



3. Respondents object to the Request to the extent that it demands production of any document covered by the attorney-client privilege or the work product doctrine, third-party confidentiality agreements or protective orders, or any other applicable privilege, immunity or protection. In the event any document subject to a privilege, immunity or protection is produced by Respondents, its production is inadvertent and does not constitute a waiver of any privilege, immunity or protection.

4. Respondents object to the Request to the extent that it calls upon Respondents for, and/or to reveal, legal conclusions to Plaintiff. Respondents' responses shall not be deemed to constitute admissions (i) that any particular document or thing exists, is relevant, or admissible in evidence, or (ii) that any statement or characterization in the Request is accurate or complete.

5. Respondents have not completed their investigation and discovery relating to this case. The specific responses set forth below and any production made pursuant to the responses are based upon, and necessarily limited by, information now available to Respondents. Respondents reserve the right, at any time, to revise, correct, and to supplement, modify, or clarify the specific responses set forth below or the information disclosed therein. By this reservation, Respondents do not, however, assume a continuing responsibility to update their responses beyond the requirements of the Wisconsin Rules of Civil Procedure and the local rules of this Court, and they object to the Request to the extent it seeks to impose any such continuing obligation.

6. In the responses that follow, a statement that responsive documents will be produced does not mean that: (a) any documents exist; or (b) they are in Respondents' possession, custody, or control.

7. Respondents undertake to answer the Request only to the extent required by the Wisconsin Rules of Civil Procedure, the local rules of this Court, and other applicable law (collectively, “Rules”), and Respondents object to the Request to the extent that it purports to exceed, expand upon or conflict with those Rules. For example, and without limitation, Respondents object to Plaintiff’s “definitions” and “instructions” to the extent Plaintiff intends to expand upon or alter the Rules. Respondents further object to the definitions of “you,” “your,” “your company,” “document,” and “documents” as set forth in Definitions No. 1 and 2 on the grounds that the are overly broad, unduly burdensome, vague, ambiguous, and to the extent they seeks to impose discovery obligations that are broader than, or inconsistent with, Respondents’ obligations under the Rules.

8. Respondents object to the Request (i) to the extent it calls for information generated after the date this action was commenced, or (ii) to the extent it calls for information pertaining to any time outside of the limitations periods applicable to any of Plaintiff’s claims; because the Request is to this extent overly broad and unduly burdensome, and seeks information that is not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

9. Respondents object to the Request as irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent that it purports to require production of documents or seek information relating to Respondents’ drugs that have not been identified in the Second Amended Complaint.

10. Respondents object to each Request as irrelevant, overly broad, unduly burdensome, and not reasonably calculated to lead to admissible evidence to the extent that it

purports to require production of documents or seek information relating to a period of time prior to June 16, 1998 (which is outside of any applicable statute of limitations) and/or after January 9, 2002 (as of which date Warrick was, on its own accord, regularly furnishing the State of Wisconsin with a monthly letter reporting its high and low contract prices, net of described discounts, for each of their three main classes of trade for the previous month; and, as of which date Schering Corporation was, on its own accord, regularly furnishing the State of Wisconsin with a quarterly letter showing, among other things, a Net Direct Price for each branded product and package sold by Schering Corporation). Except as specifically stated below, and subject to and without waving any objection, Respondents' responses herein shall be limited to the period between June 16, 1998, and January 9, 2002.

11. Respondents object to each request to the extent that it may be construed as calling for the production of confidential information relating to a patient. Respondents will not produce any such material to the extent they are under any obligation to maintain the patient information in confidence. Respondents will not disclose such material unless the patient grants permission to do so.

12. Respondents object to the Request as unduly burdensome to the extent that it seeks documents that are available, in a way that would be less burdensome or expensive, from a public source or some other source available to the Plaintiff.

13. Respondents object to the Request to the extent it seeks information regarding drugs other than the drugs that are at issue in this litigation or concern matters not related to Wisconsin, because such information is not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

14. Any production of documents or information responsive to requests to which Respondents have objected is not intended to and does not waive those or any other objections.

15. Respondents object to this Request to the extent it seeks confidential or proprietary information, and will not produce documents containing confidential or proprietary information unless pursuant to an appropriate protective order. Respondents' production and responses to the Request are supplied for use in this litigation and for no other purpose.

16. Respondents object to the Request to the extent that it is indefinite and/or fails to describe the categories of documents to be produced with reasonable particularity, and to the extent that it employs terms or definitions that render the Request vague or ambiguous. Except as otherwise stated, Respondents will interpret any such term based on its understanding of the term's usage, if any, by Respondents and/or in the pharmaceutical industry.

17. Respondents object to the Request to the extent that it requests documents not within Respondents' possession, custody or control.

18. Respondents object to each and every Request to the extent that it purports to require it to search through an unduly large number of documents or to search for documents that are not accessible, available or locatable without imposing an undue burden upon the Respondents. Respondents have already reviewed and produced a significant quantity of documents concerning the drugs involved in this case in connection with a related case, *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456 (D. Mass.) ("MDL production"). Subject to and without waiving any objection, Respondents are willing to produce and have produced responsive documents from the MDL production and certain state productions. Any further obligation to search and review documents is unduly burdensome.

19. Respondents expressly incorporate these General Objections into each specific response to the request set forth below as if set forth in full therein. These General Objections form a part of the response to each and every request and are set forth here to avoid the unnecessary duplication and repetition that would result from restating them for each response below. The response to a request shall not operate as a waiver of any applicable specific or general objection to a request.

### **RESPONSES TO DOCUMENT PRODUCTION REQUESTS**

#### **DOCUMENT REQUEST NO. 20:**

The following documents relating to the Together RX programs:

- (a) contracts or written agreements with providers (including doctors and retail pharmacies);
- (b) documents identifying or relating to the reimbursement to participating providers (including doctors and retail pharmacies) for the ingredient cost of covered prescription drugs, including but not limited to, any formula for reimbursement based on the average wholesale price (“AWP”) of such drugs;
- (c) documents identifying or relating to the amount of the dispensing fee paid to participating providers (including doctors and retail pharmacies) for covered prescription drugs;
- (d) documents identifying or relating to the eligibility requirements for participation in the Together RX programs; and
- (e) documents identifying your prescription drugs covered by the Together Rx programs.

#### **RESPONSE:**

In addition to their General Objections, Respondents object to Request No. 20 because it is overly broad, unduly burdensome, and seeks information not relevant to the subject matter involved in the pending action, including the claim or defense of any party in this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence. Respondents further

object to Request No. 20 to the extent it seeks production of documents that are protected by the attorney-client privilege and/or the work-product doctrine.

Notwithstanding the foregoing Objections, and without waiving them, Respondents respond to Document Request No. 20 that based upon a reasonable search, Respondents do not have documents responsive to this Request because they do not participate in the Together Rx program.

**DOCUMENT REQUEST NO. 21:**

All documents relating to any program of yours that provides, or is marketed as providing, a discount or savings to consumers for any of your prescription drugs. Examples of such programs are the Novartis Savings Program a/k/a the Novartis Care Plan (Novartis Care Card), Pfizer for Living Program (Pfizer Share Card), Pfizer U Share Prescription Drug Discount Card, and the GlaxoSmithKline Orange Card. This request includes, but is not limited to, the following documents:

- (a) contracts or written agreements with providers (including doctors and retail pharmacies);
- (b) documents identifying or relating to the reimbursement to participating providers (including doctors and retail pharmacies) for the ingredient cost of covered prescription drugs, including but not limited to, any formula for reimbursement based on the AWP of such drugs;
- (c) documents identifying or relating to the amount of the dispensing fee paid to participating providers (including doctors and retail pharmacies) for covered prescription drugs;
- (d) documents identifying or relating to the eligibility requirements for participation in the program; and
- (e) documents identifying your prescription drugs covered by the program.

**RESPONSE:**

In addition to their General Objections, Respondents object to Request No. 21 on the grounds that it is overly broad and unduly burdensome. Respondents further object to Request No. 21 on the grounds that the terms and phrases “any program of yours that provides, or is marketed as providing,” “a discount or savings,” and “consumers” are not defined, rendering this

request vague, ambiguous, overbroad, and unduly burdensome. Respondents further object to Request No. 21 to the extent it seeks production of documents that are protected by the attorney-client privilege and/or the work-product doctrine.

Notwithstanding the foregoing General and Specific Objections, and without waiving them, Respondents respond that based upon a reasonable search, and to the extent this Request seeks documents relating to “any program . . . that provides, or is marketed as providing, a discount or savings to consumers for any prescription drugs,” Respondents do not have documents responsive to this Request because Respondents do not offer or market any such programs. Respondents do, of course, participate in the federal government’s 340B Pricing Program.



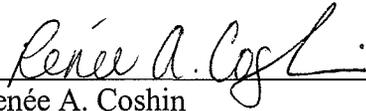
Janna J. Hansen  
John P. Bueker  
ROPES & GRAY LLP  
One International Place  
Boston, MA 02110-2624  
Telephone: (617) 951-7000  
Facsimile: (617) 951-7050

Earl H. Munson  
State Bar Number 1008156  
BOARDMAN, SUHR, CURRY  
& FIELD LLP  
One South Pinckney Street, 4<sup>th</sup> Floor  
PO Box 927  
Madison, WI 53701-0927  
Telephone: (608) 257-9521  
Facsimile: (608) 283-1709

*Attorneys for Defendants Schering-Plough Corp.,  
and Warrick Pharmaceuticals Corp.*

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February 2008, a true and correct copy of Schering-Plough Corporation's and Warrick Pharmaceuticals Corporation's Response to Plaintiff's Sixth Request for Production of Documents was served upon all counsel of record via Lexis Nexis File & Serve electronic service.

  
\_\_\_\_\_  
Renée A. Coshin