responds to Plaintiff State of Wisconsin’s Eight Set of Requests for Production of Documents to All Defendants (the “Requests”) as follows:

**PRELIMINARY STATEMENT**

1. These responses and objections are made solely for the purposes of this action and no other purpose. Each response is made without in any way waiving or intending to waive: (i) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, information or documents produced in response to these Requests; (ii) the right to object on any ground to the use of the documents or information produced in response to the Requests at any hearings or at trial; or (iii) the right to object on any ground at any time for further responses to the Requests; (iv) its right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein; and (v) and to any and all other objections that may be applicable at a trial or other hearing or proceeding, all of which objections and grounds are expressly reserved and may be interposed at the time of trial.

2. Pharmacia has not completed its investigation and discovery relating to this case. The specific responses set forth below and any production made pursuant to the accompanying document requests are based upon, and necessarily limited by, information now available to Pharmacia .

3. Pharmacia objects to these Requests to the extent that they seek 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, are overly broad, unduly burdensome, ambiguous and vague.

4. Pharmacia objects to these Requests to the extent they call for the production of documents or information protected from disclosure under the attorney-client privilege, the work product doctrine, or any other legally recognized privilege, immunity, or exemption from discovery. 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 Pharmacia '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 Pharmacia 's counsel immediately upon discovery thereof.

5. Pharmacia objects to these Requests to the extent that they seek production of publicly available documents or information, or that which Plaintiff can obtain from other sources.

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

7. Pharmacia's responses to these Requests contain information subject to the Protective Order in this matter and must be treated accordingly.

8. Pharmacia objects to these Requests to the extent that they seek to impose discovery obligations that are broader than, or inconsistent with, Pharmacia's obligations under the Wisconsin Rules of Civil Procedure.

9. Pharmacia objects to any implications and to any explicit or implicit characterization of facts, events, circumstances, or issues in these Requests. Pharmacia's response that it will produce documents in connection with a particular Request, or that it has no responsive documents, is not intended to indicate that Pharmacia 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.

10. Pharmacia 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 is not reasonably calculated to lead to the discovery of admissible evidence.

11. Pharmacia objects to each Request to the extent that it calls for production of documents or information not within its possession, custody, or control or are more appropriately sought from third parties to whom Requests have been or may be directed.

12. Pharmacia objects to each Request to the extent that it calls for information that is confidential, proprietary, and/or a trade secret of a third party. Any such materials produced will be subject to the Protective Order entered in this action.

13. Pharmacia objects to each Request to the extent that it seeks 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.

14. Pharmacia objects to the definition of “document” 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. Pharmacia further objects to this definition to the extent that it purports to require Pharmacia 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 Pharmacia as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

15. Pharmacia objects to the definition of “targeted drugs” to the extent that it (i) refers to information not relevant to Plaintiff’s claims, which are limited to Wisconsin, (ii) seeks information from beyond the time period from September 1, 1993 to June 4, 2004 (i.e., the time period relevant to this litigation); or (iii) includes drugs Pharmacia did not manufacture, produce or sell during that time period relevant in this litigation, on the grounds 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.

16. Pharmacia objects to the definition of the terms “you,” “your,” and “your company” on the grounds that it is vague, ambiguous and overbroad. The responses herein are made on behalf of Pharmacia Corporation

17. Pharmacia objects to the time-period specified by the Requests to the extent it encompasses any time-period before September 1, 1993 or any time period after June 4, 2004,

and does not fall within any of the exceptions (the document discovery time-period set by the Court).

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

19. Pharmacia expressly incorporates the above General Objections into each specific response to the Requests set forth below as if set forth in full therein. The response to a Request shall not operate as a waiver of any applicable specific or general objection to the Request.

#### DOCUMENT REQUESTS

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 TO DOCUMENT REQUEST NO. 23: In addition to the General Objections set forth above, Pharmacia objects to this Request on the grounds that it is overly broad and unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Pharmacia objects to this Request on the grounds that it is vague and ambiguous with respect to the language "all documents" and "sent or provided." Pharmacia incorporates by reference its objections to the State's definition of the terms "you" and "your." Pharmacia objects to this Request to the extent it seeks information not relevant to the State's claims, which are limited to Wisconsin. Pharmacia further objects to this Request to the extent it seeks confidential business, trade secret or proprietary information. Pharmacia also objects to

this Request to the extent it calls for Pharmacia to compile or otherwise create responsive documents.

Without waiving and subject to these objections, and subject to the State's agreement to be bound by the Protective Order entered into by and between Plaintiff and Defendants in this action, Pharmacia responds that it has already produced all relevant non-privileged documents, if any exist, that are responsive to this Request. By way of further response, Pharmacia states that, upon information and belief, this Request seeks information and documents equally available to Plaintiff through cross-noticed depositions, or is otherwise easier sought from third parties.

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 TO DOCUMENT REQUEST NO. 24: In addition to the General Objections set forth above, Pharmacia objects to this Request on the grounds that it is overly broad and unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Pharmacia objects to this Request on the grounds that it is vague and ambiguous with respect to the language "communications," "AWP," "SWP," "WAC," "MAC," "FUL," "direct price," or "any pricing compendia." Pharmacia objects to this Request to the extent it seeks information not relevant to the State's claims, which are limited to Wisconsin. Pharmacia objects to this Request to the extent it seeks information subject to the attorney-client privilege, the work-product doctrine, or other applicable privilege or protection from discovery. Pharmacia further objects to this Request to the extent it seeks confidential business, trade secret or proprietary information.

Without waiving and subject to these objections, and subject to the State's agreement to be bound by the Protective Order entered into by and between Plaintiff and Defendants in this

action, Pharmacia responds that it has already produced all relevant non-privileged documents, if any exist, that are responsive to this Request.

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 TO DOCUMENT REQUEST NO. 25: In addition to the General Objections set forth above, Pharmacia objects to this Request on the grounds that it is overly broad and unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Pharmacia objects to this Request on the grounds that it is vague and ambiguous with respect to the language "contract," "agreement," "health-care provider," or "share in the profits earned." Pharmacia incorporates by reference its objections to the State's definition of the terms "you" and "your." Pharmacia objects to this Request to the extent it seeks information not relevant to the State's claims, which are limited to Wisconsin. Pharmacia objects to this Request to the extent it seeks information subject to the attorney-client privilege, the work-product doctrine, or other applicable privilege or protection from discovery. Pharmacia further objects to this Request to the extent it seeks confidential business, trade secret or proprietary information.

Without waiving and subject to these objections, and subject to the State's agreement to be bound by the Protective Order entered into by and between Plaintiff and Defendants in this action, Pharmacia responds that it has already produced all relevant non-privileged documents, if any exist, that are responsive to this Request.

August 21, 2008

/s/ Beth Kushner

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*Attorneys for Pharmacia Corporation*

**Certificate of Service**

I, Jamie M. McCall, hereby certify that on this 21st day of August 2008, a true and correct copy of the foregoing was served on all counsel of record by Lexis Nexis File & Serve®.

/s/ Jamie M. McCall  
Jamie M. McCall