

b. that any statement or characterization in the Requests is accurate or complete.

3. ZLB Behring's responses are made based upon reasonable investigation conducted to date. Discovery and investigation in this matter are ongoing and ZLB Behring reserves the right to amend its responses and to raise any additional objections it may have in the future. These responses are made based upon the typical or usual interpretation of words contained in the Requests, unless a specific definition or instruction has been provided and/or agreed upon.

4. ZLB Behring is awaiting the Court's ruling on Defendants' jointly-filed motion to dismiss Plaintiff's First Amended Complaint. Until such time as the Court has ruled on this motion, ZLB Behring objects to the Requests as being unduly burdensome and as imposing potentially unnecessary expense on ZLB Behring.

5. ZLB Behring's responses to the Requests are submitted without prejudice to ZLB Behring's right to produce evidence of any subsequently discovered fact. ZLB Behring accordingly reserves its right to provide further responses and to supplement any production of documents hereunder as additional facts are ascertained and/or additional documents are located.

GENERAL OBJECTIONS

ZLB Behring objects generally to the Requests as follows:

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

2. ZLB 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. ZLB Behring objects to the definition of "Documents" 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. ZLB Behring further objects to this definition to the extent that it purports to require ZLB 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 ZLB Behring as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

4. ZLB Behring objects to the extent that any request seeks information that is protected from disclosure by the work product doctrine, the attorney-client, accountant-client, consulting expert, or investigative privileges, by any common interest or joint defense agreement, or by any other applicable privilege or protection.

5. ZLB Behring objects to each request to the extent that it calls for production of documents or information not within its possession, custody or control. In responding to these requests, ZLB Behring has undertaken or will undertake a diligent and reasonable search of documents and information within ZLB Behring's current possession, custody or control.

6. ZLB Behring objects to each request to the extent that it calls for information that is confidential, proprietary, and/or a trade secret of a third party. Any such materials produced will be subject to the Final Protective Order entered in this action.

7. ZLB Behring objects to each request to the extent that it seeks 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.

8. ZLB Behring expressly incorporates the above General Objections into each specific response to the requests set forth below as if set forth in full therein. The response to a request shall not operate as a waiver of any applicable specific or general objection to a request.

RESPONSE TO SPECIFIC REQUESTS

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 Compliant 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: ZLB Behring objects to Request No. 7 on the grounds that it is ambiguous and not reasonably calculated to lead to the discovery of admissible evidence. ZLB Behring further objects to Request No. 7 on the grounds that the request may call for information and documents outside ZLB Behring's possession, custody and control, or that may be protected from disclosure by the work product doctrine, the attorney-client privilege, or by any other applicable privilege or protection.

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: ZLB Behring objects to Request No. 8 on the grounds that it is overly broad, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. ZLB Behring further objects to Request No. 8 on the grounds that the phrases “drug price information” and “disclosures” are vague and undefined and on the grounds that the request may call for information and documents outside ZLB Behring’s possession, custody and control. ZLB also objects to this request on the ground that ZLB Behring, Aventis Behring and its predecessors have not entered into contracts with pharmacy benefit managers.

REQUEST NO. 9:

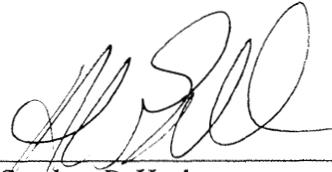
Exemplar agreements between each defendant and providers and pharmacy benefit managers applying defendants’ policies and practices relating to the disclosures such entities may make of the drug price information they receive from defendant or wholesalers.

RESPONSE: ZLB Behring objects to Request No. 9 on the grounds that it is overly broad, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. ZLB Behring further objects to Request No. 9 on the grounds that the phrases “exemplar agreements,” “drug price information,” and “disclosures” are vague and undefined. ZLB Behring also objects to this request on the grounds that the request may call for information and documents outside ZLB Behring’s possession, custody and control and that it is not limited to a particular time frame. ZLB also objects to this request on the ground that ZLB Behring, Aventis Behring and its predecessors have not entered into contracts with pharmacy benefit managers.

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 accurate, 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: ZLB Behring objects to Request No. 10 on the grounds that it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence. ZLB Behring further objects on the grounds that the terms "claim," "investigation," "accurate" "inaccurate" and "improper reasons" are vague and ambiguous and that the phrases "Average Wholesale Price," "Wholesale Acquisition Cost," "federal 'best price' law or regulation," and "free samples" are undefined. ZLB Behring objects to this request to the extent it seeks documents or information related to non-ZLB Behring employees. ZLB Behring further objects to this request to the extent it calls for a legal conclusion or seeks documents that may not be produced pursuant to a protective order in another proceeding. ZLB Behring also objects on the grounds that Request No. 10 is not limited to a particular time frame. Subject to and without waiving the foregoing objections or any of the General Objections set forth above, ZLB Behring responds that it is not presently aware of any responsive documents in its possession, custody or control.



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