

STATE OF WISCONSIN

CIRCUIT COURT
Branch 7

DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

AMGEN INC., *et al.*,

Defendants.

)
)
) No. 04 CV 1709
)
) Unclassified Civil: 30703
)
)
)
)
)

PLAINTIFF STATE OF WISCONSIN'S FIFTH SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS

TO: All counsel of record

PLEASE TAKE NOTICE that the plaintiff requires each defendant to produce within 30 days hereof at the offices of the Wisconsin Attorney General, Wisconsin, Department of Justice, P.O. Box 7857, Madison, WI 53707-7857, Attn: Cynthia Hirsch; and Miner, Barnhill & Galland, P.C., 44 E. Mifflin St., Ste. 803, Madison, WI 53703, Attn: Charles Barnhill, a copy of each of the following described documents pursuant to Rule 804.09.

DEFINITIONS

1. The terms "you," "your," or "your company" shall mean the each defendant, and its subsidiaries, divisions, predecessors, officers, agents and all other persons acting or purporting to act on behalf of each defendant or its subsidiaries or predecessors.

2. 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 it 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 a 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.

3. The term "spread" has the same definition as set forth in the United States Department of Health and Human Services Office of Inspector General's "Compliance Program Guidance for Pharmaceutical Manufacturers" published in the May 5, 2003 Federal Register, i.e., the difference between the amount a customer pays for a product and the amount the customer receives upon resale of the product to the patient or other payer.

INSTRUCTIONS

1. In responding to these requests, defendants are required to produce all responsive documents that are in the possession, custody, or control of any of them or any of their agents.

2. All documents that respond, in whole or in part, to any portion of the production requests below shall be produced in their entirety, including all attachments and enclosures.

3. If you withhold any document requested on the basis of a claim that it is protected from disclosure by privilege, work product, or otherwise, provide the following information separately for each such document:

- (a) the name and title of every author, sender, addressee, and recipient by category;
- (b) the date of the document;
- (c) the name and title of each person (other than stenographic or clerical assistants) participating in preparation of the document;
- (d) the name and title of each person to whom the contents of the document have been communicated by copy, exhibition, reading, or summary;
- (e) a description of the nature and subject matter of the document;
- (f) a statement of the basis on which it is claimed that the document is protected from disclosure; and
- (g) the name and title of the person supplying the information requested in subparagraphs (a)-(f) above.

4. Notwithstanding a claim that a document is protected from disclosure, any document so withheld must be produced with the portion claimed to be protected excised.

5. The time period covered by these requests is January 1, 1993 to the present.

DOCUMENT REQUESTS

DOCUMENT REQUEST NO. 14: All documents relating to lobbying efforts of you, or any individual or entity acting on your behalf (including but not limited to third-party lobbyists or lobbyist organizations such as the Pharmaceutical Research and Manufacturers of America), with regard to:

- (a) the Wisconsin Medicaid program's reimbursement for prescription drugs;
- (b) other state Medicaid programs' reimbursement for prescription drugs; and
- (c) the federal Medicare program's reimbursement for prescription drugs.

Documents sought by this request include, but are not limited to:

- (a) communications with the State of Wisconsin, the Wisconsin Department of Health & Family Services, and the Wisconsin legislature (including any legislative committee or individual state legislator);

- (b) communications with other states, other state Medicaid programs, and other state legislatures (including any legislative committee or individual state legislator);
- (c) internal communications within your company;
- (d) communications between you and external third-party lobbyists or lobbyist organizations such as the Pharmaceutical Research and Manufacturers of America; and
- (e) documents identifying, describing, or relating to the amount of money spent on lobbying efforts regarding these issues.

DOCUMENT REQUEST NO. 15: Documents identifying, describing, or relating to your internal code of conduct or other policy relating to the ethical standards applicable to your employees.

DOCUMENT REQUEST NO. 16: Documents relating to your compliance policy or other policies designed to ensure adherence to applicable statutes, regulations and requirements for pharmaceutical manufacturers in connection with the Medicare and Medicaid programs.

DOCUMENT REQUEST NO. 17: Documents relating to any policy relating to the use or promotion of, or reference to, the spread of a drug in connection with the sales or marketing of that drug including, but not limited to:

- (a) documents that relate to or describe the policy, including consequences for violation of the policy;
- (b) documents that identify the date that the policy was established and/or became effective;
- (c) documents identifying, describing, or relating to the reason(s) for establishment of the policy;
- (d) documents identifying, describing, or relating to the distribution and dissemination of the policy to your employees;
- (e) documents identifying, describing, or relating to training provided to your employees regarding the policy; and
- (f) documents relating to any actual or potential violations of the policy, including any investigation, determination, and action taken by your company related to any such actual or potential violation.

DOCUMENT REQUEST NO. 18: Documents identifying or describing the reimbursement formula for prescription drugs used by the Wisconsin Medicaid Program, including but not limited to its formula for estimating acquisition cost or its use of AWP.

DOCUMENT REQUEST NO. 19: All documents relating to the National Pharmaceutical Council, including but not limited to the following:

- (a) documents relating to your membership in the National Pharmaceutical Council;
- (b) all correspondence between you and the National Pharmaceutical Council;
- (c) all annual publications of the National Pharmaceutical Council entitled "Pharmaceutical Benefits Under State Medical Assistance Programs."

Dated this 27th day of June, 2007.

/s/ Robert S. Libman
One of the Attorneys for Plaintiff
State of Wisconsin

FRANK D. REMINGTON
Assistant Attorney General, State Bar #1001131
Wisconsin Department of Justice
P.O. Box 7857
Madison, WI 53707-7857
(608) 266-0332 (MRB)
(608) 266-3861 (CRH)
(608) 266-3542 (FDR)

CHARLES BARNHILL
State Bar #1015932
WILLIAM P. DIXON
State Bar #1012532
ELIZABETH J. EBERLE
State Bar #1037016
ROBERT S. LIBMAN
Admitted *pro hac vice*

Miner, Barnhill & Galland, P.C.
44 E. Mifflin St.
Ste. 803
Madison, WI 53703
(608) 255-5200

CERTIFICATE OF SERVICE

Lisa Mecca Davis certifies that she caused a copy of the foregoing Requests to be served upon all counsel of record, by LexisNexis File & Serve, this 27th day of June, 2007.

/s/ Lisa Mecca Davis
Lisa Mecca Davis