

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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STATE OF WISCONSIN,	)	
	)	
Plaintiff,	)	Case No.: 06-C-0582-C
	)	
v.	)	
	)	
AMGEN INC., et. al.,	)	
	)	
Defendants.	)	

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**AMGEN INC.'S ANSWERS AND OBJECTIONS TO PLAINTIFF'S  
SECOND SET OF INTERROGATORIES TO ALL DEFENDANTS**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Western District of Wisconsin, and, to the extent applicable, Wisconsin Rule of Civil Procedure 804.08, defendant Amgen Inc. ("Amgen"), by its attorneys, objects and responds to Plaintiff's Second Set of Interrogatories as follows:

**PRELIMINARY STATEMENT**

1. These answers and objections are made solely for the purposes of this action. Each answer is subject to all objections as to competence, relevance, materiality, propriety, and admissibility, and to any and all other objections on any grounds that would require the exclusion of any statements contained herein if such Interrogatories were asked of, or statements contained herein were made by, a witness present and testifying in Court, all of which objections and grounds are expressly reserved and may be interposed at the time of trial.

2. Amgen's answers shall not be deemed to constitute admissions:
  - a. that any particular document or thing exists, is relevant, non-privileged, or admissible in evidence; or
  - b. that any statement or characterization in Plaintiff's Second Set of Interrogatories is accurate or complete.

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

4. Amgen's answers to Plaintiff's Second Set of Interrogatories contain information subject to the Protective Order in this matter and must be treated accordingly.

5. Amgen is responding on its own behalf, and not on behalf of Immunex Corporation, a wholly-owned subsidiary of Amgen, which has been named as a separate defendant in these proceedings and is separately represented by counsel.

6. Amgen's responses to Plaintiff's Second Set of Interrogatories are submitted without prejudice to Amgen's right to produce evidence of any subsequently discovered fact. Amgen accordingly reserves its right to provide further responses and answers as additional facts are ascertained.

## GENERAL OBJECTIONS

Amgen objects generally to Plaintiff's Second Set of Interrogatories as follows:

1. Amgen objects to Plaintiff's "Definitions" to the extent Plaintiff intends to expand upon or alter Amgen's obligations under the Federal Rules of Civil Procedure, the Court's Local Rules, and, to the extent applicable, the Wisconsin Rules of Procedure, in responding to the Interrogatories. Amgen will comply with applicable rules of civil procedure in providing its answers to Plaintiff's Second Set of Interrogatories.

2. Amgen objects to each interrogatory to the extent that it calls for the identification or production of documents or information not relevant to the issues in this action and is not reasonably calculated to lead to the discovery of admissible evidence.

3. Amgen objects to Plaintiff's definition of "Average Manufacturer Price" or "AMP" on the ground that it is vague and ambiguous. Amgen further objects to this definition to the extent it purports to state an accurate or legally significant definition.

4. Amgen objects to Plaintiff's definition of "Defined Period of Time" on the grounds that the phrase as defined is overbroad and burdensome, and purports to require the production of documents or information that are neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence. Amgen further objects to this definition to the

extent it seeks documents or information from outside the statute of limitations applicable to the claims in this litigation, or beyond the time period relevant to this litigation.

5. Amgen objects to the extent that any interrogatory 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.

6. Amgen objects to each interrogatory to the extent that it calls for information not within its possession, custody or control. In responding to these interrogatories, Amgen has undertaken or will undertake a diligent and reasonable search of documents and information within Amgen's current possession, custody or control.

7. Amgen objects to each interrogatory to the extent that it calls for information that is confidential, proprietary, and/or a trade secret of a third party.

8. Amgen objects to each interrogatory 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.

9. Amgen expressly incorporates the above General Objections into each specific answer to the interrogatories set forth below as if set forth in full therein. The answer to an interrogatory shall not operate as a waiver of any

applicable specific or general objection to a request.

## ANSWERS TO INTERROGATORIES

### INTERROGATORY NO. 6:

Do you contend that during the Defined Period of Time the State of Wisconsin was not prohibited by federal law from determining, and could have determined, the AMPs of the targeted drugs based on the Unit Rebate Amount for such drugs provided to the State by the federal government pursuant to the Medicaid rebate statute, 42 U.S.C. § 1396r-8?

**ANSWER:** Amgen objects to Interrogatory No. 6 on the grounds that it is vague, ambiguous, and calls for a legal conclusion.

Notwithstanding Amgen's general and specific objections, and without waiving them, Amgen states that federal law does not prohibit and did not prohibit during the Defined Period of Time, the State of Wisconsin from estimating or determining AMP. Moreover, for some drugs, the State can derive and could have derived during the Defined Period of Time the AMP from the Unit Rebate Amount. In addition, Amgen is unaware of any federal or other prohibition during the Defined Period of Time that would have prevented the State from requesting AMP or enacting a state statute that would have required its submission.

### INTERROGATORY NO. 7:

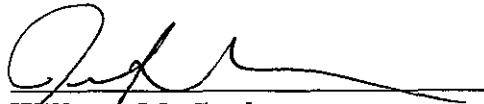
If the answer to Interrogatory No. 1 [sic] is anything other than an unqualified "no,";

- a. state all bases for such contention, and
- b. identify all documents that support such contention.

**ANSWER:** Amgen objects to Interrogatory No. 7 on the grounds that it is vague, ambiguous, overbroad, and burdensome. Amgen further objects to this interrogatory to the extent it seeks information that is publicly available to the Plaintiff.

Notwithstanding Amgen's general and specific objections, and without waiving them, Amgen incorporates by reference its answer to Interrogatory No. 6 and further states that 42 U.S.C. § 1396r-8 and the state Medicaid statutes and regulations for those states that require manufacturers to submit AMP data provide support for Amgen's answer to Interrogatory No. 6.

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William M. Conley  
Jeffrey A. Simmons  
FOLEY & LARDNER LLP  
Verex Plaza  
150 East Gilman Street  
Madison, WI 53703-1481  
608-257-5035 (phone)  
608-258-4258 (fax)

Steven F. Barley  
Joseph H. Young  
Jennifer A. Walker  
HOGAN & HARTSON, LLP  
111 S. Calvert St., Suite 1600  
Baltimore, MD 21202  
410-659-2700 (phone)  
410-539-6981 (fax)

*Attorneys for Amgen Inc.*

**Certificate of Service**

I, Jennifer A. Walker, hereby certify that on this 14th day of December, 2006, a true and correct copy of **AMGEN INC'S ANSWERS AND OBJECTIONS TO PLAINTIFF'S SECOND SET OF INTERROGATORIES TO ALL DEFENDANTS** was served on all counsel of record by Lexis Nexis File & Serve®.

/s/ Jennifer A. Walker  
Jennifer A. Walker