

STATE OF WISCONSIN,

Plaintiff,

v.

AMGEN INC., ET AL.,

Defendants.

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Case No.: 04 CV 1709

**PHARMACIA CORPORATION’S RESPONSES TO  
PLAINTIFF STATE OF WISCONSIN’S WRITTEN DISCOVERY REQUEST NO. 3**

Pursuant to WIS. STATS. §§ 804.01 and 804.09, defendant Pharmacia Corporation (“Pharmacia”), by its attorneys, hereby asserts the following responses and objections to Plaintiff State of Wisconsin’s (the “State”) Written Discovery Request No. 3, (“the Requests”), as follows:

**GENERAL OBJECTIONS**

Pharmacia expressly incorporates by reference all “General Objections” set forth in its objections and responses to the State’s previous request for production of documents, which apply to the Requests in their entirety, including the Definitions, Instructions, and Relevant Time Period. Pharmacia’s responses to the Requests are made without waiving the right to object to the competency, materiality, relevancy or admissibility of any data that may be produced in response to the Requests. The Specific Objections provided below are made in addition to these General Objections, and failure to reiterate a General Objection below does not constitute a waiver or limitation of that or any other objection.

1. Pharmacia objects to the definition of “you,” “your,” and “your company” in Definition No. 1 on the grounds that it is vague and ambiguous with respect to the language

“subsidiaries, divisions, predecessors, officers, agents and all other persons acting or purporting to act on behalf of defendants or their subsidiaries or predecessors.” Pharmacia further objects to this definition on the grounds that it responds to these document requests on behalf of Pharmacia only and not on behalf of Pfizer Inc., a separate legal entity that has been sued separately by the State.

2. Pharmacia objects to Instruction No. 1 on the grounds that it is vague and ambiguous with respect to the language “possession, custody, or control,” “of any of them” and “any of their agents.” Pharmacia further objects to this Instruction to the extent that the State seeks documents that are more appropriately sought from third parties to whom requests have been or may be directed.

### **SPECIFIC RESPONSES TO REQUESTS FOR PRODUCTION**

**REQUEST NO. 7:** All documents listed in Appendix A attached hereto in unredacted form. Each of these documents is identified in the Third Amended Master Consolidated Class Action Complaint Amended to Comply With the Court’s Class Certification Order on the page listed in Appendix A and with the bates number identified in Appendix A. (Those without bates numbers are otherwise identified, e.g. paragraph 290).

**RESPONSE TO REQUEST NO. 7:** In addition to the General Objections incorporated above, Pharmacia objects to Request No. 7 on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence. Pharmacia objects to this Request to the extent it calls for information not in its possession, custody or control. Pharmacia objects to this Request to the extent it seeks information not relevant to the State’s claims, which are limited to Wisconsin, or to the relevant time period involving the State’s claims. Pharmacia incorporates by reference its objections to the State’s definitions of the term “documents.” Pharmacia objects to this Request to the extent it seeks information that is 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.

Subject to, and without waiving these objections, Pharmacia will produce the documents referenced in Appendix A that are labeled “Pharmacia” and are bates labeled “PH.” However, documents in Appendix A that are labeled “Pharmacia” and are bates labeled “P” were produced by plaintiffs in the Average Wholesale Price Litigation pending in Boston, Massachusetts (“MDL Proceeding”), not by Pharmacia.

**REQUEST NO 8:** Documents discussing or concerning the policy and practice of each defendant concerning the disclosures providers and pharmacy benefit managers may make of the drug price information they receive from the defendant or drug wholesalers from 1993 to the present.

**RESPONSE TO REQUEST NO. 8:** In addition to the General Objections incorporated above, Pharmacia objects to Request No. 8 on the grounds that it is overly broad, 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 “discussing or concerning,” “policy and practice,” “disclosures,” and “drug price information.” Pharmacia incorporates by reference its objections to the State’s definitions of the term “documents.” Pharmacia objects to this Request to the extent it seeks information not relevant to the State’s claims, which are limited to Wisconsin, or to the time period relevant to this litigation. 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.

**REQUEST NO. 9:** Exemplar agreements between each defendant and providers and pharmacy benefit managers applying defendants’ policies and practices relating to the disclosures such entities may make of the drug price information they receive from defendant or wholesalers.

**RESPONSE TO REQUEST NO. 9:** In addition to the General Objections incorporated above, Pharmacia objects to Request No. 9 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 “policies and practices,” “disclosures,” and “drug price information.” Pharmacia objects to this Request to the extent it seeks information not relevant to the State’s claims, which are limited to Wisconsin, or to the time period relevant to this litigation. 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, to the extent that they exist, Pharmacia will produce exemplar agreements, relating to Adriamycin and Solu-Medrol, the Pharmacia drugs identified in the First Amended Complaint.

**REQUEST NO. 10:** Any sworn statement or deposition of any current or former employee or agent relating to any claim or investigation about or connected with: a) whether the defendant’s published Average Wholesale Price (AWP) was or is inaccurate, or b) whether the defendant’s published Wholesale Acquisition Cost (WAC) was or is inaccurate, or c) whether the defendant misrepresented its Average Wholesale Price or Wholesale Acquisition Cost to any publication, person, entity, or official, or d) whether the defendant violated a federal “best price” law or regulation, or e) whether the defendant’s agents furnished free samples to providers for improper reasons.

**RESPONSE TO REQUEST NO. 10:** In addition to the General Objections incorporated above, Pharmacia objects to Request No. 10 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 “agent” “relating to any claim or investigation,” “defendants’ published Average Wholesale Price (AWP),” “inaccurate,” “defendants’ published Wholesale Acquisition

Cost (WAC),” “misrepresented,” “publication, person, entity, or official,” “free samples” and “improper reasons.” Pharmacia objects to this Request to the extent it seeks documents or information related to non-Pharmacia employees. Pharmacia also objects to this Request to the extent it seeks documents that may not be produced pursuant to a protective order in another proceeding. Pharmacia objects to this Request on the grounds that it mischaracterizes that Pharmacia published an Average Wholesale Price or a Wholesale Acquisition Cost. 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 objects to this Request to the extent it seeks confidential business, trade secret or proprietary information.

Subject to and without waiving these objections, Pharmacia will produce transcripts from the depositions of its current and former employees taken in the MDL and Connecticut Attorney General proceedings.

Dated this 9<sup>th</sup> day of January, 2006

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