

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

Branch 7

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STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 04CV1709

ABBOTT LABORATORIES, ET AL.,

Unclassified Civil: 30703

Defendants.

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DEFENDANT ROXANE LABORATORIES, INC.'S  
NKA BOEHRINGER INGELHEIM ROXANE, INC.  
SUPPLEMENTAL RESPONSES TO PLAINTIFF'S FIRST SET OF REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS

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Under Wis. Stat. § 804.09, Defendant Boehringer Ingelheim Roxane, Inc. ("Roxane"), by its attorneys, hereby serves the following Supplemental Responses to the First Set of Requests for Production of Documents to All Defendants submitted by the State of Wisconsin ("the State") as follows.

RESERVATION OF RIGHTS

As to all matters referred to in these supplemental responses to the First Set of Requests for Production of Documents to All Defendants, Roxane's investigation and discovery continues. The specific responses set forth below are based upon, and necessarily limited by, information now available to Roxane. Roxane reserves the right to modify these supplemental responses and to present in any proceeding and at trial any further information and documents obtained during discovery and preparation for trial. Furthermore, any statement by Roxane contained in these supplemental responses to the

First Set of Requests for Production of Documents to All Defendants that non-privileged documents or information will be produced in response to a specific Request does not mean that any such documents or information actually exist, but only that they will be produced to the extent that they exist.

### OBJECTIONS

Roxane incorporates by reference all of its objections, both general and specific, enumerated in Roxane's, Responses and Objections to Plaintiff's Requests for Production, served on Plaintiff July 15, 2005.

### SUPPLEMENTAL RESPONSES TO DOCUMENT REQUESTS

REQUEST NO. 1: All National Sales Data for each Targeted Drug during the Defined Period of Time.

#### RESPONSE TO REQUEST NO. 1:

Subject to and without waiving its objections, Roxane states that Plaintiff has offered to accept, in lieu of "All National Sales Data for each Targeted Drug during the Defined Period of Time," National Sales Data for three of the Targeted Drugs. Roxane is considering the feasibility of this proposal and will respond soon.

REQUEST NO. 2: All Documents containing AMPs as reported or calculated by you for the Targeted Drugs OR a spread sheet or database showing all reported and calculated AMPs for each Targeted Drug over the Defined Period of Time which lists when such AMPs were reported or calculated, and the quarter to which each AMP applies.

RESPONSE TO REQUEST NO. 2:

Subject to and without waiving its objections, Roxane states that it will make available to Plaintiff for inspection and/or copying lists of AMPs for the Targeted Drugs during the Defined Period of Time.

REQUEST NO. 3: All Documents created by you, or in your possession, that discuss or comment on the difference (or Spread) between any Average Wholesale Price or Wholesale Acquisition Cost and the list or actual sales price (to any purchaser) of any of defendants' Pharmaceuticals or any Pharmaceuticals sold by other manufacturers. Documents which merely list the AWP or WAC price and the list or actual sales price without further calculation of the difference, or without other comment or discussion of or about the spread between such prices are not sought by this request.

RESPONSE TO REQUEST NO. 3:

Subject to and without waiving its objections, Roxane states that it will make available to Plaintiffs for inspection and/or copying those documents that discuss or comment on the difference between any Average Wholesale Price or Wholesale Acquisition Cost and the list or actual sales price (to any purchaser) of the Targeted Drugs.

REQUEST NO. 4: All Documents containing an average sales price or composite price identified by you in response to Interrogatory No. 1 of Plaintiff's First Set of Interrogatories to All Defendants.

RESPONSE TO REQUEST NO. 4:

Roxane states that various employees of Roxane may have from time to time determined an average sales price or other composite price, after discounts, for a Targeted Drug during the Defined Period of Time (“ASP”). The ASP calculations performed by Roxane constituted individualized calculations of the amount one would derive by dividing sales dollars for a particular time period by the units sold during that same time period, after reducing credits allocated to the sale of the products. This type of ASP calculation did not yield an actual price charged for the subject products, nor did it yield average sales price or other composite price net of any or all Incentives for a Targeted Drug, but could include such matters as credits for services. Roxane did not have a standard methodology or practice of determining this average sales price, and had no practice of calculating “ASP” as defined by Plaintiff in its Interrogatories.

Subject to and without waiving its objections, Roxane states that it will make available to Plaintiffs for inspection and/or copying documents that reflect ASP as it was used within Roxane.

REQUEST NO. 5: All documents sent to or received from First DataBank, Redbook and Medi-span regarding the price of any Targeted Drug.

RESPONSE TO REQUEST NO. 5:

Subject to and without waiving its objections, Roxane states it will make available for inspection and/or copying documents responsive to this request.

REQUEST NO. 6: All Documents in your possession prepared by IMS Health regarding a Targeted Drug or the competitor of a Targeted Drug regarding pricing, sales or market share.

RESPONSE TO REQUEST NO. 6:

Subject to and without waiving its objections, Roxane states that it will make available for inspection and/or copying those documents responsive to this request that Roxane has thus far collected in the context of “AWP litigation” in other jurisdictions.



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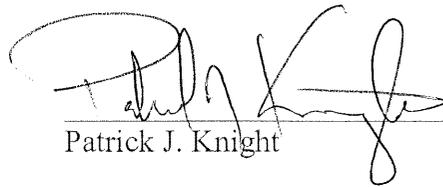
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing  
Defendant Roxane Laboratories, Inc.'s nka Boehringer Ingelheim Roxane, Inc.  
Supplemental Responses to Plaintiff's First Set of Requests for Production of Documents  
to all Defendants was served via overnight carrier and e-mail, this 28th day of October,  
2005, upon the following:

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