



documents on a rolling basis as agreed upon with Plaintiff's counsel, and subject to the terms of the First Amended Order of Confidentiality entered in this litigation. No objection made herein, or lack thereof, is an admission by Behring as to the existence or non-existence of any documents.

3. The objections and responses made herein are based on Behring's investigation to date of those sources within its control where it reasonably believes responsive documents or information may exist. Behring reserves the right to amend or supplement these responses in accordance with the applicable rules and court orders.

4. The information and documents supplied herein are for use in this litigation and for no other purposes.

### **GENERAL OBJECTIONS**

Behring objects generally to Plaintiff's Requests as follows:

1. Behring objects to Plaintiff's "Definitions" and "Instructions" to the extent Plaintiff intends to expand upon or alter Behring's obligations under the Wisconsin Rules of Civil Procedure. Behring will comply with the Wisconsin Rules of Civil Procedure in providing its responses to Plaintiff's Requests.

2. Behring 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 not reasonably calculated to lead to the discovery of admissible evidence.

3. Behring objects to the definition of "Document(s)" 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. Behring further objects to this definition to the extent that it purports to require Behring 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 Behring as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

4. Behring objects to these Requests to the extent that they seek proprietary, commercially-sensitive, or other confidential information, including, but not limited to, confidential and/or proprietary research, procedures, and processes relating to the pricing of pharmaceuticals, current and past marketing plans and methods, and current and past business planning and financial information. Behring's production of any document, testimony, or information pursuant to these Requests shall not be construed as a waiver of the confidentiality of any such document or information and shall be subject to the terms of the First Amended Order of Confidentiality entered in this litigation.

5. Behring objects to Plaintiff's Requests to the extent they seek information that is protected from disclosure by the work product doctrine, the attorney-client, accountant-client, consulting expert, or investigative privileges, any common interest or joint defense agreement, or any other applicable privilege or protection.

6. Behring objects to Plaintiff's Requests to the extent they call for information not within Behring's possession, custody or control.

7. Behring objects to Plaintiff's Requests to the extent they call for information that is confidential, proprietary, and/or a trade secret of a third-party or is protected from disclosure by an agreement with a third-party.

8. Behring objects to Plaintiff's Requests to the extent they seek 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.

9. Behring objects to the definition of defined period of time on the ground that it is overly broad, unduly burdensome, and calls for information or documents that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

10. Behring expressly incorporates the above General Objections into each specific response to Plaintiff's Requests set forth below as if set forth in full therein. A response to Plaintiff's Requests shall not operate as a waiver of any applicable specific or general objection.

### **RESPONSES TO REQUEST FOR DOCUMENTS**

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.

RESPONSE: Behring objects to this Request on the ground that it is vague and ambiguous. Behring further objects to this Request on the ground that it is overly broad and unduly burdensome to the extent it seeks documents that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence and that are outside the scope of permissible discovery, in part because this Request is not limited to documents relating to prescription drug pricing and reimbursement in Wisconsin. Behring also objects to this Request to the extent it seeks the production of documents that are protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving its General and Specific objections and consistent with its understanding of this Request, Behring responds that it will conduct a reasonable search and produce non-privileged documents responsive to this Request subject to the terms of the First Amended Order of Confidentiality entered in this case.

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.

RESPONSE: Behring objects to this Request on the ground that it is vague and ambiguous. Behring further objects on the ground that this Request is overly broad and unduly burdensome to the extent it seeks documents that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Behring also objects to this Request to the extent it seeks the production of documents that are protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving its General and Specific objections and consistent with its understanding of this Request, Behring responds that it will conduct a reasonable search and produce non-privileged documents responsive to this Request subject to the terms of the First Amended Order of Confidentiality entered in this case.

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.

RESPONSE: Behring objects to this Request on the ground that it is vague, ambiguous, overly broad, and unduly burdensome. Behring also objects to this Request to the extent it seeks the production of documents that are protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving its General and Specific objections and consistent with its understanding of this Request, Behring responds that it will conduct a reasonable search and produce non-privileged documents responsive to this Request subject to the terms of the First Amended Order of Confidentiality entered in this case.

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.

RESPONSE: Behring objects to this Request on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, and seeks documents neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of

admissible evidence. Behring also objects to this Request to the extent it seeks the production of documents that are protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving its General and Specific objections and consistent with its understanding of this Request, Behring responds that it will conduct a reasonable search and produce non-privileged documents responsive to this Request subject to the terms of the First Amended Order of Confidentiality entered in this case.

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.

RESPONSE: Behring objects to this Request on the ground that it is vague and ambiguous.

Subject to and without waiving its General and Specific objections and consistent with its understanding of this Request, Behring responds that it will conduct a reasonable search and produce non-privileged documents responsive to this Request subject to the terms of the First Amended Order of Confidentiality entered in this case.

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."

RESPONSE: Behring objects to this Request on the ground that it is overly broad and unduly burdensome to the extent it seeks documents that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Behring further objects to the extent this Request seeks public documents that are

equally available to the State. Behring further objects to this Request on the ground that Behring is not a member of the National Pharmaceutical Council.

Subject to and without waiving its General and Specific objections and consistent with its understanding of this Request, Behring responds that it will conduct a reasonable search and produce non-privileged documents responsive to this Request, if any, subject to the terms of the First Amended Order of Confidentiality entered in this case.

Dated: July 27, 2007

By: By: /s/ Clifford Joe Cavitt  
Stephen P. Hurley, Esq.  
State Bar 1015654  
Clifford Joe Cavitt, Esq.  
State Bar 1038348  
HURLEY, BURISH & STANTON, S.C.  
33 E. Main Street, Suite 400  
Madison, WI 53703  
(608) 257-0945 (Office)  
(608) 257-5764 (Fax)

Jonathan T. Rees, Esq.  
HOGAN & HARTSON LLP  
555 13<sup>th</sup> Street, NW  
Washington, D.C. 20004  
(202) 637-5600 (office)  
(202) 637-5910 (fax)

ATTORNEYS FOR DEFENDANT  
AVENTIS BEHRING LLC, N/K/A  
ZLB BEHRING LLC

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH 10

DANE COUNTY

---

STATE OF WISCONSIN,

Plaintiff,

v.

Case No.: 04-CV-1709

AMGEN INC., et al.,

Defendants.

---

CERTIFICATE OF SERVICE

---

I hereby certify that on this 27<sup>th</sup> day of July, 2007, a true and correct copy of the Responses and Objections of Aventis Behring LLC, n/k/a ZLB Behring LLC, to Plaintiff's Fifth Set of Requests for Production of Documents to All Defendants was served on counsel of record by Lexis Nexis File & Serve.

/s/ Clifford Joe Cavitt  
Clifford Joe Cavitt